Senate Budget and Fiscal Review

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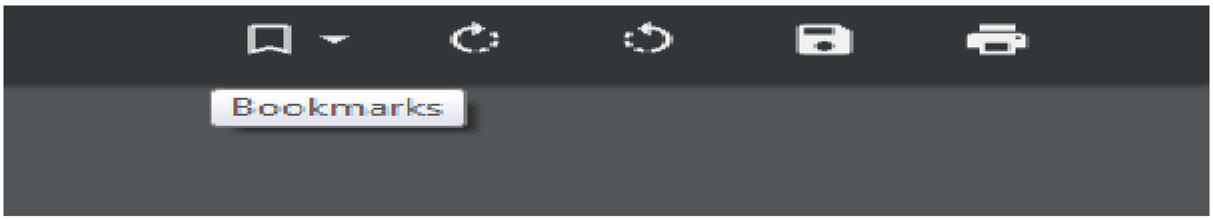

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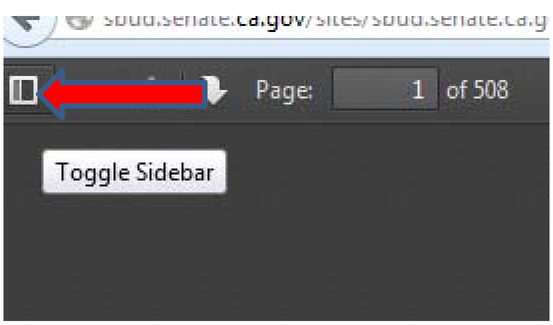

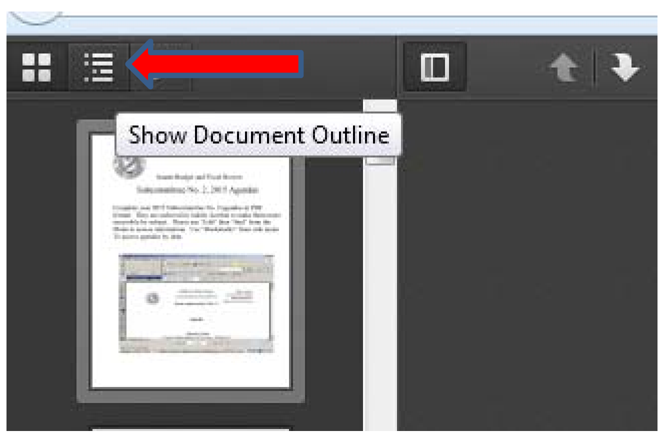

Senate Budget and Fiscal Review—Nancy Skinner, Chair

JOINT HEARING **Agenda**

Senate Budget Subcommittee No. 3 on Health and Human Services and No. 5 on Corrections, Public Safety, Judiciary, Labor and Transportation

Menjivar and Durazo, Chairs

Wednesday, February 14, 2024

9:30 a.m.

1021 O Street - Room 2100

Consultants: Elizabeth Schmitt and Nora Brackbill

Oversight of Juvenile Justice Realignment

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Panelists

Panel 1: Status of Juvenile Justice Realignment

- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Katherine Lucero, Director, Office of Youth and Community Restoration
- Karen Pank, Executive Director, Chief Probation Officers of California
- Jasmine Dellafosse, Youth Advocate
- Brooke Harris, Executive Director, Pacific Juvenile Defender Center

Panel 2: Realignment and Juvenile Justice in LA

Subpanel A

- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Jonathan Byrd, Vice President, AFSCME Local 685
- Milinda Kakani, Director of Youth Justice, Children's Defense Fund California

Subpanel B

- Tony Brown, student, Cal Poly Pomona
- Magic McKay, student, UC Berkeley
- Miguel Espinoza, Supervising Judge, Juvenile Justice Division, Los Angeles Superior Court
- Rhyzan Croomes, Supervising Staff Attorney, Loyola Law School Juvenile Justice Clinic
- Scott Budnick, Founder, Anti-Recidivism Coalition

Panel 3: Policy Implications

- Alisa Hartz, Ombudsperson, Office of Youth and Community Restoration
- Vanessa Fuchs, Sonoma County Chief Probation Officer
- Analisa Zamora, Policy Director, Young Women's Freedom Center

*Department of Finance will be available for questions.

Background. Youths accused of a crime that occurred before they turn 18 years of age start in juvenile courts. If the court determines the youth committed the crime, the court then determines where to place the youth based on statute, input from defense and prosecution, and factors such as the youth's offense and criminal history. Youths are typically allowed to remain with their families with some level of supervision from county probation officers. However, some youths— typically those who have committed more serious crimes—are housed in county juvenile facilities, such as juvenile halls or camps. As of September 2023, there were 2,878 youth housed in juvenile facilities statewide, compared to 2,146 in December 2022. In addition, if a transfer request is filed, the court may choose to transfer serious youth cases to adult court in certain circumstances.

DJJ Closure and Realignment. The 2020-21 Budget Act included a plan to permanently close the Division of Juvenile Justice (DJJ) at the California Department of Corrections and Rehabilitation (CDCR). While most youth were already housed or supervised locally, prior to July 1, 2021, counties could choose to send youths who had committed violent, serious, or sex offenses to state facilities operated by DJJ. There were typically about 650 youth statewide in DJJ facilities. DJJ permanently closed on June 30, 2023, and the last youths were transferred to counties, completing the realignment of the juvenile justice system to the county level. The plans for DJJ closure and realignment are outlined in SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020 and SB 92 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2021.

Youth housed in DJJ facilities largely did not have access to the types of rehabilitative programming and community connections that are necessary for a humane and successful juvenile justice system.[1] First, the location of DJJ facilities meant that many youths were moved far from home, making it difficult to maintain ties with their families and communities. Second, DJJ facilities were notorious for violence and had high recidivism rates.[2] Overall, the facilities operated more like adult prisons than as spaces where young people could develop and prepare for adult life outside the criminal justice system. In addition, due to decades of declining juvenile crime rates, both DJJ and county juvenile facilities have been operating under capacity. Realignment is intended to move juvenile justice in California toward a rehabilitative, trauma-informed, and developmentally appropriate system.

As a result of realignment, counties are responsible for caring for youth with more serious needs and who have committed more serious offenses. The realignment plan outlined a process for counties to establish Secure Youth Treatment Facilities (SYTFs) for high-level offenders who would have previously been housed at DJJ. To assist counties with their increased responsibility, the state provides block grant funding to counties for each realigned youth, and one-time funding for planning and juvenile facility infrastructure needs, which is described in detail in the funding section below.

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[1] http://www.cjcj.org/uploads/cjcj/documents/unmet_promises_continued_violence_and_neglect_in_california_division_of_juvenile_justice.pdf, https://jjie.org/2020/05/19/californias-closure-of-djj-is-victory-with-significant-challenges/

[2] https://www.latimes.com/california/story/2021-02-15/california-youth-prisons-closing-criminal-justice-reform, https://www.mercurynews.com/2007/02/27/report-finds-cya-prison-still-fails-inmates/, https://www.latimes.com/archives/la-xpm-1999-dec-24-mn-47028-story.html

OFFICE OF YOUTH AND COMMUNITY RESTORATION (OYCR)

OYCR. To support counties in this transition, the realignment plan included the creation of the OYCR to provide statewide assistance, coordination, and oversight. OYCR is under the Health and Human Services Agency (HHS) rather than under CDCR or the Board of State and Community Corrections (BSCC), reflecting the intended shift away from corrections and toward services and treatment. The mission of the Office, as defined in statute, is "[T]o promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support the youths' successful transition into adulthood and help them become responsible, thriving, and engaged members of their communities."

Mandates of the OYCR include:

- Identify policy recommendations for improved outcomes for court-involved youth.
- Identify and disseminate best practices to inform rehabilitative and restorative youth practices.
- Provide technical assistance to develop and expand local youth diversion opportunities.
- Evaluate the efficacy of local programs being utilized for realigned youth and report to the Governor and Legislature by July 1, 2025.
- Develop a report on youth outcomes in the juvenile justice system based on the updated JCPSS (Department of Justice) System.
- Provide an ombudsperson to investigate complaints and resolve where possible and report regularly to the Legislature.
- Concur with the BSCC on any juvenile grants.
- Assume administration of juvenile grants no later than January 1, 2025.
- Concur with the BSCC on new standards for secure youth treatment facilities.

Welfare and Institutions Code 2200 requires that all juvenile justice grant administration functions at the BSCC move to OYCR by January 1, 2025.

FUNDING

Realignment Funding. The 2020-21 budget included $9.6 million General Fund for planning and facilities, and the gradual implementation of block grants to counties at a rate of $225,000 per realigned youth per year. This funding is known as the Juvenile Justice Realignment Block Grant (JJRBG) and amounts to $209 million statewide in 2024-25, based on a projected daily population of 928 realigned youth. This funding is scheduled to transition to OYCR by the end of this calendar year. Pursuant to Welfare and Institutions Code 1991, the Governor and Legislature must work with stakeholders to establish a distribution methodology for this funding that improves outcomes for this population by January 10, 2024. The Governor's proposed 2024-25 budget would extend the deadline for establishing a distribution methodology for this funding to January 10, 2025.

The 2022-23 budget included $100 million one-time General Fund for counties to invest in their juvenile facilities, in anticipation of the closure of DJJ. The funding could be used to support modifications, renovations, repairs, and maintenance for existing county-operated juvenile facilities, with a focus on providing therapeutic, youth-centered, trauma-informed, and developmentally appropriate rehabilitative programming for youth. This was not a competitive grant, and every county received some funding.

The state has also provided resources to counties for juvenile justice several times throughout the years, corresponding with changes in alignment and totaling over $200 million annually. These include:

- *Youth Offender Block Grants*. This provided counties with $117,000 per ward for lower-level offenders that were realigned to the county level in 2007, per SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007.

- *Local Youthful Offender Rehabilitative Facility Construction.* SB 81 also provided counties with lease-revenue funding to construct or renovate juvenile facilities. A total of $300 million was allocated.

- *Juvenile Reentry Grants*. The state provided funding to the counties after juvenile parolees released from DJJ were realigned to the county level as part of the 2010-11 budget.

OYCR Funding. The 2021 Budget Act included $27.6 million in 2021-22 and $7 million ongoing for OYCR. The 2021-22 funding included $20 million for technical assistance, disseminating best practices, and grants. The 2022 Budget Act included an additional $10 million ongoing for the Office, and language detailing the duties and responsibilities of the Ombudsperson within OYCR. The 2023 Budget Act continued the $10 million appropriation for OYCR for technical assistance, disseminating best practices, and issuing grants to counties and probation departments for the purposes of transforming the juvenile justice system to improve outcomes for justice involved youth.

Juvenile Justice Data Collection. In addition to the $10 million budget for OYCR, the 2023 Budget Act included $3.54 million to facilitate the collection of specific juvenile justice data related to realignment. These 2023 Budget Act made these funds available to county probation departments to provide OYCR with the following data for the 2021-22 and 2022-23 fiscal years, disaggregated by gender, age, and race or ethnicity:

1. Number of youth and their commitment offense or offenses, if known, who are under the county's supervision that are committed to a secure youth treatment facility, including youth committed to secure youth treatment facilities in another county.

2. The number of individual youth in the county who were adjudicated for an offense under subdivision (b) of Section 707 of the Welfare and Institutions Code or Section 290.008 of the Penal Code.

3. Number of youth, including their commitment offense or offenses, if known, transferred from a secure youth treatment facility to a less restrictive placement.

4. Number of youth for whom a hearing to transfer jurisdiction to an adult criminal court was held, and number of youth whose jurisdiction was transferred to adult criminal court.

The 2023 Budget Act requires the data listed above to be submitted to OYCR by December 30, 2023 for the 2021-22 and 2022-23 fiscal years, and by December 30, 2024 for the 2023-24 fiscal year. OYCR is currently in the final stages of compiling this data, and a summary of the available data is below.

OYCR

AB 102 Data Updates

	FY 2021-2022	FY 2022-2023
A. Number of youth committed to SYTF	237	427
B1. Number of youth adjudicated of a 707(b) offense	1,459	1,730
B2. Number of youth adjudicated of a PC 290.008 offense (not counted in B1)	98	74
C. Number of youth transferred from SYTF to LRP	*	100
D1. Number of youth for whom a fitness hearing was ordered	197	221
D2a. Number of youth transferred to adult criminal court	43	33
D2b. Number of youth NOT transferred to adult criminal court	80	94

Note: The data displayed reflect a statewide count.
Note: For FY 21-22, nine counties had no youth to report. (n=48)
For FY 22-23, eight counties had no youth to report. (n=49)
One county was excluded from analysis due to data accessibility challenges.
* Data not displayed for privacy – less than 11 youth

COUNTY REALIGNMENT PLANS

County Realignment Plans. To be eligible for JJRBG funds, each county is required to convene a subcommittee of the multiagency juvenile justice coordinating council chaired by the chief probation officer and including representatives from the district attorney, public defender, department of social services, department of mental health, the county office of education or school district, and the court, along with at least three community members. The subcommittees develop a plan for juvenile justice realignment within the county. These plans must include information on how counties will provide trauma-informed, culturally responsive, and developmentally appropriate programs and a description of data collection and outcome measures, among other topics detailed in statute (Welfare and Institutions Code Section 1995(c)). Counties were required to submit their initial plans by January 1, 2022, and must update their plan annually. OYCR is required to review these plans, return plans to counties for revision as necessary, and make the plans available on its website. Note that AB 505 (Ting), Chapter 528, Statutes of 2023, described below, made some changes to the development of these plans.

According to OYCR's 2022 County Plan Summary Report, requests for revision primarily fell within the following categories: expanded data, facility improvements, culturally responsive programming, family engagement and reentry, housing approach for secure treatment, and program effectiveness. Thirty-three counties are adapting existing facilities to serve as a SYTF, while other counties that have had historically low referrals to DJJ are entering into regional agreements. The report notes that some counties have indicated that they are not able to care for specific sub populations, such as youth who need specialized treatment related to mental health or sex abuse offenses. Twelve counties identified a step-down placement for youth in their plan, and other counties stated that they plan to establish relationships with community service providers to develop step down plans. OYCR's report notes the importance of step-down placements in supporting youth to successfully reenter society and not stay in maximum security facilities for extended periods of time.

OYCR's 2022 County Plan Summary Report also identified priority areas for OYCR to work with counties to support best practices and provide technical assistance. These areas include: addressing the unique challenges for small, rural communities; developing methods for measuring effectiveness and outcomes relating to court-involved youth; retaining youth in the juvenile system and not in the adult prison system; and developing therapeutic facilities and building capacity to develop step-down options from secure facilities to less restrictive environments with greater access to community-based activities.

Recent Changes to OYCR Ombudsperson and County Realignment Plans. AB 505 (Ting), Chapter 528, Statutes of 2023, made several changes to statute governing the authority of the OYCR Ombudsperson to access juvenile facilities and records, and the development of county realignment plans, including:

- Authorizes the OYCR Ombudsperson to access juvenile detention facilities at any time without prior notice and to access juvenile facility records at all times.
- Authorizes the OYCR Ombudsperson to interview sworn probation personnel in accordance with applicable federal and state law, local probation department policies, and collective bargaining agreements.
- Provides that the OYCR Ombudsperson may recommend changes to improve services or to correct systemic issues.
- Requires the OYCR Ombudsperson advise all complainants that retaliation is not permitted and constitutes the basis for filing a subsequent complaint.

- Requires the OYCR Ombudsperson staff conduct a site visit to every juvenile facility and premises within the control of a county or local agency, or a contractor with a county or local agency, at least once per year.

- Makes various changes to the JJRBG county planning process, including: requires plans to be updated annually; requires the subcommittee to convene at least twice per year; allows the subcommittee to have a co-chair in addition to the probation chief; requires plans to be approved by a majority of the subcommittee; adds a new plan element regarding progress on implementation and development of innovative solutions to programs and services for youth; and requires the subcommittee to include at least three community members who have experience and expertise with community-based youth services and the juvenile justice system.

OYCR UPDATE

General OYCR Update. The OYCR Director was hired in January of 2022, and began hiring staff in spring 2022. As of August 2023, OYCR has authority for 28 full-time positions, with 17 positions filled across research and data, health policy, systems change and equity, and the Office of the Ombudsperson. Leading up to the closure of DJJ on June 30, 2023, OYCR provided technical assistance to courts and counties to support the return of DJJ youth with various service needs.

Some of OYCR's current projects include: a collaboration with the Vera Institute of Justice to support four counties in reducing and ending the incarceration of girls and gender expansive youth; releasing grants for less restrictive program innovation, community-based organization capacity building, intensive transitional services for youth with acute mental/behavioral health needs; trainings in coordination with California Tribal Families Coalition; family engagement services for youth at Pine Grove, and disseminating the Youth Bill of Rights.

OYCR Ombudsperson Update. The OYCR Ombudsperson line opened in August 2022. As of August 2023, the OYCR Ombudsperson had a total of 171 cases, 109 of which were in Los Angeles County. At that point in time, 53 percent of cases were closed, 46 percent were open, and one percent of cases were referred out. The most frequent issue characterizing investigations was conditions of confinement, followed by staffing, immediate safety, communication access, programming, physical health care, education, mental health care, and other issues.

PROPOSED CHANGES IN THE GOVERNOR'S BUDGET

Governor's Budget. The Governor's proposed 2024-25 budget includes the following proposals:

- **Budget Change Proposal: Transfer of Juvenile Justice Programs to OYCR.** The Board of State and Community Corrections (BSCC) requests to shift the federal Title II Grant Program administrations to OYCR effective July 1, 2024. Grant administration functions include supporting the mandated state advisory group required by the Title II Grant Program known as the State Advisory Committee on Juvenile Justice and Delinquency Prevention (SACJJDP); as well as compliance monitoring functions under the Juvenile

Justice and Delinquency Prevention Act (JJDPA). This proposal is specific to the above-mentioned federal grant; however, pursuant to Welfare and Institutions Code 2200, all juvenile justice grants, including the JJRBG and other state grant programs, will move under OYCR by January 2025.

- **Trailer Bill Language Proposal: Delay of Juvenile Justice Realignment Block Grant (JJRBG).** Welfare and Institutions Code 1991 requires the Governor and Legislature to work with stakeholders to establish a distribution methodology for the JJRBG that improves outcomes for realigned youth. The JJRBG provides $209 million for counties to provide appropriate rehabilitative and supervision services for realigned youth (those youth who would have been committed to DJJ prior to DJJ closure.) The Governor proposes to delay the development of a new distribution methodology from January 2024 to January 2025.

JUVENILE FACILITIES IN LOS ANGELES

Ongoing Issues in LA County Juvenile Facilities. Los Angeles County is the largest juvenile justice system in the state, with an average daily population of over 500 youth, roughly twice the number of youth in the next biggest county[3]. Los Angeles has had numerous issues in its juvenile facilities, many of which predate the closure of DJJ and the subsequent return of those youth to the county. These include staffing challenges[4], violence and staff misconduct[5], sexual abuse[6], and substance use (including the fatal overdose of a youth[7]), among other issues. These issues have resulted in increased scrutiny by the county and state[8]. The BSCC, which is responsible for inspecting juvenile facilities, found both Barry J. Nidorf Juvenile Hall and Central Juvenile Hall unsuitable in September 2021[9], but BSCC gave numerous opportunities for the county to bring the facilities into compliance. In March 2022, LA County moved all the youth from Central to Barry J. Nidorf ahead of a scheduled BSCC inspection[10]. BSCC ultimately ordered the two halls closed in May 2023[11]. In response, LA County reopened Los Padrinos Juvenile Hall, although similar issues have followed the move[12]. A description of the LA County facilities is below.

LA County Juvenile Halls, SYTFs, and Camps. Juvenile facilities in Los Angeles County consist of the following institutions:

- **Barry J. Nidorf SYTF**. Barry J. Nidorf was formerly one of Los Angeles's main juvenile halls for temporarily housing youth prior to their court dates, known as pre-disposition.

[3] https://www.bscc.ca.gov/wp-content/uploads/JDPS-1Q2002-3Q2023_Trends_12.21.23.pdf
[4] https://www.latimes.com/local/countygovernment/la-me-juvenile-halls-chaos-pepper-spray-detention-probation-20190519-story.html ; https://www.latimes.com/california/story/2022-11-28/la-county-juvenile-halls-inside-chaos
[5] https://www.latimes.com/california/story/2024-01-11/eight-probation-officers-placed-on-leave-after-incident-at-los-padrinos; https://www.latimes.com/california/story/2023-02-11/video-of-l-a-county-probation-officer-bending-teen-in-half-sparks-outrage-claims-of-child-abuse ; https://www.latimes.com/local/lanow/la-me-juvenile-hall-officer-pepper-spray-abuse-charges-20190406-story.html
[6] https://www.latimes.com/california/story/2023-12-28/district-attorney-reviewing-cases-against-la-county-probation-employees-accused-of-sex-abuse
[7] https://www.latimes.com/california/story/2023-10-13/fatal-overdose-la-juvenile-hall-mother-grieves-drugs-remain-threat
[8] https://oag.ca.gov/news/press-releases/attorney-general-bonta-brings-enforcement-action-against-los-angeles-county-due ; https://poc.lacounty.gov/newsroom
[9] https://www.latimes.com/california/story/2021-09-18/state-finds-l-a-county-juvenile-halls-unsuitable-for-the-confinement-of-youth
[10] https://www.latimes.com/california/story/2022-03-16/la-county-empties-central-juvenile-hall-ahead-of-state-inspection
[11] https://www.bscc.ca.gov/news/bscc-finds-la-juvenile-halls-unsuitable/ ; https://www.latimes.com/california/story/2023-05-23/la-county-juvenile-halls-unsuitable
[12] https://www.latimes.com/california/story/2023-08-27/los-padrinos-chaotic-first-month-los-angeles-juvenile-hall

Upon the implementation of realignment, Barry J. Nidorf also became the location of LA County's SYTF for realigned youth. On May 23, 2023, the BSCC found Barry J. Nidorf Juvenile Hall to be unsuitable for the confinement of minors pursuant to Welfare and Institutions Code 209. However, the SYTF unit has remained open. As of September 2023, the average daily population at Barry J. Nidorf SYTF was 52 youth.

- **Central Juvenile Hall**. Central Juvenile Hall was also formerly one of Los Angeles's main juvenile halls for pre-disposition youth. In March 2022, according to the LA County Office of Inspector General, "the Los Angeles County Probation Department conducted a hasty transfer of all of the approximately 140 youths housed at Central Juvenile Hall to the Barry J. Nidorf Juvenile Hall. The move was precipitated by Probation Department concerns over failing to meet the BSCC suitability requirements by a hearing date on whether required improvements had been completed."[13] A BSCC inspection was scheduled a few days after the transfer of the youth took place. BSCC found Central Juvenile Hall to be unsuitable for the confinement of minors pursuant to Welfare and Institutions Code 209, along with Barry J. Nidorf Juvenile Hall. There are currently no youth housed at Central Juvenile Hall.

- **Campus Kilpatrick SYTF.** Camp Kilpatrick is a juvenile camp that opened in July 2017. According to LA County Probation, Campus Kilpatrick is an example of the new "L.A. Model," which consists of "a small-group treatment model that is youth-centered and embodies a culture of care rather than a culture of control."[14] Campus Kilpatrick serves as a second SYTF in Los Angeles. As of September 2023, the average daily population at Campus Kilpatrick was 17 youth.

- **Los Padrinos Juvenile Hall.** Los Padrinos Juvenile Hall serves as Los Angeles County's facility for housing all pre-disposition youth. It was re-opened in the wake of the BSCC-ordered closure of Central Juvenile Hall and Barry J. Nidorf Juvenile Hall. As of September 2023, the average daily population at Los Padrinos Juvenile Hall was 289 youth.

- **Other juvenile facilities and camps.** Los Angeles County's juvenile facilities also include Dorothy Kirby, which houses approximately 50 youth, Camp Afflerbaugh, which houses approximately 23 youth, Camp Joseph Scott, which houses approximately 9 youth, Camp Paige, which houses approximately 23 youth, and Camp Rockey, which houses approximately 34 youth.

ISSUES FOR CONSIDERATION

- **Capacity of Counties to Deliver a Wide Range of Programming for a Small Number of Youth.** The needs of justice-involved youth are diverse, with individuals at different educational levels, desiring different vocational programs, and requiring different levels of security. For example, a county may only have one or a few girls in their custody, and may not be able to offer any gender-specific programming for that population. They may only have one secure track youth at the college level, requiring nearly individual teaching. It will be a challenge for the state to balance the desire to consolidate programs across

[13] Transfer of Youth from Central Juvenile Hall to Barry J. Nidorf Juvenile Hall
[14] Campus Kilpatrick and the L.A. Model – Probation (lacounty.gov)

counties with the original goals of realignment, namely bringing youth closer to home. The state should consider how to support the counties in meeting youth's individual needs.

- **Development of Less Restrictive Placements.** While the state's vision for realignment encompasses a trauma-informed, evidence-based, culturally responsive system that promotes healthy adolescent development, youth in the state's 36 SYTFs are largely confined to juvenile halls, which are prison-like physical environments. This presents a serious barrier to achieving transformational change in the juvenile justice system. The state should consider how to support the development of less restrictive placements for youth that serve as alternatives to confinement and focus on strengthening youth and families.

- **Use of Restrictive Placements.** As counties develop local programs, the state should monitor how county SYTF populations compare to the historical DJJ population, to avoid more youth being committed to highly restrictive settings than were prior to DJJ closure. Pursuant to the 2023 Budget Act, the Legislature is anticipating data from OYCR on commitments to SYTFs in each county over the last two years.

- **Adult Charges of Youth in Custody.** A long-term goal of the Legislature has been the retention of youth within the jurisdiction and rehabilitative foundation of the juvenile justice system. However, there is concern about situations where new, adult criminal charges are being filed against youth in custody who are over 18. In Los Angeles County alone, data requested by the Probation Oversight Commission shows that in the six months between July 2023 and January 2024, there were 8 new criminal case filings in adult court (out of 39 new criminal case filings overall), including 5 at Los Padrinos and 3 at Barry J. Nidorf SYTF. See Appendix A for more detail on criminal case filings in LA Juvenile facilities. The culture and physical environments in juvenile halls can contribute to unrest or substance issues that can lead to new charges. The state should consider how to prevent situations that result in new, adult charges, both to prevent youth from being funneled into the adult system and to protect the safety and security of juvenile facilities and their officers.

- **JJRBG Methodology.** Existing law requires the Governor and the Legislature to work with stakeholders to establish a distribution methodology for the JJRBG that improves outcomes for the realigned youth population. The current interim formula established in Welfare and Institutions Code 1991 is a $209 million block grant based on each county's projected share of the realigned youth population. It does not contain a mechanism to measure progress toward improving youth outcomes. Regardless of whether the Legislature approves the Governor's proposed trailer bill language to delay the revised methodology for JJRBG, the state should consider how to meet the statutory mandate of developing a methodology that improves outcomes for youth.

APPENDIX A

COUNTY OF LOS ANGELES
PROBATION DEPARTMENT

JUVENILE OPERATIONS
9150 EAST IMPERIAL HIGHWAY – DOWNEY, CALIFORNIA 90242
(562) 940-2513

GUILLERMO VIERA ROSA
Chief Probation Officer

February 6, 2024

TO: Wendelyn Julien, Executive Director
Los Angeles County Probation Oversight Commission

FROM: Kimberly Epps Kimberly Epps
Chief Deputy

SUBJECT: **CRIMINAL FILINGS AT BARRY J. NIDORF SECURE YOUTH TREATMENT FACILITY, LOS PADRINOS JUVENILE HALL, AND CAMPUS VERNON KILPATRICK**

On January 17, 2024, the Probation Oversight Committee (POC) requested information regarding new criminal filings at Barry J. Nidorf Secure Youth Treatment Facility (BJN-SYTF), Los Padrinos Juvenile Hall (LPJH), and Campus Vernon Kilpatrick (CVK) from July 2023 through January 2024. Information for criminal filings, court of jurisdiction, and types of cases filed is as follows:

BJN-SYTF

- 3 new criminal case filings since July 2023.
- Cases filed were ineligible for filing in juvenile court.
- 3 cases were filed in adult court.
- Three cases were filed for violation of Health & Safety 11350 (a), Possession of a Controlled Substance, a Misdemeanor.

LPJH

- 36 new criminal case filings since July 2023.
- 31 cases were filed in juvenile court.
- 5 cases were filed in adult court.
- Most cases were filed for violation of P.C. 245(a)(4), Assault by Means Likely to Produce Great Bodily Injury, a Felony or P.C. 243(b), Battery on a Peace Officer, a Misdemeanor.

CVK

There were no new criminal filings at CVK from July 2023 through January 2024.

There were thirty-nine (39) new criminal filings involving thirty-five males and one female during the past seven months (July 2023 - January 2024).

The highest number of new filings involved youth or young adults housed at LPJH and resulted from youth-on-youth assaults, known as "pack outs." This type of assault involves multiple youth assaulting a single youth. There were thirteen assaults on detention officers by individual youth or by multiple youth attacking together.

Five (5) adult court filings resulted from allegations of P.C. 245(a)(4), Assault by Means Likely to Produce Great Bodily Injury, a Felony at LPJH. Three (3) filings resulted from allegations of Health & Safety 11350 (a), Possession of a Controlled Substance, a Misdemeanor at BJN-SYTF.

If you have any questions or need additional information, please do not hesitate to contact Kimberly Epps, Chief Deputy for Juvenile Operations, at (562) 922-0429 or email her at Kimberly.Epps@probation.lacounty.gov.

GVR:KE:ed

Senate Budget and Fiscal Review—Scott D. Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, February 29, 2024
9:30 a.m. or Upon Adjournment of Session
State Capitol – Room 112

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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ITEMS FOR DISCUSSION

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

Issue 1: Department Overview

Panelists

- Jeff Macomber, Secretary, CDCR

Department of Finance (DOF) and Legislative Analyst's Office (LAO) are available for questions.

Background. The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration of certain adults convicted of felonies, including the provision of rehabilitation programs, vocational training, education, and health care services.

As of February 14, 2024, CDCR was responsible for incarcerating about 93,600 people[1]. Most of these people are housed in the state's 32 prisons and 34 conservation camps. The Department also supervises and treats about 35,100 adults on parole, is responsible for the apprehension of those who commit parole violations, and operates one juvenile conservation camp.

The Governor's budget proposes total funding of $14.5 billion ($14.1 billion General Fund and $364.3 million other funds) for the CDCR in 2024-25, a slight decrease compared to the revised 2023-24 level of $15.0 billion (although this does not account for any increases in employee compensation costs in 2024-25, which are reflected elsewhere in the budget). The proposed budget would provide CDCR with a total of 61,153 positions in 2024-25, a decrease of 1,044 positions from the revised 2023-24 level.

The Governor's budget includes $105.3 million in General Fund solutions under CDCR's budget. This includes $46.7 million in recovered savings from lower than expected workloads or utilizations, $27.2 million in delays, $24.1 million in reductions, and a $7.3 million fund transfer.

They are outlined in the table below:

General Fund Solution	Summary	Category
Audio Video Surveillance System (AVSS) Implementation Delay	The Administration proposes to delay the installation of five fixed camera projects costing $27.2 million General Fund from 2023-24 to 2025-26 and 2026-27. The proposed budget maintains $50.4 million General Fund in 2023-24 and associated ongoing resources to implement five other projects.	Delay
Recidivism Reduction Fund Transfer	Transfer $7.3 million of unobligated funds from the Recidivism Reduction Fund to the General Fund.	Fund Transfer

[1] https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2024/02/Tpop1d240214.pdf

Division of Adult Parole Operations (DAPO Urinalysis Contract Funding Reduction	Reduction of $100,000 ongoing General Fund to adjust a contract for parolee urinalysis testing. The Administration noted that contract utilization has declined due to the declining parolee population, and is returning the savings to the General Fund.	Recovered Savings
2024-25 SB 990 County of Release Legislative BCP – Reversal	Reversion of $1.9 million General Fund in 2023-24 and ongoing due to reduced workload related to the implementation of SB 990 (Hueso), Chapter 826, Statutes of 2022. The Administration noted that less funding than anticipated was needed to fulfill the obligations of the bill.	Recovered Savings
Division of Juvenile Justice (DJJ) Warm Shutdown Reduction	Reduction of $909,000 General Fund to maintain the closed DJJ facilities. The 2023-24 budget included $1.7 million for facility maintenance at recently-closed DJJ facilities, but the Administration noted that the actual maintenance costs were lower than expected.	Recovered Savings
COVID-19 Workers' Compensation (SB 1159) Reduction	Reversion of $5 million in 2023-24 and $9 million in 2024-25 for COVID-19 related workers compensation funding.	Recovered Savings
COVID-19 Prevention and Response Funding – 2023-24 Savings	Reversion of $38.8 million General Fund in 2023-24 for prevention, mitigation, and response activities. California Correctional Health Care Services (CCHCS) received $83.1 million one-time in 2023-24 for this purpose, but is only projecting to spend $53.8 million. This projected COVID-19 savings is a combination of lower than anticipated testing volumes for staff and incarcerated persons, slightly offset by new vaccine costs, which were previously provided at no cost to the Department. CDCR also received $13.8 million one-time for Personal Protective Equipment (PPE), cleaning, and overtime, and is projecting to spend only $4.4 million.	Recovered Savings
Reduction of TransMetro Bus Contract	Eliminates $2 million in funding for bus transportation to prison visits. This funding was added in the 2021-22 budget, when the third day of in-person visitation was added. The Administration noted that the bus service was underutilized.	Reduction
Baseline Administrative Reduction	Reduction of $15 million ongoing General Fund in CDCR's administrative funding.	Reduction
Employee Health Program Reduction	Reduction of 38.0 positions and $7.1 million General Fund in 2024-25 and ongoing for the Employee Health Program.	Reduction

Staff Recommendation. Hold open.

Issue 2: Population Projections and Closure Plans

Proposal. The proposed budget reflects the following:

- *Adult Institution Population*. The average daily adult incarcerated population for 2023-24 is projected to be 94,222, a slight increase as compared to spring projections. The population is expected to decline to 91,685 in 2024-25 and 88,183 in 2026-27.

- *Parolee Population*. The parolee average daily population is projected to be 36,495 in 2023-24 and 35,454 in 2024-25.

- *Population-Based Funding Adjustments.* The adjusted population funding has a $20.4 million net increase in the current year and an $8.4 million net increase in the budget year as compared to what was assumed in the 2023-24 Budget act.

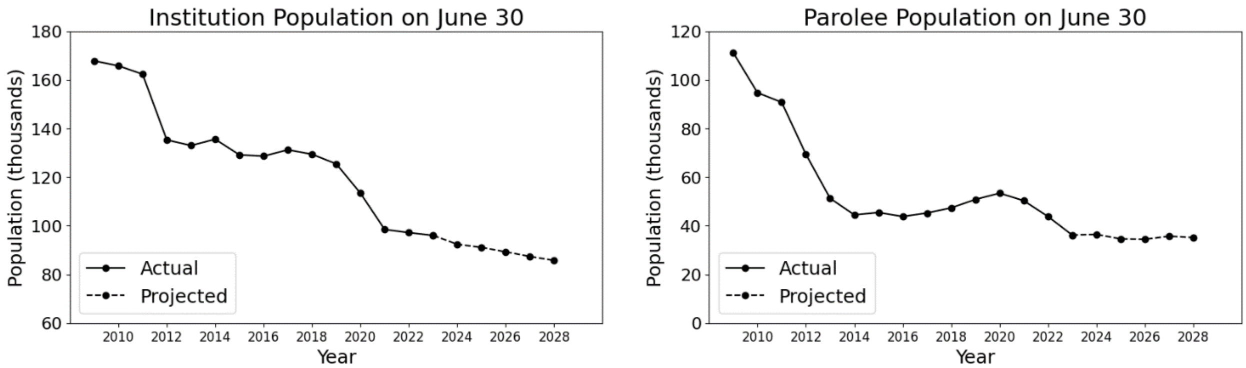
- *Savings from Previously Planned Prison Closures*. The proposed budget reflects savings of $465 million General Fund from previous facility closures and deactivations. In addition, the proposed budget includes savings of $156 million annually beginning in 2024-25 to reflect the planned closure of California City Correctional Facility, and $148 million annually beginning in 2025-26 to reflect the planned closure of Chuckawalla Valley State Prison. No additional closures or deactivations are proposed.

- *Administrative Reduction for Prison Closures.* The budget includes $9.6 million savings in 2024-25 and $11.1 million ongoing to reflect a reduction in administrative workload and positions associated with the closures.

Panelists

- Jana Sanford-Miller, Deputy Director, Office of Research, CDCR
- Justin Adelman, Associate Director, Budget Management Branch, CDCR
- Jennifer Benavidez, Deputy Director, Division of Adult Institutions Facility Operations, CDCR
- Dave Lewis, Director, Facility Planning, Construction and Management, CDCR
- Lynne Ishimoto, Principal Program Budget Analyst, DOF
- Patrick Plant, Staff Finance Budget Analyst, DOF
- Koreen van Ravenhorst, Principal Program Budget Analyst, DOF
- Caitlin O'Neil, Principal Fiscal & Policy Analyst, LAO
- Orlando Sanchez Zavala, Fiscal & Policy Analyst, LAO

Background. The prison population has significantly decreased over the past twenty years in response to litigation, policy reforms, the COVID-19 pandemic, and other factors. The total population has decreased nearly 50 percent from the peak in 2006. The parole population has also declined, reflecting the declining prison population, changes to parole terms, realignment, and other policy reforms.



Data from CDCR[2]

Prison Overcrowding and the Three-Judge Panel. In October 2006, at the height of prison overcrowding, CDCR's population was 173,479, with prisons operating at more than 200 percent of design capacity[3]. In January 2010, a special three-judge court ordered California to reduce its prison population to 137.5 percent of design capacity within two years[4]. The ruling was part of a consolidated proceeding that included the plaintiffs of two major class action lawsuits related to access to healthcare: *Coleman v. Newsom*, which was filed in 1990 on behalf of all California state prisoners with serious mental illness, and *Plata v. Newsom*, which was filed in 2001 on behalf of all prisoners. Both lawsuits are still active today and have resulted in significant federal oversight of CDCR's healthcare system. The plaintiffs of those two cases believed that a remedy for unconstitutional medical and mental health care could not be achieved without reducing overcrowding. They moved their respective District Courts to convene a three-judge court empowered by the Prison Litigation Reform Act of 1995 to order reductions in the prison population. This decision was upheld by the Supreme Court of the United States in 2011.

In response, the state took steps to expand capacity and reduce the population and reached the 137.5 percent milestone in 2015. The state's response included:

- *Expanding Capacity.* CDCR expanded capacity in their health care facilities and utilized out-of-state, private, and local facilities. The state has since ended its use of these placements as the population declined.

- *Public Safety Realignment.* In 2011, the responsibility for some offenders, primarily newly-convicted, low-level offenders without current or prior serious or violent offenses, was shifted from the state to counties, meaning those individuals served their sentences in county jails rather than state prisons.

[2] https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2024/01/Fall-2023-Population-Projections-Publication.pdf
[3] https://www.cdcr.ca.gov/news/2019/06/25/california-department-of-corrections-and-rehabilitation-exits-last-out-of-state-prison/
[4] https://rbgg.com/news/coleman-plata-supreme-court/

- *Policy Reforms*. The state expanded credit-earning opportunities, created a parole consideration process for nonviolent, determinately-sentenced incarcerated persons who have served the full term of their primary offense in state prison, expanded medical and elderly parole, and made other significant sentencing reforms to reduce the amount of time individuals spend in state prison. Some of these were court-ordered changes and were enacted as part of Proposition 57 in 2016.

COVID-19 Impact. The COVID-19 pandemic has contributed to a sharp decrease in the prison population over the past few years. The decline was attributed to halted intake from county jails, expedited release and community supervision programs for individuals with non-violent offenses, and an initial decrease in crime during the lockdowns. CDCR also released people deemed at high risk medically for COVID-19 on a case-by-case basis.

In previous years, the Administration had projected a short-term increase in the prison population as intake from counties resumed and other pandemic impacts ended or ramped down. However, the population has not returned to expected levels. This may reflect changes in crime trends during the pandemic, more time served at the county level than anticipated, or other unknown factors.

Other Changes to the Population. Although the overall prison population is declining, the population is aging, and CDCR has reported an increase in incarcerated persons with disabilities and accessibility issues. As of August 2021, over 11,000 people in CDCR's facilities required disability accommodations. CDCR also has reported increasing numbers of individuals requiring treatment for substance use disorder and the Hepatitis C Virus, as well as other physical, mental, and behavioral health needs.

Aging Facilities and Delayed Maintenance. The average age of CDCR's correctional facility portfolio exceeds 45 years, with approximately 35 percent of the portfolio exceeding 50 years of age. Historically, the resources necessary to maintain, repair, and replace aging equipment and structures have not been available, leading to a backlog of infrastructure needs and deteriorating buildings. Major ongoing capital outlay projects include improvements to healthcare spaces, roof replacements, accessibility improvements, general maintenance funding, expanding programming spaces, and improving energy efficiency. Many of these improvements are court-ordered and/or critical safety improvements.

Matching Facility Portfolio to Changing Population. As the population has declined in the wake of the Three-Judge Panel ruling, the state has correspondingly reduced capacity. Initially, the state did this by discontinuing contract placements, including in out-of-state and private prisons. The state is now in the position to close state-owned and -operated facilities, saving hundreds of millions to billions of dollars in operation, maintenance, repair, and other infrastructure costs.

As CDCR considers closing prisons, it must consider how to best match its facilities to changing population needs. Many institutions serve specialized sectors of CDCR's population, including women's prisons, institutions that focus on health care or contain specialized mental health facilities or programs, different security levels and housing types, accessible facilities, etc. Some institutions also have specialized functions, such as Sierra Conservation Center, which serves as the training hub for people going to conservation camps, and the license plate factory at Folsom, which has produced every license plate made in the state since 1947.

Completed and Planned Capacity Reduction. The state has deactivated or plans to deactivate the following facilities:

- Dueul Vocational Institution (DVI) in Tracy, California on September 30, 2021.
- California Correctional Center (CCC) in Susanville in June 2023.
- Six yards at facilities across the state in the 2023-24 fiscal year.
- California City Correctional Facility (CAC; the leased facility) by March 2024.
- Chuckawalla Valley State Prison (CVSP) by March 2025.

CDCR estimates that these deactivations collectively will result in ongoing General Fund savings totaling about $770 million annually. Deactivation has also allowed the state to avoid funding infrastructure repairs that would otherwise have been needed to continue operating these facilities. No additional closures are proposed in the Governor's budget, despite continued declines in the population and the lack of a rebound in population after the initial impacts of the pandemic[5].

Currently, the court-ordered capacity limit means that the state is prohibited from housing more than 103,853 people in state-owned prisons (137.5 percent of the design capacity of remaining facilities). Despite the recent deactivations, the LAO estimates that CDCR will be operating roughly 15,000 empty beds in 2024-25. According to CDCR, this capacity is needed for sufficient flexibility and uncertainty in the population projections. Prior to the pandemic, CDCR typically maintained a roughly 2,000 bed buffer to account for fluctuations in the population and needs.

Operational Capacity. The court-ordered capacity limit may not be the optimal operational capacity of the state prison system. As part of the 2023-24 budget, CDCR was required to estimate a system-wide operational capacity that would "allow each facility to operate in a manner that is rehabilitative, safe, and cost efficient", and include an assessment on space available for programming, health care services, and bed needs, and to comply with class action litigation requirements (Section 5033 of the Penal Code).

CDCR submitted a report that assesses the number of programming and work assignments (not including volunteer-led groups or other activities that are not counted as assignments) available at each institution, based on currently available and budgeted opportunities. The overall operational capacity was not uniquely defined because the report acknowledges that not everyone will participate in work or programming assignments, but does not specify how the number of work assignments relates to an operational capacity that would "allow each facility to operate in a manner that is rehabilitative, safe, and cost efficient." The report does not explore whether there are reasonable ways to increase the number of assignments at a given facility.

The other factors mentioned in Section 5033 of the Penal Code are discussed in general terms. For example, the report "assumes institutions have adequate physical space, in most instances, to meet the medical and mental health care needs of patients as required under various class action

[5] https://lao.ca.gov/Publications/Report/4304; https://lao.ca.gov/Publications/Report/4186; https://www.curbprisonspending.org/wp-content/uploads/2021/04/Peoples-Plan-for-Prison-Closure.pdf

lawsuits," and states that "[o]vercrowding in correctional settings creates stressful environments" without defining what population level constitutes overcrowding.

LAO Comments and Recommendations. The Governor proposes reductions to CDCR's funding to account for previous capacity reductions and for the planned deactivation of a prison in March 2025. In addition, the budget reflects operation of nearly 15,000 empty beds in 2024-25, which is projected to grow to about 19,000 by 2028. This means the state could deactivate around five additional prisons. However, the Administration indicates that doing so could create challenges, such as reducing the availability of treatment and reentry programs. The LAO finds that, while mitigating such challenges could create some new costs, these would be far less than the nearly $1 billion needed to continue operating five prisons. Accordingly, the LAO recommends that the Legislature direct CDCR to begin planning to reduce capacity by deactivating prisons and report on how to mitigate any resulting challenges.

State Law Arguably Requires CDCR to Accommodate Population Declines Through Capacity Reductions. PC 2067 requires CDCR to accommodate projected population declines by reducing capacity in a manner that maximizes long-term savings, leverages long-term investments, and maintains sufficient flexibility to comply with the court-ordered population limit. PC 2067 also requires CDCR to consider certain factors—such as operational cost and subpopulation-specific housing needs—in determining how to reduce capacity. In view of the opportunity for significant savings and the possibility of mitigating negative effects on housing flexibility, PC 2067 arguably requires CDCR to further reduce capacity.

Staff Comment

What Does Capacity Mean and What is a Reasonable Buffer? CDCR operates within the court-ordered capacity limit of 137.5 percent of design capacity. However, the rapid spread of COVID-19 within prisons showed that operating at a lower percent of design capacity may be desirable in certain circumstances. Many prisons also struggle to find enough space for educational, vocational, and other types of programming. On the other hand, design capacity is a technical term, and it is not clear how well that reflects operational capacity, or what population or density would be comfortably housed in any given institution.

The report required by Section 5033 of the Penal Code was intended to help address these questions. However, it does not provide a clear answer from the Administration's perspective, and is not based on fundamental limitations of the physical space or the footprint of the facilities. It is not clear whether the assumption that the number of assignments at a given facility cannot be reasonably increased is accurate, for example by repurposing existing spaces, using timeslots such as evenings and weekends, using outdoor space, or using remote programming.

In addition to these questions about the optimal capacity, it is not clear how much buffer is needed between the maximum capacity and the population size. The Legislature should consider whether returning to roughly 2,000 people shy of the court-ordered maximum population should be the goal, or if there is another target that balances the need to accommodate short-term fluctuations, the operational capacities of the institutions, and the costs of maintaining extra space.

Use of closed prison facilities. It is not clear what CDCR intends to do with the deactivated properties in the long-term. CDCR indicated that DVI will become surplus property and can be sold, but that CCC and CVSP are interconnected with neighboring institutions and would be difficult to separate. In addition, yards that are closed cannot be individually parceled off and sold. In these cases, CDCR plans to maintain the facilities in the "warm shutdown" mode indefinitely. A similar situation is developing with the properties that housed the Division of Juvenile Justice. It is not clear how much maintenance CDCR will be performing on these properties, and whether parts of them will still be used for various purposes. The state should consider potential options for the physical facilities and land after the closures. Maintaining most deactivated facilities in warm shutdown indefinitely may not be a prudent use of state resources. It is also not clear how much maintenance CDCR plans or would need to do at facilities in warm shutdown.

Staff Recommendation. Hold open.

Issue 3: Reappropriation of California Reality Based Training Center Funding

Proposal. The proposed budget includes the reappropriation of $8.5 million General Fund from the 2021 Budget Act to complete renovations of the California Reality Based Training Center.

Panelists

- Kristina Ortiz, Correctional Business Manager, CDCR
- Caitlin O'Neil, Principal Fiscal & Policy Analyst, LAO
- Joshua Wittmershaus, Junior Staff Analyst, DOF
- Cynthia Mendonza, Principal Program Budget Analyst, DOF

Background. The 2021 Budget Act included $8.5 million to convert the Northern California Women's Facility in Stockton, which closed in 2003, into a new training facility, known as the California Reality Based Training Center (CRBTC). The goal is to provide correctional officers in the academy with experience in a real, physical prison setting, prior to their first assignment. In the original proposal from 2021, CDCR stated that "training is limited due to the lack of access to real control booths, medical offices, dining halls, visiting rooms, and dayrooms/tiers as it is not feasible to use operational institutions," and that trainees would "gain hands-on experience for job duties such as inmate escorting, hospital transportation, visitor processing, and vocational and education inmate counting in institution areas such as mainline and restricted housing units, tower operation, armed posts, and control booths."

Project Status. CDCR completed required fire and life safety upgrades in May 2023, which were significant and resulted in the delay of the project, and have installed fiber optic infrastructure. CDCR has spent $1.7 million on the project to date (see table below).

Resource History
CRBTC Funding

(Dollars in thousands)

Program Budget	Phase I 2021-22	Phase II 2022-23	Phase III 2023-24
Authorized Expenditures *	$4,540	$1,499	$8,451
Actual Expenditures	$1,700	$0 **	$0

* Authorized CRBTC OE&E Funding only
** Detailed spending noted in paragraph below

The projected timeline and costs are in the table below.

Projected Outcomes

Procurement Timeline with Approved Reappropriation

(Dollars in Thousands)

2021-22 CO Training Expansion and Job Shadowing Program (2023-24)	BCP Funded Amount	2024-25	2025-26
Electrical	$400	$400	-
Framing Contract	$500	-	$500
HVAC	$2,000	$80	$1,920
Roofing	$3,551	$3,551	-
Secure Doors	$2,000	$60	$1,940
Total	**$8,451**	**$4,091**	**$4,360**

Staff Comment.

Other Closed Facilities. Multiple facilities, both full prisons and individual yards, have closed since the initial approval of this project, including a Division of Juvenile Justice facility that is also in Stockton. Some of those facilities will be difficult for the state to offload due to their proximity to other CDCR facilities. It is not clear to what extent the Administration considered using other, more recently closed facilities, or using yards within an operating prison.

Incorporation of the California Model. The Administration indicated that California Model principles are already incorporated into the academy, and no specific adaptations to the training were planned to ensure that this training center incorporated California Model principles.

Staff Recommendation. Hold open.

Issue 4: Utilities Costs

Proposal. The Governor's budget includes $21.9 million General Fund in 2024-25 and ongoing to address the increased costs of utilities statewide.

Panelists

- Justin Adelman, Associate Director, Budget Management Branch, CDCR
- Caitlin O'Neil, Principal Fiscal & Policy Analyst, LAO
- Patrick Plant, Staff Finance Budget Analyst, DOF
- Cynthia Mendonza, Principal Program Budget Analyst, DOF

Background. In 2022, the utilities and waste removal funding methodology was revised. A new base was established, based on three years of actual expenditures, along with the authority to adjust annually using the California Consumer Price Index (CPI). However, utilities costs have increased more rapidly than CPI. For example, in 2022-23, CDCR expended $184.1 million on institution utilities, compared to $152.6 million in 2021-22, and $136.4 million in 2020-21, an increase of 35 percent over two fiscal years (see table below).

Resource History
(Dollars in thousands)

Program Budget	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Authorized Expenditures	$124,239	$124,492	$122,379	$122,542	$138,671	$140,180
Actual Expenditures	$135,504	$132,727	$136,446	$152,564	$184,083	$181,282[1]

1. 2023-24 reflects projected utilities expenditures.

CDCR indicated that this increase is due to increased rates, rather than increased usage (see below).

Fiscal Year	Therm Usage	Therm Cost (Dollars in thousands)	Electricity Cost (Dollars in thousands)
2020-21	33,832,010	$32,622	$77,870
2021-22	31,317,536	$31,231	$80,698
2022-23	32,158,324	$53,976	$94,167

CDCR projects its utilities cost to be $43.9 million more than budgeted in 2023-24, but is only requesting $21.9 million due to the budget condition. However, the Administration has indicated that they plan on requesting the full amount in future years and ongoing.

Staff Comments.

Renewable energy opportunities. It is not clear whether CDCR is maximizing opportunities for efficiency and energy generation, such as solar or wind power, at its facilities.

Ability to absorb costs. CDCR has been able to absorb significant costs in its general operating budget, including as proposed in this BCP. Without more insight into how CDCR absorbs such costs, the Legislature cannot assess how much can and should be absorbed by the Department.

Staff Recommendation. Hold open.

Issue 5: Healthcare

Proposal. The Governor's budget includes a total of $4.1 billion to deliver health care within the prison system. Significant adjustments include:

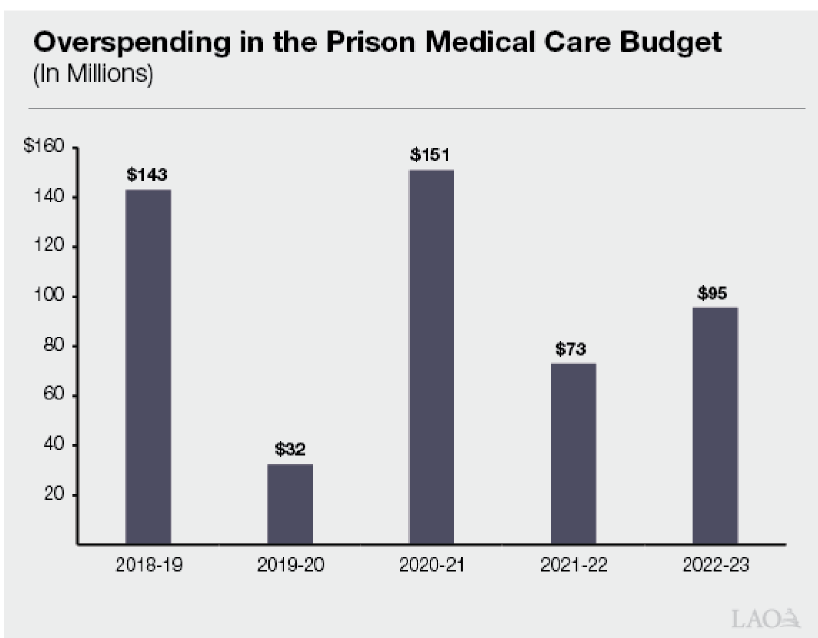
- $40 million one-time General Fund to address increased personnel and operational costs within the medical budget.

- $36.5 million ongoing General Fund and a change in methodology to address a structural deficit in funding for contract medical services, including $8.2 million to update the budgeting methodology based on medical risk acuity of the population, $13 million for the medical parole population, and $15 million for administrative claims fees.

Panelists.
- Duane Reeder, Deputy Director Fiscal Management Section, CDCR
- Dr. Renee Kanan, Deputy Director Medical Services, CDCR
- Orlando Sanchez Zavala, Fiscal & Policy Analyst, LAO
- Joshua Wittmershaus, Junior Staff Analyst, DOF
- Alyssa Cervantes, Staff Finance Budget Analyst, DOF
- Allison Hewitt, Principal Program Budget Analyst, DOF

Background.

Medical Program Shortfall. CDCR regularly exceeds its General Fund prison medical care budget, as shown in the figure below.



Source: LAO[6]

[6] https://lao.ca.gov/Publications/Report/4852#Prison_Medical_Care_Budget_Shortfall

According to CDCR, this shortfall is largely the result of overspending on personnel-related expenditures. Specifically, the Department cites costs related to vacancies including spending on overtime for staff that must complete workload associated with vacant positions and registry (contractors that provide services on an hourly basis when civil servants are unavailable). The Department also cites costs related to workers’ compensation claims and lump sum payouts (payments made to employees to compensate them for unused leave when they leave state service) as contributing to the overspending in the prison medical care budget.

According to the Department, it has been able to redirect savings from vacancies elsewhere in the CDCR budget, including from mental health services, to cover the overspending in the prison medical care budget, but this redirection is no longer possible, so CDCR is requesting a one-time, $40 million augmentation. CDCR has not provided a breakdown of costs or a justification of why $40 million was requested. The Administration also indicated that ongoing funding will be needed, but more time is needed to determine the appropriate funding level.

Contract Medical Services. When CDCR is unable to provide necessary medical services to people held in prison because it lacks the needed equipment or specialist providers, the Department contracts for these services with external providers. These contract medical services are used in a number of circumstances ranging from trips to emergency departments for physical injuries to chronic medical issues that require specialized treatment. In some cases, providers are brought into facilities to deliver treatment. However, in many cases, people are transported out of a prison to receive care in the community, including inpatient care. Each time CDCR uses contract medical services, the Department is charged the full medical costs plus a $19 fee for administrative claims related to processing a CDCR patient through a community specialty care provider network. CDCR also covers the full cost of individuals in the community on medical parole, which is about $216,000 per year for around 50 individuals a year.

Since 2012-23, the contract medical budget has been funded at a flat rate of $2,763 per incarcerated person. However, the Administration states that this does not reflect the actual costs, especially given changes in the health needs of the population. For example, the proportion of individuals with highest medical risk category has increased from 5.45 percent in 2018-19 to 8 percent in 2023-24, while the proportion of individuals with the lowest medical risk has decreased from 51.44 percent in 2018-19 to 45.3 percent in 2023-24.The proportion of individuals over age 50 has also increased from 24 percent in 2018-19 to 28 percent in 2023-24.

Proposed Methodology. The contract medical program funding is adjusted as part of the population process. CDCR is proposing a new methodology for calculating this adjustment, based on the risk acuity of the population (shown in the table below), projections of medical parole, and the $19 administrative costs at a rate of 800,000 claims per year.

2023-24[1]				2024-25 Projection[3]			
Risk Level	Average Population	Per Capita[2]	Total Acuity Cost	Risk Level	Average Population	Per Capita[2]	Total Acuity Cost
HIGH 1	7,430	$21,168	$157,278,240	HIGH 1	7,219	$21,168	$152,811,792
HIGH 2	9,659	$6,323	$61,073,857	HIGH 2	9,385	$6,323	$59,341,355
MED	33,715	$2,230	$75,184,450	MED	32,757	$2,230	$73,048,110
LOW	42,074	$1,009	$42,452,666	LOW	40,879	$1,009	$41,246,911
TOTAL	**92,878**		**$335,989,213**	**TOTAL**	**90,240**		**$326,448,168**

[1]2023-24 Fall Population.

[2]Average Per Capita from 2018-19 to 2022-23.

[3]2024-25 Medical Classification Model Fall Population BY projections.

LAO Recommendation.

Reject the augmentation for the medical program. The LAO recommends that the Legislature reject the Governor's proposal. The LAO finds that the proposal does not make it clear why CDCR needs additional funding to address potential overspending in the prison medical care budget and cannot redirect funding from elsewhere in its budget as it has done previously. Moreover, even if overspending cannot be addressed by redirecting funding, the Department can seek additional funding through Item 9840-001-0001 or a supplemental appropriation. Finally, the proposal does not provide adequate justification for the requested $40 million, particularly given the budget problem facing the state. The LAO notes that rejecting this proposal will help the state address its budget problem.

Withhold Action and Direct CDCR to Develop Population-Based Budgeting Methodology for Federal Reimbursements and Administrative Claims. The LAO recommends the Legislature withhold action on this proposal until it is adjusted based on updated population projections as part of the biannual adjustment process at the May Revision. In addition, given that the $15 million for administrative claims fees and the $42 million in reimbursement authority is not population-driven, the LAO recommends that the Legislature direct CDCR to develop a new methodology for those aspects of the contract medical services budget that account for changes in the size and/or makeup of the prison population. This revised proposal could be considered by the Legislature at the May Revision. Given that the state is currently facing a budget problem, the LAO notes that the Legislature will need to weigh any potential increase in spending related to this proposal against its other spending priorities as it will likely need to offset cost increases with spending reductions elsewhere in the budget. Accordingly, proposals for new spending should meet a high threshold before being approved.

Staff Recommendation. Hold open.

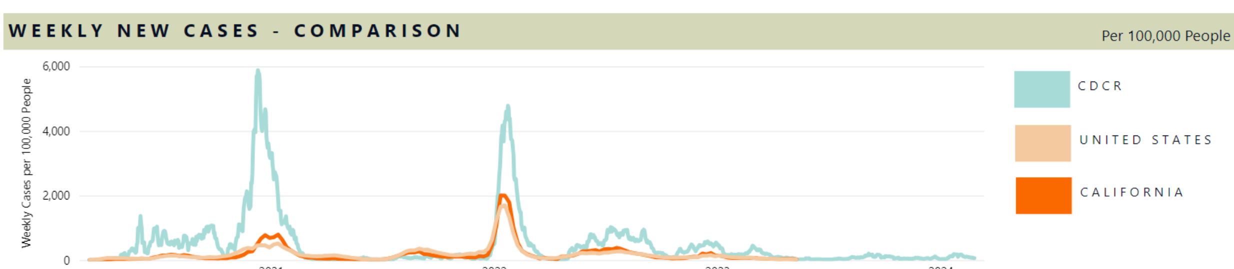
Issue 6: COVID-19 Proposals

Proposal. The Administration proposes the following changes related to COVID-19 funding:

- $38.4 million General Fund in 2024-25 and ongoing for continued health care costs related to the prevention and mitigation of and response to COVID-19.
- Budget bill language allowing funding to be reduced if actual or estimated expenditures fall below the requested amount.
- Reversion of $38.8 million General Fund in 2023-24 for prevention, mitigation, and response activities.
- Reversion of $5 million General Fund in 2023-24 and $9 million General Fund in 2024-25 for workers compensation.

Panelists
- Duane Reeder, Deputy Director Fiscal Management Section, CDCR
- Dr. Renee Kanan, Deputy Director Medical Services, CDCR
- Orlando Sanchez Zavala, Fiscal & Policy Analyst, LAO
- Alyssa Cervantes, Staff Finance Budget Analyst, DOF
- Allison Hewitt, Principal Program Budget Analyst, DOF

Background. As of February 22, 2024, the incarcerated population has had a total of 96,122 cases and 263 deaths since the beginning of the pandemic[7]. There are currently 109 active, in custody cases. As of the end of the state of emergency on February 28, 2023, CDCR is no longer reporting staff COVID-19 testing data[8]. Rates of COVID-19 within the incarcerated population have outpaced state and national averages throughout much of the pandemic (see below).



Vaccinations. Vaccinations are currently required for employees and incarcerated workers in health care settings. As of February 22, 2024, 75 percent of the incarcerated population and 66 percent of CDCR employees had completed their primary vaccination series. However, only 28 percent of the incarcerated population are completely up-to-date, including recommended booster shots. In addition, vaccination rates vary widely across facilities and settings. For example, at High Desert State Prison, only 47 percent of staff completed their primary series. The highest staff

[7] https://www.cdcr.ca.gov/covid19/population-status-tracking/
[8] https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-19-status/

vaccination rates are at the medical facilities, including the California Health Care Facility and the California Medical Facility, where vaccines are mandated for employees. The percentages of employees who are up to date with their boosters is not available.

Testing and Masking Protocols. CDCR primarily uses testing for individuals who have symptoms or were potentially exposed. There is no regular screening testing of the incarcerated population or staff (even if staff are not vaccinated), and testing is not required for staff. Masks are not generally required.

Previously Allocated Resources. The Department has expended over $1.5 billion for COVID prevention, mitigation, and response activities, with funding for both California Correctional Health Care Services (CCHCS) and CDCR. However, this request is only for funding for CCHCS. The expenditure history for CCHCS is displayed below.

CCHCS COVID-19 Cost History[1]
(Dollars in Thousands)

Expenditures	2019-2020	2020-2021	2021-22	2022-23[2]	2023-24[3]	2024-25[4]
Testing (Employee)	$0	$81,197	$222,540	$29,659	$8,927	$7,434
Testing (Incarcerated Persons)	$6,093	$131,813	$104,183	$51,429	$15,151	$13,213
Medical Expenses (Registry)	$0	$99,574	$18,225	$22,367	$11,800	$0
Other Staffing & Operational Costs	$30,176	$83,720	$50,070	$28,713	$6,823	$6,686
Personal Protective Equipment	$21,309	$17,884	$10,641	$6,627	$4,802	$4,802
Cleaning	$180	$1,567	$1,444	$141	$0	$0
Vaccines[5]	$0	$0	$0	$0	$6,253	$6,253
Total	**$57,758**	**$415,755**	**$407,103**	**$138,936**	**$53,756**	**$38,388**

[1]Reflects CCHCS costs only. Does not include costs incurred by CDCR.

[2]CCHCS received $41.2 million in California Department of Public Health (CDPH) American Rescue Plan Act Reimbursements, bringing the total cost to the Department down to $97.7 million.

[3]Projected expenditures for 2023-24.

[4]Projected expenditures for 2024-25 and ongoing.

[5]Prior to 2023-24, vaccines were federally funded at no cost to the Department. Beginning in 2023-24, CCHCS utilized Departmental funds to purchase the COVID-19 vaccines due to the commercialization upon approval through the Food and Drug Administration.

LAO Comment.

Request Does Not Account for Recent Trends, Reflect a Standardized Methodology, or Projected Decline in Population. The LAO finds that the Department's proposed methodology to estimate its funding need does not factor in recent trends in COVID-19 prevalence, is not based on a standardized methodology, and does not reflect projected declines in the prison population. For example, the Department's methodology to estimate its funding need for testing of the prison population factors in expenditures between April 2023 and August 2023. As a result, CDCR's ongoing level of resources for testing of the prison population would be based on trends that do not reflect more recently available information given that CDCR indicates it will not update its request in the spring. This budgeting approach raises further concerns because it is not standardized to include the same months in the calculations for each of the expenditure categories. For example, it is unclear why the ongoing level of funding for testing of the prison population should be based on average expenditures between April 2023 and August 2023, while the funding for testing of staff should be based on average expenditures between April 2023 and September 2023. Moreover, the proposal assumes CDCR expenditures on COVID-19 health care costs will remain the same despite the fact that the prison population is projected to decline both in 2024-25 and future years, suggesting the Department's resource need will also decline going forward.

CDCR Has Not Explored Options to Reduce State Spending by Leveraging Employee Health Insurance. The state offers employer-sponsored health insurance to state employees, including CDCR. As such, CDCR staff are able to receive vaccinations against COVID-19 from their employer-sponsored health insurance. Notably, all employer-sponsored health insurance plans offered through the state provide COVID-19 vaccinations at no-cost to the employee. When asked whether the Department could leverage employee health insurance to offset the vaccine costs for employees, CDCR indicated that it had not explored such an option. This is noteworthy given that the Department is requesting resources for staff vaccinations against COVID-19 on an ongoing basis.

LAO Recommendation.

Withhold Action on Budget-Year Request and Direct CDCR to Provide Updated Proposal. The LAO recommends that the Legislature withhold action on the Governor's proposed resources for COVID-19-related health care costs in CDCR in 2024-25. The LAO also recommends the Legislature direct the Department to update its 2024-25 request in the spring to reflect more recent data. In doing so, the Department should use a standard snapshot of months when calculating its need for each of the activities it is requesting resources for and provide justification for why that set of months is reflective of its costs. Additionally, the Department should adjust the proposal to reflect the fact that the prison population is expected to decline between 2023-24 and 2024-25. Finally, the LAO recommends the Legislature direct CDCR to explore options to leverage the state's employer-sponsored health insurance to reduce the funding needed for employee vaccines and further adjust the proposal as necessary to reflect any resulting savings from doing so. These adjustments would likely reduce the overall cost of the proposal, freeing up General Fund resources that could be used to address the fiscal difficulties facing the state in the budget year.

Reject Funding for Future Years. The LAO recommends that the Legislature reject the funding proposed for the future and fund the Department's COVID-19-related health care workload on a one-time basis. The Department has provided little reason to think that its COVID-19-related funding needs will remain at 2023 levels in the future, particularly given the projected decline in the prison population. Moreover, funding such a request would increase the Department's baseline spending in the future, and the LAO finds that it is not prudent to make such a commitment given the fact that our office projects the state's fiscal difficulties will continue in future years.

Staff Recommendation. Hold open.

Issue 7: Employee Health Program Reduction

Proposal. The Governor's budget includes a reduction of 38.0 positions and $7.1 million General Fund in 2024-25 and ongoing for the Employee Health Program (EHP).

Panelists

- Duane Reeder, Deputy Director Fiscal Management Section, CDCR
- Debra Amos, Terrell, Chief Nurse Executive, CDCR
- Orlando Sanchez Zavala, Fiscal & Policy Analyst, LAO
- Alyssa Cervantes, Staff Finance Budget Analyst, DOF
- Allison Hewitt, Principal Program Budget Analyst, DOF

Background.

In October 2022, CDCR started EHP to mitigate COVID-19 transmission among CDCR staff by providing education, conducting contact tracing, administering vaccines, and reporting positive tests to staff. The federal Receiver—appointed by the *Plata v. Newsom* court to take control over the direct management and operation of the state's medical care—oversees EHP, which is primarily operated by medical staff. The 2022-23 Budget Act provided $22.8 million from the California Emergency Relief Fund and 157 positions on a one-time basis for the program to operate at each prison.

Prior to EHP, there was not one centralized program area within CDCR with dedicated resources to manage employee health, and CDCR was not in compliance with existing federal regulations around workplace safety and aerosol diseases. CDCR indicated it had accumulated about $1 million in workplace violations and citations from Cal/OSHA in a five-year period, due to its failure to maintain a workplace free from recognized hazards. Most fines were related to the prevention of aerosol transmitted diseases.

The enacted budget in 2023-24 included $15 million General Fund ongoing and 78 positions in 2023-24 to maintain EHP at every prison on an ongoing basis to focus on compliance with workplace safety regulations and mitigation of diseases such as tuberculosis, Hepatitis B, and influenza, in addition to COVID-19. According to CDCR, expanding the focus of EHP to include other diseases would help the Department reduce the spread of these diseases to staff, as well as workplace citations and fines associated with noncompliance with workplace safety regulations.

The Governor's budget proposes to reduce this program size by $7.1 million and by 38 positions, leaving $8 million ongoing and 40 positions for this program.

Staff Recommendation. Hold open.

Issue 8: Community Reentry Program Funding Adjustment

Proposal. The Governor's budget includes funding to increase contract rates and add annual inflationary adjustments for in-custody community reentry centers and post-release reentry programs to reflect increased costs and inflation, including:

- $11.4 million General Fund in 2024-25 growing to $15.9 million in 2028-29 to increase the contract rates for community reentry centers with contracts expiring in 2024-25.

- $2.3 million General Fund in 2024-25 growing to $3.4 million in 2028-29 for parole reentry contracts that recently expired or will expire in 2024-25.

Panelists

- Niki Dhillon, Deputy Director of Program Support, Division of Rehabilitative Programs, CDCR
- Caitlin O'Neil, Principal Fiscal & Policy Analyst, LAO
- Orlando Sanchez Zavala, Fiscal & Policy Analyst, LAO
- Joshua Wittmershaus, Junior Staff Analyst, DOF
- Allison Hewitt, Principal Program Budget Analyst, DOF

Background. CDCR currently contracts with providers to operate community-based pre-release and post-release programs with the goal of improving reentry outcomes. The programs provide a range of community-based, rehabilitative services that assist with substance use disorder, mental health care, medical care, employment, education, housing, family reunification, and social support.

Pre-Release Community Reentry Centers. The pre-release programs include the Male Community Reentry Program (MCRP) and the Custody to Community Transitional Reentry Program (CCTRP), for men and women respectively. These provide community settings for men and women who are still in custody with less than two years on their sentence. There is capacity for around 1,000 people in these programs. There are MCRP locations in Butte (serving Tehama, Nevada, Colusa, Glenn, Sutter, Placer and Yuba), Kern, Los Angeles, and San Diego counties. There are CCTRPs in San Diego, Kern, San Joaquin, Sacramento, and Los Angeles counties.

Effect on Recidivism. A study published in June 2021 that was prepared for CDCR by Stanford University's Public Policy Program found that people who participated in these community reentry center programs for nine months or longer were 92 percent less likely to be reconvicted than a control group that completed their full sentences within California prisons[9]. CDCR's recidivism reports have also shown that the three-year reconviction rate for women who participated in the women's residential reentry program was nearly half the overall female reconviction rate (20 percent for participants in the program compared to 35 percent overall)[10]. The 2021 Annual Report from the Committee on Revision of Penal Code[11] also included a recommendation to expand

[9] https://stacks.stanford.edu/file/druid:bs374hx3899/MCRP_Final_060421.pdf
[10] https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/09/Recidivism-Report-for-Offenders-Released-in-Fiscal-Year-2015-16.pdf
[11] http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2021.pdf

CDCR's existing community-based residential reentry programs. The Federal Bureau of Prisons places people serving up to their final year of a federal sentence in community-based transitional housing run by contractors. Unlike in California, placement in one of these federal programs is mandatory in most cases.

Resources Available and Expansion Funding. CDCR is authorized to spend $36 million on MCRP, and can make adjustments through the population process. The 2022-23 Budget Act included $40 million per year for three years for CDCR to expand the community reentry center program. CDCR has executed contracts for two new locations. The first is with Mental Health Systems for a Fresno location with 114 beds, requiring a facility renovation. It is anticipated to open in October 2024. The second is with Amity for a new-build site in Sacramento with 150 beds. Construction is anticipated to start in late 2024 and is estimated to take 18 months to complete. In addition, CDCR released a Request for Information for potential additional sites, and responses were due in December 2023. The 2023-24 Budget Act also provided some flexibility for the expansion funding to be used to increase provider rates to maintain existing capacity.

Post-Release Parole Community Reentry Programs. CDCR also funds community programs for individuals on parole, to assist them after they have completed their sentence. Over the last three fiscal years, Division of Rehabilitative Programming (DRP) contractors have served 48,515 parolee participants (15,819 in 2020-21, 16,274 in 2021-22, and 16,422 in 2022-23). These programs include:

- Day Reporting Centers (DRCs) are non-residential programs that provide services such as counseling, anger management, education, and substance use disorder education, among others. There are 18 programs available in 14 counties[12]. The programs are 180 days, and can be extended by up to 185 days depending on need.

- Community Based Coalitions are similar to DRCs, and are offered in 10 locations in seven counties[13]. The programs can be up to a year.

- Long Term Offender Reentry and Recovery (LTORR) is a residential program that provides housing, meals, programming, supervision, and support services and resources[14]. There are 14 programs in eight counties. The programs are 180 days, and can be extended by up to 185 days depending on need.

- The Life Skills Training Program provides 18 months of firefighter training for parolees who participated in fire programs while incarcerated.

- Specialized Treatment for Optimized Programming (STOP)[15] contractors provide programming in services to parolees in their first year of release with a focus on substance use disorder treatment. STOP services are provided through a network of community providers located in most counties and managed by six regional placement offices.

[12] https://www.cdcr.ca.gov/rehabilitation/drc/
[13] https://www.cdcr.ca.gov/rehabilitation/cbc/
[14] https://www.cdcr.ca.gov/rehabilitation/ltrr/
[15] https://www.cdcr.ca.gov/rehabilitation/stop/

Resources Available. CDCR is authorized to spent $143.6 million annually on these community programs. In addition, the Returning Home Well program, which provided temporary housing, was provided with $20.9 million federal funding in 2020-21 and 2021-22, and $10.6 million General Fund in 2022-23, 2023-24, and 2024-25.

Proposed Resources and Funding Methodology. With the exception of the one-time infusion of the expansion funding to the MCRPs and CCTRPs, the baseline funding for these programs has not been increased in recent years, despite rising operational costs. The Administration has also had trouble soliciting bids for multiple sites due to noncompetitive rates being offered. Lower rates can also lead to bids from lower quality programs.

The Administration is proposing to use a standard methodology to adjust the rates for both pre-release and post-release program operators to account for rising costs. The methodology includes a one-time catch-up based on changes in the Consumer Price Index (CPI) over the prior contract term, and an ongoing annual two percent increase. The approach above would apply to a total of 11 DRC and LTORR contracts included in the BCP, and to MCRP and CCTRP sites, for which funding is requested through the CDCR population adjustments. The Administration plans to apply a similar methodology to future expiring contracts for parole reentry programs.

Staff Comment.

Operators. These programs are operated by both for-profit and nonprofit entities. Concerns have been raised over the state's use of for-profit entities in the area, as their incentives may not be aligned with successfully reentry and reduced recidivism. The state has also tried to reduce the use of private contractors in correctional settings. The Committee on the Revision of the Penal Code noted this concern in its recommendation that the state expand the MCRP and CCTRP[16]. The Legislature should consider the use of private entities in this area.

Lack of data and oversight. Concerns have been raised about the lack of state oversight and data on STOP[17]. For example, CDCR did not track recidivism, and had limited data on completion rates. Their list of providers also included inaccurate information, including businesses that had closed and sites with suspended business licenses and nonprofit statuses. While this proposal does not specifically include funding for STOP providers, the BCP noted that "[t]he Administration plans to apply a similar methodology to future expiring contracts for parole reentry programs." The lack of data and oversight may also extend to the other parole program advisors. The Legislature should consider how to provide better oversight of these programs, and whether and what kind of outcome tracking should be required.

Staff Recommendation. Hold open.

[16] http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2021.pdf
[17] https://calmatters.org/justice/2023/07/california-prisoner-rehabilitation-centers/

Issue 9: Increased Attorney Fees for Board of Parole Hearings

Proposal. The California Department of Corrections and Rehabilitation, Board of Parole Hearings (BPH) requests $2.1 million General Fund in 2024-25 and on-going to maintain updated funding for fees paid to attorneys who represent incarcerated persons at parole hearings.

Panelists

- Jennifer Shaffer, Executive Officer, BPH
- Caitlin O'Neil, Principal Fiscal & Policy Analyst, LAO
- Skyler-Myles Clinton Cobb, Junior Staff Analyst, DOF
- Cynthia Mendonza, Principal Program Budget Analyst, DOF

Background.

Statue gives parole candidates the right to an attorney at parole hearings. BPH appoints an attorney for candidates who do not hire a private attorney or receive free services from a private attorney. Private attorneys that provide free services are often affiliated with nonprofit organizations specializing in parole hearings. 7,697 (about 90 percent) candidates who had parole hearings scheduled to take place in 2021 relied on a state-appointed attorney.

In the 2021 Budget Act, BPH received $1.75 million one-time General Fund for a pilot program, which required state appointed attorneys to provide an additional hour of counsel to incarcerated persons before they are interviewed for their comprehensive risk assessment (CRA). This counsel included education and advice on the importance of the CRA and its role in the parole decision-making process. The pilot program provided $150 for the additional hour of counsel, increasing the total attorney flat rate fee from $750 to a more competitive fee of $900 per case. In 2023-24, BPH received one-time funding of $1.6 million to extend the extra hour of counsel, and increase the flat rate fee to $945 per case.

In a recent poll survey conducted by the Parole Justice Works (PJW), the majority of people (63 percent) who were represented by a state-appointed panel attorney stated that they were satisfied, or more than satisfied with the representation at the parole hearing. Additionally, a majority (59 percent) indicated that the pre-hearing preparation with their attorney either made a big difference in the hearing or was important to their hearing.

The pilot helped reduce vacancy rates for appointed attorneys. In October of 2021, the vacancy rate was 30 percent, then it dropped to 17 percent with the implementation of the pilot program and has continued declining due to the increased flat rate fee incentive. The current vacancy rate is six percent. The pilot program also resulted in the Board updating its procedures to delay CRA interviews until at least 30 days after state-appointed counsel has been appointed.

The Administration is proposing to extend this program again and increase the flat rate fee to $1,005 due to increasing cost of representation and updated rates. This was calculated by surveying 10 counties and the federal courts hourly rates for criminal defenders, and then assuming each case takes eight hours.

Equity in Parole Hearings. In January 2023, the LAO released a report on equity in the parole process[18]. In it, they noted that candidates with state appointed attorneys had worse outcomes than candidates with private attorneys, including being half as likely to be granted parole, receiving longer denial periods on average, being more than twice as likely to waive their right to a parole hearing, and being four times as likely to stipulate to unsuitability. The report contained many recommendations, and listed some options that could be considered if further analysis indicated that it was a key issue in the quality of state appointed representation. One of those options was further increasing attorney pay. Other options included shifting the responsibility of representation to another entity entirely independent of BPH, providing funding for expert opinions in some cases, and expanding hearing preparation.

Staff Comment.

Rate calculation and amount of time spent on cases. The requested flat rate of $1,005 per case was established by surveying ten counties and the federal courts hourly rates for criminal defenders, and then assuming each case takes eight hours. However, it is not clear how this compares to cost or amount of time private attorneys spend on parole cases. In addition, some concerns have been raised about the flat rate structure, as there is not a financial incentive to spend time or offer extra time or support with the client. Finally, it is not clear how BPH ensures that appointed attorneys are fulfilling the BPH expectations in terms of amount of time spent with the client. For example, the 2021 Budget Act included provisional language requiring BPH was required to report the number of clients who received an extra hour of attorney-client interaction, and BPH's answer assumed that every client with a state appointed attorney received the extra hour.

Staff Recommendation. Hold open.

[18] https://lao.ca.gov/Publications/Report/4658

Senate Budget and Fiscal Review—Scott D. Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, March 7, 2024
9:30 a.m. or Upon Adjournment of Session
State Capitol – Room 112

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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.

ITEMS FOR DISCUSSION

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

Issue 1: Department Overview

Panelists

- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Skyler-Myles Clinton Cobb, Junior Staff Analyst, Department of Finance
- Cynthia Mendonza, Principal Program Budget Analyst, Department of Finance

Background. The Board of State and Community Corrections (BSCC) was established in its current form in 2012 to provide statewide coordination and technical assistance for local justice systems, largely in response to the 2011 public safety realignment. BSCC develops minimum standards for local detention facilities, inspects and reports on facility compliance, sets training standards for correctional staff, and administers facility funding and numerous grant programs for local corrections and law enforcement entities.

Proposed Budget. The Governor's Budget includes $615.4 million for BSCC. This includes $258.7 million for their infrastructure program, which helps counties with financing for the design and construction of county correctional facilities, and $299.9 million in local grants. The remaining $56.9 million covers developing and enforcing standards for local correctional facilities and for correctional staff training, and covers various administrative and program supports and research programs. More detail on these programs is included below.

Structure of the Board. The agency is overseen by a 13-member board, largely consisting of corrections and law enforcement staff, including:

- 10 members appointed by the Governor and confirmed by the Senate, including:
  - Chair.
  - Secretary of CDCR.
  - Director of Division of Adult Parole Operations for CDCR.
  - Sheriff in charge of a small detention facility (capacity of 200 or less).
  - Sheriff in charge of a large detention facility (capacity over 200).
  - Chief probation officer from a small county (population of 200,000 or fewer).
  - Chief probation officer from a large county (population over 200,000).
  - County supervisor or county administrative officer.
  - Chief of police.
  - Member of the public.
- 3 members appointed by others, including:
  - Judge appointed by Judicial Council of California.
  - Community provider of rehabilitative treatment or services for adult offenders appointed by the Speaker of the Assembly.
  - Advocate or community provider of rehabilitative treatment or services for juvenile offenders appointed by the Senate Rules Committee.

Stakeholder Input. BSCC is also often required to consult stakeholders and subject matter experts. BSCC typically fulfills this requirement through Executive Steering Committees (ESCs), which are appointed by the board to carry out specific tasks and provide recommendations, and working groups, which are appointed by ESCs to carry out subtasks and make recommendations. For example, BSCC routinely appoints an ESC to oversee the review of the local detention facility standards and recommend changes, and the ESC may assign working groups to review specific areas of the standards, such as nutritional health.

Infrastructure Program. The Board of State and Community Corrections (BSCC) and the Department of Corrections and Rehabilitation (CDCR) jointly administer several programs to partially finance the design and construction of county correctional facilities. The programs consist of Adult Local Criminal Justice and Local Youth Offender Rehabilitation facilities. Approximately $294 million has been awarded to 19 counties to build or remodel Youth Offender facilities and approximately $2.158 billion has been awarded to 54 counties to build or remodel Adult Local Criminal facilities. BSCC oversees 30 of these projects totaling approximately $938 million.

General Fund Solutions. The Governor's Budget also includes the following proposed General Fund solutions:

General Fund Solution	Summary	Category
Adult Reentry Grant (ARG)	The Governor's budget proposes to delay $57 million General Fund for the ARG from 2024-25 to $19 million per year for three years beginning in 2025-26. The Administration notes that 2024-25 funds have not yet been obligated and there should be no impact to existing grantees, which are being funded with resources from the 2020-21, 2021-22, and 2022-23 fiscal years. BSCC anticipates releasing the next ARG Request for Proposals (RFP) by the end of calendar year 2024, even with the proposed delay.	Delay
California Violence Intervention and Prevention Grant (CalVIP)	CalVIP grants provide funding to cities and community-based organizations for violence intervention and prevention services. CalVIP currently has a $9 million annual General Fund allocation, in addition to various one-time and limited-term augmentations that have been provided in recent years. The Governor's Budget proposes to eliminate that baseline General Fund allocation beginning in 2025-26, in anticipation of funding from the newly created Gun and Ammunition Tax, established by Chapter 231, Statutes of 2023 (AB 28, Gabriel). CalVIP will receive up to $75 million annually from that tax, and it is continuously appropriated. BSCC anticipates that the next RFP will be released by the end of the 2025 calendar year, and that these funding changes will not affect current grantees.	Fund Shift

Proud Parenting Grant	The proposed budget eliminates the Proud Parenting Grant Program, for General Fund savings of $835,000 ongoing. The program has been administered by BSCC since 2005 and provides funding to community-based organizations, county offices of education, county probation departments, and tribes to provide services to young parents who are or were involved in the juvenile justice system or are considered crossover youth with the child welfare system.	Reduction
Public Defender Pilot Program	The proposed budget eliminates the third year of funding for the Public Defender Pilot Program, a reduction of $40 million General Fund in 2023-24. These funds were unobligated, and $100 million has been appropriated to date. However, counties were anticipating these funds arriving in March 2024 and had already made and submitted budgets to BSCC that accounted for these funds.	Reduction
Community Corrections Partnership Plan	The proposed budget eliminates the funding for counties that provide updated Community Corrections Partnership (CCP) Plans to BSCC each year, resulting in annual savings of $7.95 million. It is anticipated that because of this cut, the BSCC would no longer administer the annual survey, and counties would no longer provide information to the BSCC regarding any updates to the CCP Plans.	Reduction
Allocation 3 Cannabis Tax Fund Special Fund	The proposed budget includes a one-time loan of $100 million of unobligated funding from the Allocation 3 Cannabis Tax Sub Fund 3354 (BSCC) to the General Fund. This loan will not impact current grantees.	Special Fund Loan

Staff Recommendation. Hold Open.

Issue 2: Proposed Reduction in Public Defense Pilot Program

Proposal. The proposed budget eliminates the third year of funding for the Public Defense Pilot Program, a reduction of $40 million General Fund in 2023-24.

Panelists.

- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Skyler-Myles Clinton Cobb, Junior Staff Analyst, Department of Finance
- Cynthia Mendonza, Principal Program Budget Analyst, Department of Finance

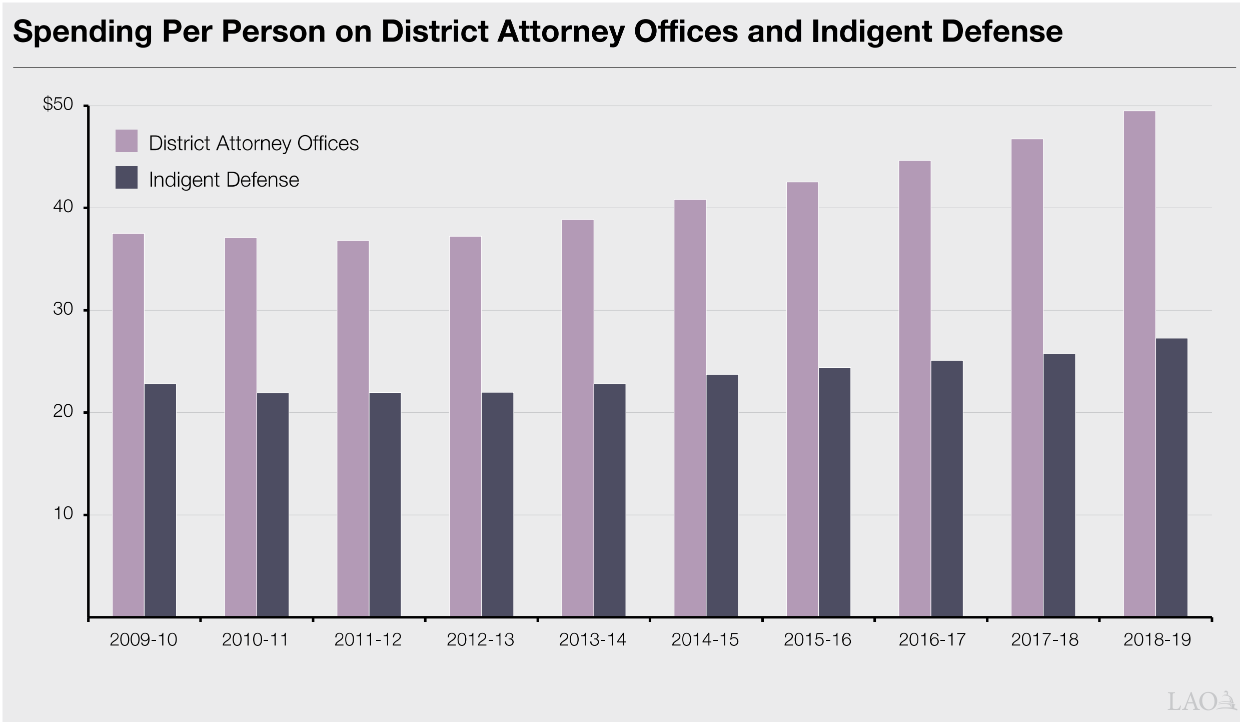
Background. The 2021 Budget Act included $50 million General Fund per year for three years for public defender offices, alternative public defender offices, and other alternative offices providing indigent criminal defense services to support specific resentencing workloads. BSCC was required to collaborate with the Office of the State Public Defender (OSPD) to identify offices providing indigent services in each county. Each office receiving funding will report to BSCC by March 1, 2025 on the use of the funds. BSCC was also required to contract with a university or research institution to complete the independent evaluation of the program. Of the amount appropriated in 2021-22, $500,000 was available for this and other administrative costs.

This funding was designated to support specific resentencing workloads. When laws defining crimes or sentences are amended, there may be incarcerated individuals whose criminal charges and/or sentence lengths are no longer consistent with the new law. However, if enabled by the Legislature, these individuals may seek to be resentenced. Resentencing legislation results in an increased workload for all those involved in criminal cases, including both prosecutors and defense attorneys.

SB 1437 (Skinner), Chapter 1015, Statutes of 2018 amended the statutes related to felony murder, and created a legal path for those convicted of murder under the old laws to ask a judge to resentence them to a lesser crime if they (1) were not the person who took a life, (2) did not act with intent to take a life, or (3) were not a major participant who acted with reckless indifference to life in a felony that resulted in a loss of life. SB 775 (Becker), Chapter 551, Statutes of 2021 extended similar resentencing options for individuals convicted of manslaughter or attempted murder. These statutes were explicitly included in the Public Defense Pilot Program, but these are not the only resentencing changes that have created additional workload for public defenders.

While both defense and prosecution are affected by resentencing efforts, historically, prosecutor offices have been better funded than indigent defense offices[1]. In 2018-19, spending on indigent defense across the state was about 55 percent of the amount spent statewide on district attorney offices (see figure on the next page).

[1] https://lao.ca.gov/Publications/Report/4623



Source: LAO[2]

Impact of Resentencing. OSPD provided the following general information on resentencing efforts related to SB 1437 (Skinner) and SB 775 (Becker):

- Preliminary data from January 1, 2019 to June 30, 2022 indicates approximately 470 people have been resentenced, resulting in a cumulative reduction of 10,380 years of incarceration and $135 million in savings from marginal incarceration costs.

- Approximately 88 percent of the people resentenced were people of color, with Black individuals comprising the largest share (45 percent).

In addition, OSPD noted that 414 people received reduced sentences under Penal Code 1172.1, which allows CDCR, jail administrators, and prosecutors to recommend resentencing under certain circumstances, resulting in a cumulative reduction of 2,186 years of incarceration time and roughly $30 million in savings.

Recidivism. OSPD also noted that individuals released from a long prison sentence have a lower recidivism rate than other populations. For example, according to CDCR, the three-year re-conviction rate for persons who previously served an indeterminate term was 3.2 percent.

Proposal. The 2023 Governor's Budget proposed to remove the third year of funding, but the enacted budget retained $40 million of the original $50 million for the program. The 2024 Governor's Budget again proposes to remove the third year of funding from the program, now a current year reduction, resulting in savings of $40 million in 2023-24. The Administration did not

[2] https://lao.ca.gov/Publications/Report/4623

express any policy concerns with the program; it was primarily a fiscal decision given that the funding has not yet been granted. The Administration noted that the evaluation would still proceed as planned.

Staff Comment.

Impact on cases in progress. The Legislature rejected the elimination of this funding when it was proposed last year, due to potential disruptions caused by an early end to the program. The Legislature should consider the impact of the current proposal, as the counties were anticipating receiving this funding in March of this year, and may need it to complete their current cases.

State funding of prosecutors. The Legislature should consider how the state contributes to inequal funding of prosecution and indigent defense. For example, the 2022 Budget Act included an additional $10 million per year for three years for district attorneys to prosecute retail theft, and provided the DOJ with $4.8 million to implement resentencing legislation (including $3.6 million in 2022-23 and $3.5 million ongoing specifically for the implementation of SB 775), but included no commensurate funding for public defenders or other providers of indigent defense.

Staff Recommendation. Hold Open.

Issue 3: Allocation 3 Cannabis Tax Fund Special Fund Loan

Proposal. The Governor's budget proposes a budgetary loan of $100 million from the BSCC's Cannabis Tax Fund subaccount to the General Fund.

Panelists

- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Skyler-Myles Clinton Cobb, Junior Staff Analyst, Department of Finance
- Cynthia Mendonza, Principal Program Budget Analyst, Department of Finance

Background.

Proposition 64 (2016) specifies the allocation of resources in the Cannabis Tax Fund, which are continuously appropriated. Pursuant to Proposition 64, expenditures are prioritized for regulatory and administrative workload necessary to implement, administer, and enforce the Cannabis Act, followed by research and activities related to the legalization of cannabis and the past effects of its criminalization. Once these priorities have been met, the remaining funds are directed to youth education, prevention, early intervention, and treatment; environmental protection; and public safety-related activities. AB 195 (Committee on Budget, Chapter 56, Statutes of 2022) requires that these Allocation 3 programs are funded at a baseline of approximately $670 million, and included a $150 million General Fund appropriation to backfill revenues, which has been fully allocated in 2023-24.

The Governor's budget estimates $568.9 million will be available for Allocation 3 programs in 2024-25 as follows:

- Education, prevention, and treatment of youth substance use disorders and school retention—60 percent ($341.3 million)

- Clean-up, remediation, and enforcement of environmental impacts created by illegal cannabis cultivation—20 percent ($113.8 million)

- Public safety-related activities—20 percent ($113.8 million)

The BSCC Allocation 3 subaccount is funded by the 20 percent for public safety-related activities, specifically for grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Cannabis Act.

LAO Comments.

As of February 27, 2024, the LAO projects cannabis tax revenues of $675 million in 2023-24. This forecast is $15 million above the January Governor's Budget forecast. As shown in the figure below, the resulting 2024-25 revenue allocations are very similar to the Administration's January projections. Looking further ahead, the LAO's preliminary revenue projection for 2024-25 is $789 million, which is $95 million above the Administration's January forecast for 2024-25.

Cannabis Tax Revenue Outlook
(In Millions)

	January 2024 Governor's Budget Forecast	February 2024 LAO Forecast
2023-24 Revenue	**$660**	**$675**
Allocation 3 Amounts in 2024-25		
Youth Account		
Department of Public Health	$12	$12
Department of Social Services (Child Care)	247	254
Department of Health Care Services	66	68
Natural Resources Agency	17	17
Environmental Account		
Department of Fish and Wildlife	$68	$70
Department of Parks and Recreation	46	47
Law Enforcement Account		
California Highway Patrol	$50	$50
Board of State and Community Corrections	64	67

Staff Recommendation. Hold Open.

Issue 4: Post Release Community Supervision Funding

Proposal. The Governor proposes $4.4 million one-time General Fund in 2024-25 for county probation departments to supervise individuals on Post Release Community Supervision (PRCS), due to the temporary increase in the PRCS population caused by Proposition 57.

Panelists

- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Skyler-Myles Clinton Cobb, Junior Staff Analyst, Department of Finance
- Cynthia Mendonza, Principal Program Budget Analyst, Department of Finance

Background.

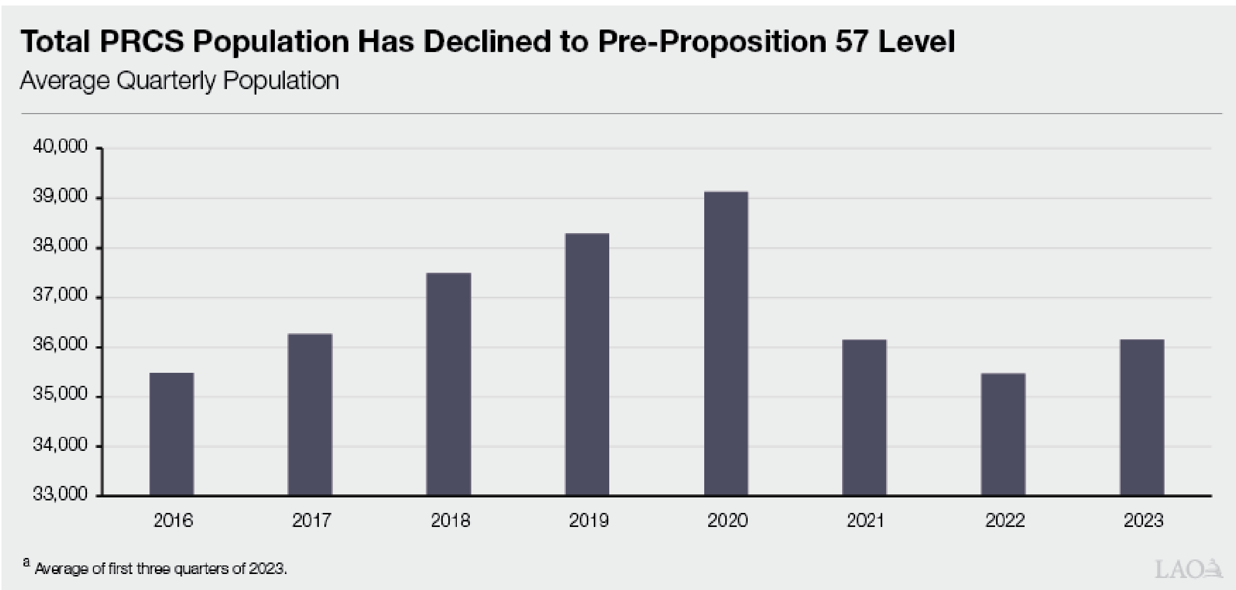
Prior to the 2011 public safety realignment, all individuals released from prison were supervised by state parole agents at CDCR. Realignment shifted the responsibility for supervising low-level offenders to the county probation departments, while serious, violent, and high-risk offenders are still supervised by CDCR. The 2011 realignment included significant funding for the shift of this population. In the first three quarters of 2023 (the most recent data available), the average quarterly PRCS population was 36,200.

Proposition 57 (2016) expanded credit earning opportunities and enabled earlier parole consideration for individuals not convicted of violent crimes, leading some individuals being released to parole or PRCS earlier that would have been expected. As a result, there was a temporary increase of people on PRCS and on parole. This temporary increase is not the product of new people being placed on PRCS or parole, but rather the result of people being released to PRCS and parole ahead of schedule. Since implementation of Proposition 57 began in 2017, the prison population has declined by about 37,500 people (29 percent)—from 131,300 on June 30, 2017 to 93,700 as of January 31, 2024.

While counties receive realigned sales tax revenue to support the PRCS population, this funding does not get moved forward in time to reflect people starting their supervision terms earlier. The state has provided a series of one-time augmentations associated with Proposition 57—totaling $121 million from 2017-18 through 2023-24—to BSCC to distribute to probation departments. These augmentations were based on estimates of the average daily population increase in the PRCS population caused by Proposition 57 and funded at a rate of $10,250 per person. The state has also provided funding to probation departments for temporary increases in the PRCS population caused by population reduction measures implemented in response to (1) a federal court order related to prison overcrowding and (2) the COVID-19 pandemic.

LAO Comments.

Proposed Funding Likely Not Needed. Unlike the state prison and parole populations, the Administration does not report projections of the statewide PRCS population. Accordingly, there are no available projections of the total PRCS population in 2024-25. However, as shown in Figure 1, the PRCS population has declined substantially in recent years, reaching levels comparable to 2016, which was the year before Proposition 57 implementation began. Accordingly, the LAO finds it unlikely that counties continue to need funding to support the temporary increase in the PRCS population for cash-flow reasons. Moreover, the Administration has not provided any data indicating that current 2011 realignment funding levels are such that cash-flow problems are likely to occur.



Source: LAO[3]

Higher Bar for Approving New Spending Proposals Given General Fund Condition. The Governor's proposal would commit the state to $4.4 million in discretionary General Fund expenditures, as the state is not required to provide payments to the counties to offset the cost of the workload. Importantly, the state currently is experiencing a budget problem where revenues already are insufficient to fund existing commitments. In this context, every dollar of new spending in the budget year comes at the expense of a commitment the Legislature deemed a priority and approved funding for, as it requires finding a commensurate level of solution somewhere within the budget. The Governor "makes room" for this (and other) proposed new spending by making reductions to funds committed for other programs. The LAO has therefore recommended that the Legislature apply a higher bar to its review of new spending proposals such as this proposal than it might in a year in which the General Fund had more capacity to support new commitments. In the LAO's view, this proposal does not meet that higher bar.

[3] https://lao.ca.gov/Publications/Report/4849

LAO Recommendation.

Reject Governor's Proposal. The LAO recommends that the Legislature reject the Governor's proposal for two primary reasons. First, the proposed funding is likely not needed. Second, given the state's budget problem, dedicating new General Fund to this purpose would come at the expense of previously identified priorities and the LAO does not find it sufficiently justified for prioritizing limited state resources.

Staff Recommendation. Hold Open.

0250 JUDICIAL BRANCH

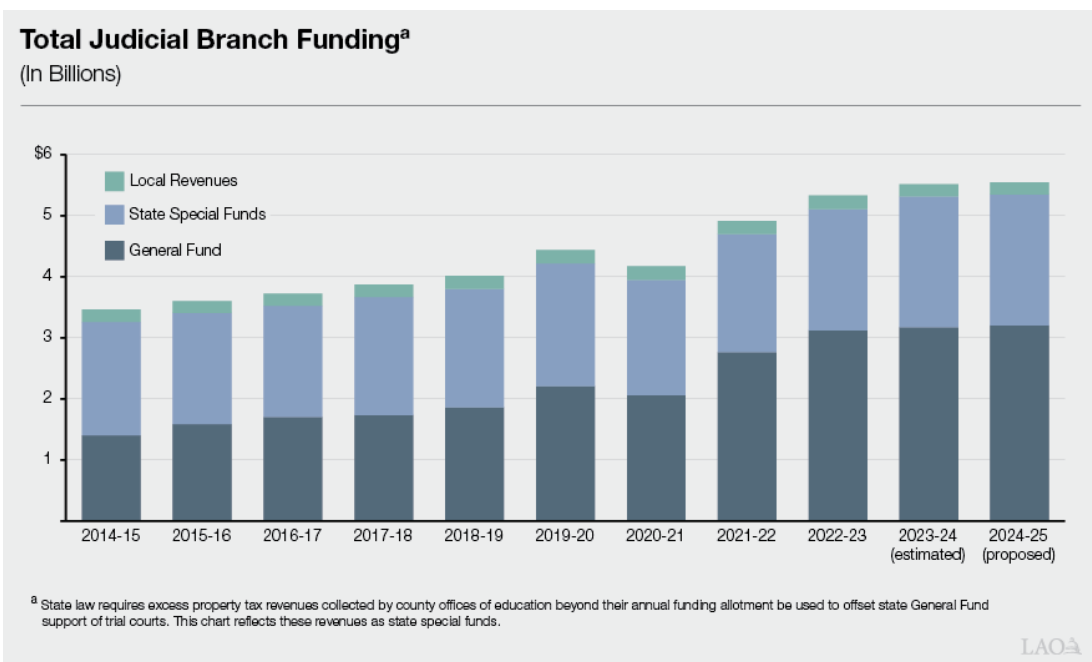
Issue 5: Department Overview

Panelists

- Shelley Curran, Administrative Director, Judicial Council
- Zlatko Theodorovic, Director, Judicial Council Budget Services
- David Yamasaki, Court Executive Officer, Orange Superior Court
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Henry Ng, Staff Finance Budget Analyst, Department of Finance

Background. The Judicial Branch is responsible for the interpretation of law, the protection of people's rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state's 58 counties, and statewide entities of the branch (Judicial Council, the Judicial Council Facility Program, and the Habeas Corpus Resource Center). The branch receives support from several funding sources including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Total operational funding for the judicial branch has steadily increased from 2013-14 through 2023-24. The percent of total operational funding from the General Fund has also steadily increased during this period, from 41 percent in 2014-15 to 58 percent in 2023-24. Since 2019-20, most of the judicial branch budget has been supported by the General Fund. This growth is generally due to increased operational costs and decreases in fine and fee revenue.



Source: LAO[4]

[4] https://lao.ca.gov/Publications/Report/4848

For 2024-25, the Governor's proposed budget includes $5.5 billion from all fund sources in support for the judicial branch. This amount includes about $5.3 billion from all state funds (General Fund and special funds), a decrease of $31 million (0.6 percent) below the revised amount for 2023-24. (These totals do not include expenditures from local reserves or trial court reserves.) Of this amount, about $3.2 billion (63 percent) is from the General Fund. This is a net increase of $30 million (1 percent) from the revised 2023-24 General Fund amount. This net increase reflects various changes, including increased operational costs. The funding for the different programs within the judicial branch is outlined in the table below.

Judicial Branch Budget Summary—All State Funds

(Dollars in Millions)

	2022-23 Actual	2023-24 Estimated	2024-25 Proposed	Change From 2023-24	
				Amount	Percent
State Trial Courts	$3,749	$3,986	$4,033	$47	1.2%
Supreme Court	49	58	56	-2	-3.6
Courts of Appeal	278	290	290	—	0.1
Judicial Council	284	347	311	-36	-10.4
Judicial Branch Facility Program	728	614	637	23	3.7
Habeas Corpus Resource Center	17	20	20	—	-0.3
Totals	**$5,105**	**$5,315**	**$5,346**	**$31**	**0.6%**

Source: LAO[5]

Reserves. Trial courts have a limited ability to keep and carry over any unspent funds (also known as "reserves") from one fiscal year to the next. Specifically, trial courts are only allowed to carry over funds equal to 3 percent of their operating budget from the prior fiscal year under current law. However, certain funds held in the reserve—such as those that are encumbered, designated for statutorily specified purposes, or funds held on a court's behalf by Judicial Council for specific projects—are not subject to this cap, meaning they also can generally be carried over. At the end of 2022-23, trial courts reported having $485 million in reserves. Of this amount, $402 million (83 percent) is not subject to the cap. This amount consists of funds that are encumbered ($157 million), statutorily excluded ($110 million), designated for prepayments or other purposes ($108 million), or held by Judicial Council on behalf of the trial courts for specific projects ($27 million). This leaves $82 million (17 percent) in reserves subject to the cap. This is less than the $97.5 million the trial courts could have retained under the current 3 percent cap. The Governor's 2024-25 budget proposes increasing the cap to 5 percent or $100,000—whichever is greater—which would allow the courts to retain more in their reserves.

Trial Court Trust Fund and Trial Court Emergency Fund. The Trial Court Trust Fund (TCTF) supports trial court operations. The TCTF receives some revenues from certain fees and county funds, but has largely been supported by General Fund backfill in recent years. The Trial Court Emergency Fund is a $10 million set-aside within the TCTF to support trial courts in the case of

[5] https://lao.ca.gov/Publications/Report/4848

emergencies. Individual trial courts can apply to the Judicial Council for funding, and then the trial courts collectively contribute to refill the emergency fund. The Judicial Council indicated that they have received very few applications, and the emergency fund is almost never used.

Governor's Budget Proposals. The proposed budget includes:

- $83.1 million ongoing to continue backfilling the Trial Court Trust Fund.

- Statutory changes to allow trial courts to maintain a reserve of up to 5 percent of the previous year's operating budget or $100,000 for small courts. The current statutory limit is 3 percent.

- Reversions of $75 million one-time from the Trial Court Trust Fund and $5 million one-time from the Trial Court Emergency Fund.

Staff Recommendation. Hold Open.

Issue 6: Remote Proceedings

Proposal. The proposed budget includes statutory changes to remove the sunsets on currently allowed remote court proceedings.

Panelists

- Tracy Kenny, Deputy Director, Judicial Council Office of Governmental Affairs
- Zlatko Theodorovic, Director, Judicial Council Budget Services
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Henry Ng, Staff Finance Budget Analyst, Department of Finance

Background.

During the pandemic, the court system had to make several adjustments to protect the health of court staff, stakeholders, and members of the public, while allowing necessary proceedings to continue. Some of these actions included restricting physical access to court facilities, suspending court activities, and authorizing remote proceedings to allow cases to move forward. The impacts of these actions varied from court to court, but generally resulted in reduced service levels, case backlogs and delays, and increased costs (for example, technology to implement remote proceedings). The state and the judicial branch have taken various actions to address such impacts. For example, the 2021-22 budget included $90 million one-time General Fund to address case backlogs—with $30 million specifically for certain criminal case backlogs and $60 million for backlogs across all case types.

Technology Investments. The state has also invested in technology upgrades to improve the audio and visual quality of remote proceedings. For example, one of the major issues in older courtrooms is sound quality – remote participants are not able to clearly hear the sound from all of the in-person participants. While many courtrooms have been retrofitted, sound quality and other technical issues remain a problem. The 2022 budget package included $33.2 million General Fund in 2022-2023 and 2023-2024, and $1,632,000 ongoing to implement and support remote access in courtroom proceedings, including upgrading audio and video equipment in courtrooms, as well as investments in branch wide information technology upgrades and data and security systems. The 2020 budget also included $25 million in 2020-21 and 2021-22 for modernizing court operations.

Remote Proceedings. Remote proceedings were initially authorized by an emergency rule adopted by the Judicial Council of California on April 6, 2020. Subsequent statutory changes clarified which proceedings were allowed and placed various other limitations on remote proceedings, and required reporting on civil proceedings.

The Judicial Council reports that an average of 141,762 civil proceedings were conducted remotely per month statewide in the 12-month period from September 2022 through August 2023[6]. Collectively, courts reported spending $14,588,633.70 to purchase, lease, or upgrade remote technology between September 1, 2022, and August 31, 2023. Eleven of the 51 responding courts reported no expenditures for remote technology during this reporting period.

[6] https://www.courts.ca.gov/documents/lr-2023-tc-remote-technology-civil-actions-civ367.8.pdf

The Judicial Council also collected experience surveys from 64,369 users statewide, including 28,332 external court users and 36,037 internal court workers. Users reported technical issues at a rate of 1.9 percent for audio and 0.8 percent for visual. External court uses reported higher levels of technical issues that court workers. Overall, both court users and court workers reporting overall positive experiences with remote proceedings, although nearly 10 percent of external court users had a negative experience.

Table 8. Count and Percentages of Positive vs. Negative Remote Proceedings Experiences

Remote Proceedings Experience Response	Court Users	Court Workers	Total
Positive	25,632 (90.5%)	35,418 (98.3%)	61,050 (94.8%)
Negative	2,700 (9.5%)	619 (1.7%)	3,319 (5.2%)
Total	**28,332**	**36,037**	**64,369**

Source: Judicial Council[7]

Recent Budget Action. The 2023 budget package included the following statutory changes, which the Governor's budget is proposing to extend:

- Extends the sunset on specified civil and juvenile remote court proceedings from July 1, 2023 to January 1, 2026, and requires the development and adoption of minimum standards for courtroom technology and reporting on the impact of remote proceedings, among other statutory changes.

- Extends the sunset on specified criminal remote court proceedings from January 1, 2024 to January 1, 2025, consistent with the provisions of AB 199 (Committee on Budget), Chapter 57, Statutes of 2022.

Staff Recommendation. Hold Open.

[7] https://www.courts.ca.gov/documents/lr-2023-tc-remote-technology-civil-actions-civ367.8.pdf

Issue 7: Ongoing Funding for Court-Based Self-Help Centers

Proposal. The proposed budget includes $19.1 million General Fund ongoing for court-based self-help centers. This would maintain the current level of funding for self-help centers at $30 million ongoing, a result of limited-term funding that would otherwise expire this year.

Panelists.

- Zlatko Theodorovic, Director, Judicial Council Budget Services
- Charlene Depner, Director, Judicial Council Center for Families, Children and the Courts
- Judge Maria Hernandez, Presiding Judge, Orange Superior Court
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Henry Ng, Staff Finance Budget Analyst, Department of Finance

Background. Self-represented people are those who choose to access certain court services without the assistance of legal counsel. This happens most often in civil cases when the person cannot afford an attorney. People do not generally have a right to counsel in civil matters, even though civil matters can include serious legal issues such as evictions and debt collections. In eviction cases, 93 percent of tenants are unrepresented, while 81 percent of landlords who seek evictions are represented[8]. According to the 2022 Justice Gap Study by the Legal Services Corporation (LSC), 74 percent of low-income households experienced at least one civil legal problem in the past year, and low-income Americans did not get any or enough legal help for 92 percent of their substantial civil legal programs[9].

Given their lack of familiarity with statutory requirements and court procedures (such as what forms must be filled out or their legal obligations in the potential case), self-represented people can be at a legal disadvantage. In addition, trial court staff tend to spend significantly more time processing a self-represented filing than one with legal representation. For example, a self-represented litigant who files incomplete or inaccurate paperwork can lead to the litigant having to file paperwork repeatedly, the court having to continue or delay cases, or the court needing to schedule additional hearings.

Self-Help Centers. Each of California's trial courts operates a self-help center which serves as a central location for self-represented people to educate themselves and seek assistance with navigating court procedures. Attorneys and other trained personnel who staff the centers provide services in a variety of ways (such as through one-on-one discussions, workshops, and referrals to other legal resources). Court-based self-help centers provide self-represented litigants with assistance in their legal matters approximately 950,000 times a year, including many seeking help with family cases, restraining orders, and evictions, among other topics, and often needing assistance in a language other than English.

The 2018-19 budget provided $19 million General Fund annually for three years to supplement $11 million in existing support from the Trial Court Trust Fund (TCTF, $6.2 million) and Improvement and Modernization Fund ($5 million). This increased the total annual direct funding for self-help centers to $30 million through 2020-21. The 2021-22 budget then extended this

[8] https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report_12-10-19.pdf
[9] https://justicegap.lsc.gov/resource/executive-summary/

increased funding level for an additional three years. These funds are allocated to individual centers using a formula based on the population of the county where the center is located. Self-help centers also can receive funding from other sources, such as trial court operation dollars and federal funds.

Other Resources. Self-help centers are just one way that the state aids self-represented people. There are two main categories of programs: legal assistance, which refers to programs which help people find information and navigate the court system and includes self-help centers, and legal services, which may provide direct legal advice and representation. Recent budgets have included the following investments in legal resources for self-represented individuals:

- *Community Assistance, Recovery, and Empowerment (CARE) Program*. The CARE Program is a new civil court proceeding that allows specific people to seek assistance for certain adults with severe mental illness. The 2023-24 budget includes $75 million in ongoing General Fund support, including $10.6 million for attorneys to provide legal assistance related to the CARE program and $64.4 million for legal services providers (or county public defender offices) to provide legal representation related to the program.

- *Statewide Web Portal*. The judicial branch currently maintains a statewide web portal to help self-represented people navigate the court system. The 2018-19 budget included $3.2 million General Fund in 2018-19, declining to $709,000 annually beginning in 2020-21, to construct and maintain this web portal.

- *County Law Libraries*. County law libraries—generally supported by a share of civil filing fees—provide free access to legal books and publications to county residents, State Bar members, and certain governmental officials. These libraries may also offer legal assistance with forms, offer classes and workshops, and facilitate obtaining advice from attorneys. To address declines in the amount of civil filing fee revenues available to support county law libraries, four budgets have included one-time General Fund assistance to help maintain service levels. Specifically, this includes $17 million in 2018-19, $7 million in 2020-21, $17 million in 2021-22, and $17 million in 2022-23.

- *Shriver Program*. The Shriver Program provides competitive grants to support projects in which a court partners with a legal services provider to provide legal representation to low-income people in civil matters that affect basic human needs (such as housing, child custody, probate, and conservatorship matters). The 2020-21 budget included $11 million in ongoing funding from the TCTF to reflect the additional amount of revenue available to support the program after Chapter 217 of 2019 (AB 330, Gabriel) increased the amount of certain post-judgement civil filing fees that are available to support the program.

- *Equal Access Fund (EAF) Program*. The EAF program provides grants to more than 100 legal services providers (such as Legal Aid) across the state to support legal services or assistance to low-income or self-represented people. Funding may be provided for discretionary use or for specific purposes (such as specifically for housing-related issues). The 2021-22 budget included an ongoing $15 million General Fund augmentation to provide discretionary funding for the program. Additionally, the 2022-23 budget included

$45 million in one-time General Fund support for eviction-related matters ($30 million) and consumer debt-related issues stemming from the COVID-19 pandemic ($15 million).

LAO Comments.

Proposed Self-Help Funding Would Help Promote Equity. Funding for self-help centers helps promote equity. People seeking self-help center services generally are lower-income and cannot afford the services of an attorney to address issues that may have significant impacts on their lives—such as divorce, child custody, domestic violence, eviction, and guardianship issues. While some of these people may be low-income enough to obtain free legal representation (such as through the Shriver Program or EAF Program), a number of them will not be eligible because the income threshold that must be met to qualify for those programs is quite low. This puts them at a legal disadvantage compared to those who receive representation or legal advice, as they do not have the legal knowledge or expertise to know how to navigate courts processes. For example, such people may have difficulty identifying, completing, and serving the necessary forms and documents to initiate a case or to respond to an attorney's filing. Moreover, such people are also less likely to be able to afford to come back to court repeatedly—such as if their case has to be refiled or continued due to inaccurate completion of forms or a lack of knowledge about how to navigate court processes. Self-help centers can help mitigate such obstacles, which increases the ability of these people to successfully access the courts on a more equal footing with those who are represented by lawyers.

Cost Benefit Evaluation Found Some Self-Help Services Created Net Benefits. As directed by the Legislature, the judicial branch completed a cost-benefit analysis of self-help centers in June 2022. The analysis measured benefits to the courts as the cost-savings estimated to be generated by self-help centers, such as savings from reduced judicial and staff time needed due to more efficient and fewer court interactions. The analysis measured benefits to litigants as the money they saved as a result of using self-help centers, such as wages they would have otherwise lost from having to travel to court unnecessarily. The analysis measured costs as the cost to the courts of providing the self-help assistance. The analysis found that providing self-help in family, civil, and probate cases were net beneficial to both the courts and litigants. This means the benefits to the courts and litigants outweighed the costs of providing the self-help center services. For example, the analysis found that a civil case which received self-help one-on-one assistance resulted in $322 in benefits and $89 in costs—resulting in net benefits of $233 per filing. For civil cases which received self-help assistance through a workshop, the net benefit was $267 per filing. The full cost-benefit analysis table is below.

Table 1. Benefit-to-Cost Amount and Ratio per Filing*			
One-on-One	**Family**	**Civil**	**Probate**
Benefits	$322	$322	$322
Costs	$97	$89	$172
Net Amount	$225	$233	$150
Ratio	3.31	3.63	1.87
Workshop			
Benefits	$322	$322	$322
Costs	$78	$55	$107
Net Amount	$244	$267	$215
Ratio	4.11	5.87	3.00
* Discrepancies in ratios are the result of rounding; see appendix Table B.			

Source: Judicial Council[10]

Evaluation of Shriver Program Showed It Produced Notable Benefits Over Self Representation. A June 2020 statutorily required evaluation of the Shriver Program found that legal representation generated different benefits than self-help centers. For example, in comparing eviction cases in which low-income tenants were represented through Shriver projects with those who were self-represented, the evaluation found notable additional benefits for tenants represented by Shriver project attorneys. The evaluation found that tenants served by the Shriver projects were more likely to participate in their case, more likely to have their case resolved by settlement rather than trial, and reduced the level of court involvement. While most tenants still ultimately moved, few tenants served by the Shriver projects were ultimately formally evicted—which would have impacted their ability to seek replacement housing. Additionally, in comparison to self-represented tenants, Shriver project attorneys were able to help reduce the amount of money their tenant clients ultimately had to pay to resolve their cases and to obtain terms to benefit their clients' credit (such as not reporting the case to credit agencies). This made it more likely that Shriver clients found replacement housing within a year.

Evaluations Show That Different Benefits Achievable Based on What Legal Resources Are Funded. Both evaluations demonstrated that self-help centers and the Shriver Program generated benefits, and thus could merit funding consideration. However, the different benefits generated raises policy considerations for the Legislature regarding where funding should be invested to generate legislatively desired results. For example, the Shriver Program evaluation demonstrates that legal representation for low-income tenants can have a meaningful impact on their ability to obtain replacement housing relatively quickly—which could reduce the chance they become homeless. If the Legislature determined the benefits of the Shriver Programs were policy priorities, it could provide funding to prioritize expanding legal representation to tenants to the 47 courts that currently lack the Shriver Program or expanding the number of people who would be eligible for services. In contrast, if the Legislature prioritized court operational efficiency by reducing delays

[10] https://www.courts.ca.gov/documents/lr-2022-narrative-self-help-supplement.pdf

from incomplete forms or lack of procedural knowledge, it would be preferable to invest in self-help centers, which can reduce court operational costs.

LAO Recommendation.

Direct Judicial Council to Convene Working Group to Provide a Report Assessing Legal Resources and Develop a Strategic Plan for Legal Resource Funding. The LAO recommends the Legislature direct Judicial Council to convene a working group to assess the legal resources available in the state, and develop a strategic plan for legal resource funding. The working group would consist of diverse representatives from the courts (such as judges and self-help staff) and the legal service provider community to represent the different ways in which legal services are provided as well as the different legal resource needs across the state. The working group would review all programs providing legal assistance or services in the state and make recommendations on how to improve the allocation of funding, and report to the Legislature by January 1, 2027.

Consider Providing Proposed $19 Million in Self-Help Funding for Three-Years. Given the state is currently facing a budget problem, the Legislature will need to weigh the $19 million proposed for continued funding for self-help centers against its other spending priorities. This is because the Legislature will likely need to offset the requested funding for this proposal with spending reductions elsewhere in the budget. If the state's budget problem worsens, as our recent update to the state budget deficit recently indicated, the Legislature may need to make even more reductions to existing programs and services. This can result in heightened trade-offs to fund this proposal and would therefore require heightened legislative scrutiny on whether this proposal should be approved. However, when evaluating this proposal on its individual merits, the LAO finds it reasonable to approve the Governor's proposal as it would maintain existing funding levels for self-help center and avoid reductions in service levels. Maintaining such service levels benefits both the state and litigants, including making it easier for self-represented people access the courts. However, the LAO recommends only providing the requested funding for three years. This is because this time period would allow Judicial Council to convene the recommended working group and to facilitate the development of a strategic plan. The Legislature would then be able to determine how much funding should be provided beginning in the 2027-28 budget year to support self-help centers, as well as other legal resource programs, on an ongoing basis using the information in the assessment report and recommendations included in the strategic plan.

Staff Recommendation. Hold Open.

Issue 8: Proposed Reduction of the Judicial Council Firearm Relinquishment Grant

Proposal. The Governor's budget proposes to reduce the funding available for court-based firearm relinquishment from $40 million to $20 million.

Panelists.

- Zlatko Theodorovic, Director, Judicial Council Budget Services
- Don Will, Deputy Director, Judicial Council Center for Families, Children and the Courts
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Henry Ng, Staff Finance Budget Analyst, Department of Finance

Background. The 2022 budget included $40 million for court-based firearm relinquishment programs. The funding was intended to help courts ensure there was a consistent process for collecting weapons from people with court-ordered firearm prohibitions, with priority for civil matters such as domestic violence protection orders or gun violence restraining orders.

$20 million has been distributed to eight courts and partner law enforcement agencies through two rounds of grant cycles. The Judicial Council has also used some funding for administrative purposes. The Judicial Council recently collected applications for another cycle of funding, which is open to both new applicants and existing grantees, and reported that they had received $9.2 million in requests. In addition, the Judicial Council requested proposals for an external program evaluator, and is working with current grantees to identify promising models to assist other courts in project planning and expending the remaining funding.

Increasing Gun Violence. According to a 2018 survey from the Firearm Violence Research Center at UC Davis[11], around 4.2 million people in California own a total of 20 million firearms, including 9 million handguns. Most Californian gun owners own one or two guns, but ten percent of gun owners own ten or more guns, accounting for roughly half of the guns in the state. California has a lower rate of gun ownership than the national average and has the ninth lowest state gun ownership rate[12].

However, firearm ownership in California and the United States has increased since the beginning of the pandemic. Firearm sales in the United States surged by an estimated 64 percent between March and May of 2020[13]. Researchers at the Firearm Violence Research Center at UC Davis estimated that 110,000 new guns were purchased in California between March and July 2020. People with ready access to a firearm are almost twice as likely to be killed and three times more likely to commit suicide than those without such access[14].

Increase in Number of Armed and Prohibited Persons. The state's Armed and Prohibited Persons System (APPS) identifies individuals who legally purchased or registered firearms, but subsequently became prohibited from owning or possessing them. These "armed and prohibited persons" include those convicted of felonies and some misdemeanors, found by a court to be a

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[11] https://health.ucdavis.edu/vprp/UCFC/Fact_Sheets/CSaWSBrief_InjPrev_Kravitz-Wirtz.pdf
[12] https://journalistsresource.org/health/gun-buybacks-what-the-research-says/
[13] https://www.medrxiv.org/content/10.1101/2020.10.03.20206367v1.full.pdf; https://www.latimes.com/science/story/2020-10-17/about-110-000-californians-have-bought-a-gun-since-the-coronavirus-arrived-study-says
[14] https://www.nejm.org/doi/full/10.1056/NEJMsa1916744; https://www.latimes.com/science/la-sci-guns-20140121-story.html

danger to themselves or others due to mental illness, or have a restraining order against them. From 2008 to 2023, the number of such persons more than doubled—from 10,266 to 23,669 individuals as of January 1, 2023[15]. Individuals are generally removed from this list when law enforcement reports they no longer possess their firearms (such as if a police department seized them).

Increased Role of Firearms in Crime and in Firearm Deaths. California experienced a concerning 33.9 percent increase in homicides and a 25.3 percent increase in aggravated assaults between 2019 and 2022, with gun-related homicides and aggravated assaults increasing by 37.7 percent and 61.1 percent respectively[16]. Robberies fell by 6.7 percent in this period, but robberies involving a firearm rose by 12.5 percent.

New Excise Tax on Firearms and Ammunition. Beginning July 2024, Chapter 231 of 2023 (AB 28, Gabriel) imposes a new excise tax on firearm dealers, firearm manufacturers, and ammunition vendors. Specifically, an 11 percent tax is applied to the gross retail sales of firearms, firearm precursor parts, and ammunition. Retail sales to law enforcement agencies and active or retired peace officers, as well as those that total less than $5,000 per quarter, are exempt from this tax. Entities paying this tax are required to submit an electronic return and pay taxes quarterly, no later than the quarter after the sales were made. As Chapter 231 went through the legislative policy process, the California Department of Tax and Fee Administration preliminarily estimated that this new tax could generate $159 million.

Proceeds from the new tax are intended for a variety of programs designed to prevent gun violence, including up to $15 million annually for court-based firearm relinquishment. This is the third priority, after $75 million for the California Violence Intervention and Prevention (CalVIP) Grant Program and $50 million for programs or activities addressing risk factors for gun violence affecting K-12 students. It also must be appropriated by the Legislature.

LAO Comments. The LAO notes that the budget currently does not reflect any revenue or expenditures from the proceeds of the new excise tax. The Legislature could consider making appropriations for 2024-25. Because funding for the CalVIP Program is continuously appropriated, the Legislature does not need to specifically authorize the Board of State and Community Corrections (which administers CalVIP) to use the funding for CalVIP. However, the Legislature could consider whether it wants to make any funding available for the other eligible programs or purposes. For example, to address the state's budget problem, the Governor's budget proposes to revert $20 million (out of $40 million) appropriated in 2022-23 to support a court-based firearm relinquishment grant program. To the extent the Legislature prioritizes this program, it could consider appropriating funding to offset this reduction.

Staff Recommendation. Hold Open.

[15] https://oag.ca.gov/system/files/media/2022-apps-report.pdf
[16] https://www.ppic.org/publication/crime-trends-in-california/

Issue 9: Capital Outlay and Facilities

Proposal. The Governor's Budget includes the following resources for capital outlay and facilities:

- *New Sixth Appellate District Courthouse*. $89.5 million Lease Revenue Bond authority for the Design-Build phase of the New Sixth Appellate District Courthouse.

- *Trial Courts Facility Operations and Maintenance*. $3.57 million for maintenance of the Stanislaus–New Modesto Courthouse opening in 2024–25.

- *State Court Facilities and Construction Fund Backfill*. $80 million in 2024-25 and $119 million ongoing to backfill the State Court Facilities and Construction Fund.

Panelists.
- Zlatko Theodorovic, Director, Judicial Council Budget Services
- Pella McCormick Director Facilities Services, Judicial Council of California
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Phil Osborn, Staff Finance Budget Analyst, Department of Finance
- Koreen van Ravenhorst, Principal Program Budget Analyst, Department of Finance

Background. The Judicial Branch currently manages around 450 facilities across all 58 counties. Its facility program is responsible for various activities including maintaining these facilities, managing leases, and constructing new courthouses to replace outdated facilities. In a November 2019 assessment of its facilities[17], the judicial branch identified a need for a total of 80 construction projects—56 new buildings and 24 renovations—totaling $13.2 billion. These projects were categorized into five groups—and ranked within each group—in the following descending priority order: 18 immediate need projects ($2.3 billion), 29 critical need projects ($7.9 billion), 15 high need projects ($1.3 billion), 9 medium need projects ($1.6 billion), and 9 low need projects ($100 million). The status of these projects is listed in the table below. Additionally, in August 2022, the judicial branch identified 22,042 deferred maintenance projects totaling around $4.5 billion[18].

Status of Trial Court Construction Projects From 2019-20 through 2022-23 Budget

Priority Group	Number of Projects	Estimated Project Costs (in billions)	Number Initiated
Immediate Need	18	$2.3	11
Critical Need	29	7.9	—
High Need	15	1.3	—
Medium Need	9	1.6	—
Low Need	9	0.1	—
Total	**80**	**$13.2**	**11**

Source: LAO[19]

[17] https://www.courts.ca.gov/documents/Statewide-List-Capital-Projects-2019.pdf
[18] https://www.courts.ca.gov/documents/facilities-deferred-maintenance-report-fy-2022-23.pdf
[19] https://lao.ca.gov/handouts/crimjust/2023/Trial-Court-Construction-Maintenance-Overview-022723.pdf

State Court Facilities Construction Fund (SCFCF). State law authorizes Judicial Council to construct trial court facilities and established a special fund, the SCFCF, to support the judicial branch's court facility-related projects. This fund was supported by increases in certain criminal and civil fines and fees. The amount of revenue deposited into the SCFCF has steadily declined over time, largely due to declining criminal fine and fee revenue, and the fund was facing insolvency. Due to this, the budget for new courthouse construction was shifted to the General Fund beginning in 2021-22.

In the 2023-24 budget, the amount available to support trial court facility modifications was permanently increased from $65.4 million to $80.4 million annually. In addition, $55.5 million that had been redirected from the SCFCF to support trial court operations was shifted to General Fund. These two changes helped address insolvency issues within the SCFCF. However, the fund still requires General Fund backfill. The proposed budget includes $80 million in 2024-25 and $119 million ongoing to backfill the State Court Facilities and Construction Fund.

New Sixth Appellate District Courthouse. The Governor's budget includes funding for a new appellate courthouse in Santa Clara County. The project will include the demolition of an existing building on the state-owned site as well as the construction of a new courthouse to replace the appellate court's current leased facility. The Administration noted concerns about being able to maintain the current lease at a reasonable rate due to significant development in the area. In addition, the current location is not large enough, leading to overcrowding in waiting areas and insufficient space for security, among other issues.

The proposed new courthouse project will provide construction of a new, one-courtroom, two-story courthouse of approximately 50,000 square feet (SF) on an existing 2-acre, state-owned property in the city of Sunnyvale in Santa Clara County. The site contains the former Sunnyvale Courthouse, which was built in 1967 and has been vacant since 2016. The building has surpassed its useful life, and the Administration intends to demolish it to build the new courthouse. The Administration notes that the site is in Sunnyvale's Civic Center, with access to public transit. The project includes secured parking for justices and surface parking spaces. The estimated total project cost is $92.3 million. The project will use the Design-Build delivery method.

Trial Courts Facility Operations and Maintenance. The Judicial Council of California Facilities Services program oversees the overall care and management of the judicial branch building assets, ensuring access to justice in California's trial courts, Courts of Appeal, and the Supreme Court. The facilities program executes emergency, routine, and preventative maintenance on building systems, portfolio, and lease management, building system renovations, and many other functions required to produce a safe and secure building for the public, court staff, and judiciaries. Judicial Council Facilities Services systematically assessed the costs of an adequately funded facilities program using the International Facilities Management Association (IFMA) rate as the industry standard cost benchmarking measures. One of the new trial court facilities under construction is the 309,284 square foot Stanislaus–New Modesto Courthouse. The New Modesto Courthouse is due to open in 2025, which will require new maintenance funding. The Governor's budget includes $3.57 million for this purpose.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Scott Wiener, Chair
SUBCOMMITTEE NO. 5 **Agenda**

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, March 14, 2024
9:30 a.m. or upon adjournment of session
State Capitol – Room 112

Consultant: Eunice Roh

Item **Department** **Page**

DISCUSSION

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.

DISCUSSION

0521 California State Transportation Agency
2600 California Transportation Commission
2660 California Department of Transportation

Issue 1: Transportation Budget Solutions

Governor's Budget. The Governor's Budget includes several modifications to transportation programs, which results in $296 million General Fund reductions, $791 million in fund shifts, and $3.2 billion in delays. More specifically, the Governor proposes the following:

- **Active Transportation.**
    - A reduction of $200 million from 2023-24.
    - A delay of $400 million from 2021-22 to $300 million in 2025-26 and $100 million in 2026-27.
- **Competitive Transit and Intercity Rail Capital Program (TIRCP).**
    - A delay of $2.1 billion from 2021-22 to $512 million in 2024-25, $564 million in 2025-26, $438 million in 2026-27, and $611 million in 2027-28.
    - A shift of $530 million from the General Fund to the Greenhouse Gas Reduction Fund (GGRF) in 2024-25 and 2025-26.
- **Formula TIRCP.**
    - A delay of $1 billion from 2024-25 to 2025-26.
    - A shift of $261 million from the General Fund to the GGRF in 2024-25.
- **Highways to Boulevards.**
    - A delay of $150 million from 2021-22 to $50 million in 2024-25, $50 million in 2025-26, and $50 million in 2026-27.
- **Port and Freight Infrastructure Program.**
    - A delay of $100 million from 2024-25 to 2026-27.
- **Port of Oakland.**
    - A reduction of $96 million from 2021-22.

In addition, the administration proposes trailer bill language to reflect these delays and reductions, as well as minor technical changes—particularly for the Ports and Freight Infrastructure Program, Formula TIRCP, and Highways to Boulevards.

Background. According to the LAO:

Recent Budget Packages Included Significant Augmentations for Transportation. The 2022-23 budget package planned for significant multiyear General Fund augmentations for transportation programs. In total, these augmentations intended to provide $10.9 billion over a five-year period. This included $9.5 billion through a Transportation Infrastructure Package and $1.4 billion through a Supply Chain Package. The augmentations represented unprecedented levels of General Fund for these types of programs, many of which historically have been supported with state transportation revenue sources. This anomalous General Fund spending was enabled by the significant tax revenue surpluses the state received—and expected to receive—over the past few years.

To help address the General Fund shortfall that began materializing last year, the 2023-24 budget made several modifications to the Transportation Infrastructure and Supply Chain packages. Specifically, the budget shifted costs for certain programs—such as the Active Transportation Program (ATP)—from the General Fund to the State Highway Account (SHA) and delayed funding for certain programs—such as the Port and Freight Infrastructure Program—to future years. Overall, the budget agreement sustained the same overall amounts for the various programs within each package across a multiyear period. The budget also allowed transit agencies facing operational funding shortfalls to use the $4 billion provided and planned for the formula-based component of TIRCP for operational (rather than just capital) expenditures. The figure below displays the multiyear funding totals for each package as revised by the 2023-24 budget agreement.

Transportation Funding Packages as Revised in 2023-24 Budget Agreement

General Fund Unless Otherwise Noted (In Millions)

Program	Department	2021-22 and 2022-23[a]	2023-24	2024-25	2025-26	2026-27	Totals
Transportation Infrastructure Package		**$4,550**	**$2,600**	**$2,000**	**$350**	**—**	**$9,500**
Competitive TIRCP	CalSTA	$3,650[b]	—	—	—	—	$3,650[b]
Active Transportation Program	Caltrans	750	$300[c]	—	—	—	1,050[c]
Highways to Boulevards Pilot Program	Caltrans	150	—	—	—	—	150
Grade separation projects within competitive TIRCP	CalSTA/Caltrans[d]	—	—	—	$350	—	350
Local climate adaptation programs	Caltrans	—	200[c]	—	—	—	200[c]
Formula-based TIRCP	CalSTA	—	2,000	$2,000	—	—	4,000
Clean California Local Grant Program	Caltrans	—	100	—	—	—	100
Supply Chain Package		**$670**	**$250**	**$250**	**$210**	**—**	**$1,380**
Port and Freight Infrastructure Program	CalSTA	$600	$200[c]	$200	$200	—	$1,200[c]
Supply chain workforce campus	CWDB	30	40	40	—	—	110
Port operational improvements	Go-Biz	30		—	—	—	30
Increased commercial driver's license capacity	DMV	10	10	10	10	—	40

Other		**$280**	**$410**	**$230**	**$230**	**$230**	**$1,380**
Port of Oakland improvements	CalSTA	$280	—	—	—	—	$280
Zero-Emission Transit Capital Program	CalSTA	—	$410[e,f]	$230[e]	$230[e]	$230[e]	1,100[e, f]
Totals		**$5,500**	**$3,260**	**$2,480**	**$790**	**$230**	**$12,260**

[a]Funding for Transportation Infrastructure Package and Supply Chain Package were provided as part of the 2022-23 funding agreement, but some funding was scored to 2021-22.

[b]Includes $300 million dedicated to adapting certain rail lines to sea-level rise, as well as $1.8 billion for projects in Southern California and $1.5 billion for projects in Northern California.

[c]Includes funding from the State Highway Account.

[d]CalSTA is responsible for awarding funds, but a portion of the funding will be included in Caltrans' budget to reflect awards to projects on the state highway system.

[e]Includes funding from the Greenhouse Gas Reduction Fund.

[f]Includes funding from the Public Transportation Account.

TIRCP = Transit and Intercity Rail Capital Program; CalSTA = California State Transportation Agency; Caltrans = California Department of Transportation; CWDB = California Workforce Development Board; Go-Biz = Governor's Office of Business and Economic Development; and DMV = Department of Motor Vehicles.

The figure above also displays $1.4 billion included for certain other significant transportation spending not adopted as part of the two thematic packages. This includes $1.1 billion planned across 2023-24 through 2026-27 from various special funds to support the Zero-Emission Transit Capital Program. This new program was created as part of the 2023-24 budget package to further support transit agencies across the state. The program provides formula funding for agencies to purchase zero-emission transit vehicles and related infrastructure and—for those agencies facing operational funding shortfalls—also can be used to cover operational expenses. The figure also includes $280 million from the General Fund provided as part of the 2021-22 budget package to support infrastructure improvements at and near the Port of Oakland.

State Faces a Multiyear, Multibillion-Dollar Budget Problem. Due to a deteriorating revenue picture relative to expectations from June 2023, both our office and the administration anticipate that the state faces a significant multiyear budget problem. A budget problem—also called a deficit—occurs when funding for the current or upcoming budget is insufficient to cover the costs of currently authorized services. Estimates of the magnitude of this shortfall differ based on how "baseline" spending is defined—the administration estimates a $38 billion problem whereas in January our office estimated that the Governor's budget addresses a $58 billion problem—as well as somewhat different revenue projections. Regardless of these distinctions, it is clear that the state faces the task of "solving" a substantial budget problem.

More recent fiscal data we summarize in our February publication, *The 2024-25 Budget: Deficit Update*, indicate the budget outlook continues to worsen—we now estimate the state has a $73 billion deficit to address with the 2024-25 budget. The Governor proposes to address the 2024-25 budget problem through a combination of strategies, including relying on reserves and reducing recent one-time spending commitments. Given that the transportation policy area was one of the largest categories for recent one-time investments, the Governor targets these programs for a notable share of spending solutions. Moreover, both our office and the administration estimate that based on current revenue forecasts, the state will face significant operating deficits in subsequent fiscal years. Under the administration's January projections, even after adopting the Governor's proposals, the state still would face operating deficits of $37 billion in 2025-26, $30 billion in 2026-27, and $28 billion in 2027-28.

LAO Assessment.

While Multiple Programs Impacted, Most Funding Sustained. The proposed solutions would affect several programs in various ways. Overall, however, the Governor's proposals would sustain the vast majority of multiyear transportation funding. Specifically, the Governor's budget would sustain $12 billion, or 98 percent, of the total augmentations intended for transportation programs.

Cash Flow Adjustments Avoid Programmatic Impacts but Create Cost Pressures in Future Years. The proposed $2.8 billion in cash flow adjustments would help alleviate cost pressures in the near term by reducing General Fund commitments in 2023-24. If the state reappropriates the funding by the time the projects need it for construction, this budget solution should not have any significant programmatic impacts. However, these proposals would create cost pressures for the General Fund in future years when this spending resumes, making addressing projected out-year deficits more difficult. Moreover, unlike some other spending delays the Governor proposes across the budget (including for formula-based TIRCP, as discussed below), the Legislature would not have the flexibility to opt not to resume the expenditures in the future—at least not without causing significant fiscal and logistical disruptions for projects and their local sponsors. This is because, as noted, the state has already committed the funds associated with these cash flow adjustments to specific projects. Once grant awards are made, grantees reasonably expect that funding is forthcoming and take steps such as entering into contracts and initiating pre-construction activities.

Proposed Fund Shift for Competitive TIRCP Is Reasonable. The Governor's proposal to shift $530 million for this program to GGRF saves General Fund without impacting projects that have already been awarded funding through the program. (This funding would be provided in 2024-25 as one portion of the proposed cash flow adjustment delays.) As noted above, the state has limited options to avoid providing this funding if it does not want to cause significant disruptions, given it has already entered into project commitments with the awarded grantees. If the state must fund the projects, doing so with a source other than General Fund makes sense in light of the budget condition. Moreover, we find that the proposed fund shift aligns with the goals of GGRF because the projects funded through TIRCP are intended to reduce greenhouse gas emissions.

Delay for Formula-Based TIRCP Achieves Short-Term Savings but Creates Out-Year Cost Pressures. As noted, the Governor proposes to delay $1 billion planned for formula-based TIRCP from 2024-25 until 2025-26. This would generate General Fund solution in the budget year, while also preserving total planned funding for the program across the multiyear period. However, this proposal would create cost pressures in 2025-26. This is particularly important given that our office and the administration project multiyear operating deficits. Unlike competitive-based TIRCP, these funds have not yet been committed for specific projects so the obligation to ultimately provide the funds is somewhat less binding.

Reductions to ATP and Port of Oakland Are Reasonable Given Budget Problem. While the proposed reductions to these two activities would result in fewer projects in future years, they would not impact any current projects. Specifically, for ATP, the proposal would not affect funding that has already been awarded to projects. Instead, the proposed $200 million reduction would be applied to future grant-award cycles. The proposal would allow the program to maintain $850 million of the original planned multiyear amount and thereby still accomplish a significant number of projects. Similarly, the Port of Oakland would keep $184 million for projects that are underway. While the port has identified projects that could be supported with the remaining $96 million, it has not yet obligated the funding, so it could accommodate the reduction with minimal disruption. As such, we find the proposals to be reasonable ways to address the General Fund problem.

Additional Solutions May Be Needed if Budget Problem Worsens. The Legislature likely will be seeking options for alternative budget solutions if it chooses to reject some of the Governor's proposals. Moreover, in the event that the budget condition worsens (our current revenue projections suggest this is likely), the Legislature will need to identify additional solutions in order to meet its constitutional requirement to pass a balanced budget. We have identified a few options the Legislature could consider, but none are without trade-offs.

- ***Reduce Rather Than Delay $1 Billion for Formula-Based TIRCP; Reduce Additional $1 Billion.*** Unlike competitive TIRCP, formula-based TIRCP is not awarded to specific projects. Instead, the funding is provided on a formula basis to regional agencies. This affords the Legislature more flexibility about potentially changing its funding intentions without disrupting projects to which it has already committed. Specifically, it could reconsider providing the $2 billion in General Fund originally planned for 2024-25. This could entail reducing rather than delaying the $1 billion the Governor proposes providing in 2025-26 instead of 2024-25, and additionally reducing the $1 billion the Governor proposes to retain in the budget year. (As highlighted above and discussed next, the Governor proposes funding $261 million of this retained amount with GGRF.) However, such a reduction would impact the ability of local transit agencies to support operations or locally planned infrastructure improvements.

- ***Redirect GGRF for Other Activity, Reduce Formula-Based TIRCP.*** Given the changed state budget situation, the Legislature will need to consider whether a one-time augmentation for formula-based TIRCP still is among its highest priorities. For instance, should a different activity represent a higher priority (such as if a worsening budget picture puts funding for ongoing base programs at risk), the Legislature could opt to shift less than the proposed $261 million GGRF to formula-based TIRCP—or none at all—reducing overall support for the program instead. The Legislature could then utilize the freed-up GGRF to support another activity—transportation or otherwise—that might face reductions given the General Fund condition. As mentioned in the previous bullet, however, such a reduction would impact local transit operations and/or capital projects. (We also note that this approach would not yield additional savings if the Legislature opts to reduce all the funding for formula-based TIRCP in 2024-25.)

- ***Shift Funds From Transportation Accounts to Replace General Fund.*** The Legislature could consider shifting funding for certain programs from the General Fund to state transportation funds such as SHA or the Road Maintenance and Rehabilitation Account (RMRA). The Legislature took a similar action last year, when it shifted $500 million of the one-time General Fund augmentations for transportation to SHA. This approach could provide additional opportunities for achieving General Fund savings but comes with some limitations and trade-offs to consider. First, revenues from both accounts are restricted to specific transportation purposes under the California Constitution, so some limitations exist regarding which activities they could be redirected to support. Second, fund shifts would result in less funding available for other activities currently supported by the funds. For instance, any redirections from SHA ultimately would result in less funding available for state highway maintenance and rehabilitation projects. SHA funds the California Department of Transportation's State Highway Operation and Protection Program, which supports capital projects that rehabilitate and reconstruct the state highway system. In the budget year, the program is estimated to have $5.2 billion for projects through a combination of state and federal funds. The Legislature also would want to consider any potential fund shifts from SHA within the context of the $500 million it shifted last year and the state's goals for highways. Similar trade-offs would apply for any potential redirection from RMRA, which also funds state highway maintenance and rehabilitation projects, along with providing funds to cities and counties for local streets and roads and supporting several smaller programs. RMRA is projected to have revenues of $4.9 billion in 2024-25.

- ***Use Future Base Funding to Replace General Fund Augmentations for Competitive TIRCP.*** In addition to the one-time General Fund augmentations described above, competitive TIRCP receives an annual base amount of funding from GGRF and transportation improvement fee revenues, which is provided through a continuous appropriation. CalSTA currently is in the process of starting its 2024 competitive TIRCP grant cycle, with plans to award about $800 million from these base funds this fall to support new projects over the next five years. Instead of selecting new projects to support with these funds, the Legislature could statutorily direct CalSTA to use them to fulfill the state's commitments to some of the projects already awarded funds from the one-time General Fund augmentations to competitive TIRCP. (Because of delays in project implementation and the resulting cash flow adjustments proposed, the state has some flexibility around the timing of when to provide these funds even though projects have already been promised grant awards.) This action essentially would allow the state to sustain funding for local projects to which it has already committed *and* reduce General Fund expenditures. However, this approach would result in the state supporting fewer overall transit and rail improvement projects over the coming years.

LAO Recommendations.

Approve Cash Flow Adjustments. We recommend the Legislature adopt the Governor's proposed $2.8 billion in cash flow adjustments as they will help address the General Fund condition without programmatic impacts. While postponing providing these funds will create cost pressures in future budget cycles, the state has already committed these amounts for specific projects and, as such, has limited flexibility around making reductions without creating significant disruptions. The proposed approach can help the General Fund condition in the near term but the state will need to prepare to provide the funds in the coming years despite the challenging budget situation.

Approve Fund Shift for Competitive TIRCP. We recommend approving the proposed $530 million fund shift from the General Fund to GGRF for competitive TIRCP. This shift would help the state meet its commitment to funding projects that have already received grant awards while also saving General Fund.

Approve Proposed General Fund Reductions for ATP and Port of Oakland. We recommend the Legislature adopt the proposed General Fund reductions for ATP ($200 million) and the Port of Oakland ($96 million). While these proposals reduce funding for potential projects in the future, they do not impact support for existing projects. In the cases of both activities, a notable amount of funding would be maintained to help accomplish key objectives, albeit at a reduced level. Due to the budget condition, we find these proposals to be reasonable.

Use Spring Budget Process to Identify Additional Potential Budget Solutions in Transportation. We recommend the Legislature take steps now to identify additional options for generating General Fund solutions from transportation programs. Taking such steps will help position the Legislature to respond should the budget problem worsen—which we think is likely—and if the Legislature seeks to modify the Governor's proposed approach. Some options the Legislature could consider include reducing funding for formula-based TIRCP (reducing General Fund and/or reducing and redirecting GGRF), using other transportation special funds to replace some one-time General Fund, and replacing General Fund for existing competitive TIRCP commitments with the program's base funding that would otherwise support future projects. None of these options are without trade-offs. Overall, reducing General Fund ultimately will mean supporting fewer transportation activities compared to what was originally intended in prior budget agreements, whether that be for transit and rail projects or highway maintenance. While this process will be challenging, taking the time to consider, research, and select potential options over the spring will better prepare the Legislature to make decisions in May and June when it will not have much time to gather information and carefully consider program trade-offs before the budget deadline.

Staff Recommendation: Hold Open.

2660 California Department of Transportation

Issue 2: Fleet Replacement

Governor's Budget. The Governor's Budget includes $279,050,00 from the State Highway Account for two years to continue replacing its aging fleet and installing zero emission vehicle (ZEV) infrastructure. Of this amount, $250,000,000 is to replace the equipment, $22,500,000 is for contractors to install ZEV infrastructure, and $6,550,000 is for 50 positions to support these efforts.

Background. In 2022-23, Caltrans received $176,000,000 to implement the first two years of a multi-year fleet replacement plan. During the initial years, Caltrans primarily focused on replacing its light-duty fleet. Thus far, Caltrans has placed purchase orders for 2,200 vehicles, including over a thousand electric vehicles, to replace the oldest and highest mileage vehicles of all types, with a focus on vehicles most at risk for failure. Specifically, Caltrans replaced 399 aging sedans with battery electric vehicles. In addition, Caltrans has placed a purchase order for 600 electric vehicle light-duty trucks. Caltrans expects to be able to replace 2,782 vehicles/equipment and install 2,180 charging ports in total with this initial funding.

This request is intended to support Caltrans' fleet replacement efforts, particularly for its medium-duty, heavy-duty, and off-road fleet. Caltrans estimates the funding will replace approximately 3,000 vehicles over two years. According to the department, these vehicles is expected to be more costly, due to their bigger size and specialization. These vehicles are currently approximately double the cost of traditional internal combustion engine trucks—for example, a diesel-fueled sweeper costs $330,637 per unit, while a ZEV sweeper costs $708,966 per unit—not including the cost of fast-charging infrastructure.

In addition to vehicles, Caltrans will install charging infrastructure to meet these operational needs, particularly in underserved, low-income, and priority communities, which will be identified by the CalEnviroScreen mapping tool. This is intended to lessen the negative air quality and noise pollution issues associated with medium- and heavy- duty vehicle and equipment in these disadvantaged communities. The department estimates this funding will support at least 200 DC fast chargers for medium- and heavy-duty vehicles in over 100 locations; 60 EV-ARC/mobile chargers; and 50 level 2 and level 3 charging ports. Caltrans also requests funding for staff to support the administrative procurement processes and engineering work for technical specifications for the fleet replacement efforts.

Staff Comments. Caltrans operates a large and diverse fleet of 12,271 vehicles—including light-duty, medium- and heavy-duty, and off-road. Currently, about half of the Caltrans fleet needs to be replaced due to age and wear and tear of the vehicles. Fleet replacement is part of the ongoing maintenance and operations for Caltrans, but in recent years, the transition to zero-emission vehicles has added additional cost and complexity. Caltrans follows a ZEV First policy—meaning the department prioritizes ZEV first, pug-in hybrid second, hybrid-electric third, and internal combustion engine (ICE) fourth. This is aligned with other state policies, such as Advanced Clean Fleets (ACF), which requires, among other things, state and local government fleets to ensure 50 percent of vehicle purchases are zero-emissions beginning in 2024 and 100 percent of vehicle purchases are zero-emissions by 2027. As Caltrans navigates the ZEV transition and compliance with ACF regulation, the Legislature may want to provide oversight over this significant capital investment, particularly on its cost-efficiency, climate and health benefits, as well as labor and workforce implications.

In addition, other entities in the state who also have to comply with ACF could benefit from Caltrans' transition to ZEVs. Specifically, the California State Association of Counties, California Cities, and California Special Districts Association requests reporting language for Caltrans to report data on the types, number, and costs of the zero-emission vehicles and charging infrastructure to learn best practices, assess reasonable procurement timelines and determine realistic delivery estimates for charging infrastructure projects as well as vehicle and equipment procurement. In particular, this could help provide additional information for planning for smaller or medium-sized entities who may not have the resources or buying power as a state department, such as Caltrans.

Staff Recommendation: Hold Open.

Issue 3: Institutionalizing the California Integrated Travel Project (Cal-ITP) and Building a Data & Digital Services Division

Governor's Budget. The Budget includes $26,298,000 ongoing from the Public Transportation Account for the California Integrated Mobility Program and to build a Data & Digital Services Division.

Background. In 2018, the Capitol Corridor Joint Powers Authority (CCJPA) received $80,340,000 from the Transit and Intercity Rail Capital Program for the Northern California Corridor Enhancement Program. As part of this project, CCJPA allocated $27,000,000 towards the statewide Integrated Travel Program, to provide opportunities for riders on at least 10 rail and transit systems to plan travel and purchase tickets in a single, seamless transaction. According to the department, Cal-ITP served 253 fixed-route services using this funding.

In 2021-22, Caltrans received $7,172,000 of federal funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act to support medium, small and rural agencies in consistent compliance with the General Transit Feed Specification (GTFS) and contactless payment standards. GTFS defines a common format for public transportation schedules and associated geographic information. It allows real-time transit data to be incorporated into third-party apps and systems, such as Google Maps. This request funded an in-house Business Unit whose responsibility is overseeing the implementation and expansion of GTFS, equitable contactless payments and benefits eligibility verification for small, rural and mid-sized transportation services. In addition, this request funded Caltrans to streamline some processes for small and rural transit agencies to access state and federal funding by building a prototype grant eligibility checker, automating part of the annual reporting that Caltrans does to the FTA, and begin working on a statewide capital planning/transit asset management system of record. This funding allowed Caltrans to provide technical assistance to 250 fixed-route services, with focus on the 60 rural and small agencies that receive Section 5311 federal funding.

Caltrans requests funding to continue this work by establishing the California Integrated Mobility (CIM) Program and developing a Data & Digital Services (DDS) Division. The CIM Program would provide the scheduling software and technical assistance with GTFS, so that small, rural, and paratransit agencies can have complete and accurate GTFS data. In addition, CIM would work on providing discounts to older adult customers paying directly with a bank card, to streamline discounts and incentives in contactless payments. CIM would do such work by building or buying software, hardware, and/or time/error-saving services for local transit agencies. Caltrans proposes to fund CIM at $6.9 million annually, which includes 37 positions.

Under this request, Caltrans proposes to fund a Data and Digital Services Division, which will work on various projects, such as monitoring and improving the quality of transit GTFS and GTFS Real Time data, consolidating grant applications and simplifying grant application processes, collecting and structuring the Office of Civil Rights' DBE data for regular access via dashboards; training Caltrans District staff to work with mobility data and modern data tools; automating annual National Transit Database reporting. Caltrans proposes to fund this division at roughly $6 million annually, which includes 31 positions.

LAO Comment. The proposed activities could help increase public transit ridership— which aligns with certain legislative priorities such as improving transportation mobility and reducing vehicle miles traveled in individual automobiles. As such, the proposal could have some merit. However, the Legislature may want to consider how these potential benefits compare with its other priorities—particularly in light of the state's budget problem. For example, the Legislature could consider whether it might instead want to use these funds to sustain activities that it had planned to support with General Fund that may now face reductions, or to provide assistance to public transit agencies facing operating funding shortfalls. Particularly given the proposal is for ongoing funding and the state is facing out-year General Fund deficits, the Legislature might want to be careful about weighing its priorities and preserving its flexibility.

Staff Comment. This proposal is a significant expansion of the Cal-ITP. Previously, the program has received limited-term funding for more specified goals. Several transit agencies have benefited from Cal-ITP services, such as technical assistance for open payments, data analytics, procurement strategies and arrangements, among other things. However, it is unclear what the ongoing demand are for these services are across all types of transit agencies in the state—and whether transit agencies are prioritizing these efforts for state funding. The Legislature will want to consider the need and cost-effectiveness of this program before committing ongoing funding, especially in the current budget climate.

Staff Recommendation: Hold Open.

2667 HIGH-SPEED RAIL AUTHORITY, OFFICE OF INSPECTOR GENERAL

Issue 4: Establishing the Office of Inspector General, High Speed Rail

Governor's Proposal. The Governor's budget proposes $2 million from the Public Transportation Account in new funding from transportation special funds (including $1.4 million on an ongoing basis) to support ten ongoing and four limited-term positions to launch the High-Speed Rail Authority (HSRA) Office of the Inspector General (OIG).

Background. From the LAO:

Legislature Established OIG in 2022 to Improve High-Speed Rail Project Oversight. As part of an agreement to appropriate the remaining unappropriated Proposition 1A bond funds for HSRA, the Legislature adopted Chapter 71 of 2022 (SB 198, Committee on Budget and Fiscal Review). Among other provisions, Chapter 71 created the HSRA OIG to improve oversight of the high-speed rail project and provide accurate, current, and impartial information to inform project decisions. The budget package included baseline funding of $1 million annually from the Public Transportation Account (PTA) for OIG.

The package also included budget bill language that allows the Department of Finance (DOF) to approve an additional midyear augmentation of up to $1 million no sooner than 30 days after notifying JLBC.

Statute Included Various Provisions. Chapter 71 included a variety of provisions governing the establishment and operation of OIG. Some of the key provisions relate to the following:

- ***OIG Responsibilities.*** Chapter 71 specified various responsibilities for OIG, such as conducting audits and investigations and reviewing HSRA business plans, contracts, and proposed agreements.
- ***OIG Authorities.*** To perform its work, Chapter 71 provided OIG with a number of powers and authorities, such as issuing subpoenas and accessing all HSRA files and other records.
- ***Appointment and Removal of the Inspector General (IG).*** Chapter 71 gave both the Legislature and Governor roles in selecting the IG to lead OIG, requiring the Governor to appoint an IG from among three individuals nominated by the Joint Legislative Audit Committee (JLAC). The statute also prohibits the Governor from removing the IG without good cause.

- ***IG's Selection of Staff.*** The statute requires the IG to select, appoint, and employ officers and employees necessary to carry out the functions of OIG. In making these selections, the IG is required to ensure that officers and employees have the requisite training and experience to enable the office to carry out its duties effectively.
- ***IG Compensation.*** Chapter 71 specifies that the IG's salary be the same as that of the IG of the California Department of Corrections and Rehabilitation (currently roughly $192,000 annually).
- ***OIG's Operational Independence.*** Chapter 71 specifies that OIG be independent and not a subdivision of any other governmental entity, such as a state department or agency.
- ***Budgetary Independence.*** The statute requires that if OIG proposes a different level of overall fiscal support than the amount included in the Governor's budget, DOF shall provide a notification to the chairs and vice chairs of the budget committees of both houses of the Legislature and to the Legislative Analyst's Office. When applicable, this notification must identify the differences and explain the rationale for the discrepancy and be provided no later than January 10 of each year.
- ***HSRA Support for OIG Operations.*** The statute requires HSRA to provide various resources to OIG, including appropriate and adequate office space, equipment, office supplies, maintenance services, and communications facilities and services as may be necessary. The statute does not specify the extent to which OIG is required to reimburse HSRA for the cost of any resources it may provide.

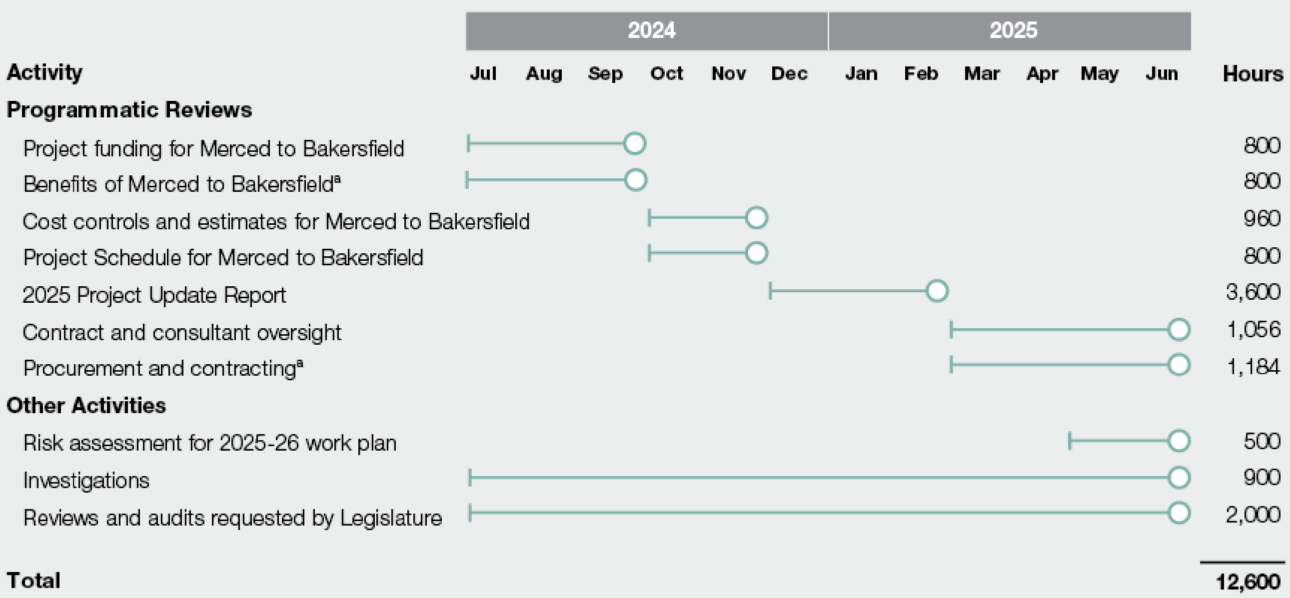
In 2023, IG Was Selected and Began Hiring. In August 2023, the Governor announced the selection of the first IG from among three candidates selected by JLAC, consistent with the process outlined in statute. Since being selected, the IG has taken various steps to launch the office. For example, the IG moved into a portion of HSRA's office space, which HSRA provided consistent with the statutory requirement. The IG also began hiring staff using the $1 million provided as part of the 2023-24 state budget. To date, the IG has hired three staff members. OIG also currently is using HSRA staff to help support various activities, such as those related to basic human resources and budgeting functions.

IG Has Identified a Proposed Work Plan. The IG's proposed work plan envisions that OIG will conduct six programmatic reviews annually, as well as investigate complaints (such as from whistleblowers) and conduct ad hoc reviews. We summarize OIG's work plan for 2024-25 in Figure 1.

As shown, some of the key activities planned for the 2024-25 fiscal year include analyzing the funding, benefits, costs, and schedule of the Merced-to-Bakersfield segment; evaluating HSRA's policies for managing contracts and overseeing consultant work and assessing compliance with those policies; and analyzing policies related to procuring contracted services.

Figure 1

OIG's Proposed Work Plan for 2024-25



[a] OIG indicates that the timing of these activities may be switched.
OIG = High-Speed Rail Office of the Inspector General.

LAO Assessment.

Proposed Staffing Levels Appear Reasonable to Meet Work Plan. The proposed staffing levels—ten permanent positions and four temporary positions—appear to be well justified to complete the IG's proposed work plan and address the baseline workload associated with overseeing the high-speed rail project. This level of staffing provides sufficient auditors to conduct six programmatic reviews annually, as well as an estimated 900 hours annually to respond to whistleblower complaints and 2000 hours annually to respond to workload requests from the Legislature, Governor, and HSRA.

Providing Positions on Temporary Basis May Make It More Difficult to Attract and Retain Staff. As mentioned above, the proposal would fund four of the requested positions on a limited-term basis. In some cases, such an approach can make sense, particularly when programs are new and the level of ongoing workload is uncertain. However, this likely is not the case for OIG. While OIG is new, some certainty exists that the proposed staffing will be needed as a baseline level on an ongoing basis given the size and complexity of the high-speed rail project and the number of issues that could benefit from oversight. Additionally, attracting and retaining qualified staff can be difficult for limited-term positions since the job status provides less stability.

Lack of Authority to Use Proposed Auditor Classification Could Pose Challenge. As shown in Figure 2, the proposal requests funding for two Staff Management Auditor (Specialist) positions.

However, OIG indicates that it currently does not have access to this position classification—which is used by the State Controller's Office (SCO)—nor to similar classifications used by the California State Auditor (CSA) and the California Public Employees' Retirement System (CalPERS).

OIG lacks this access because to use department-specific classifications under existing state policy, OIG must either (1) receive approval from the relevant "owning" department, as well as from the California Department of Human Resources (CalHR) or (2) CalHR must approve the use of the classification, overriding the owning department's refusal to allow the requesting department to use the classification. That is, based on the typical state process, SCO, CSA, CalPERS, and/or CalHR would have to grant approval to OIG to use this type of auditor position. To date, OIG reports that CSA and CalPERS have denied requests to use their classifications, and SCO has not yet responded to OIG's requests. Thus, while the proposal assumes the use of the Staff Management Auditor (Specialist) classification, whether OIG ultimately will have access to it still is unclear. Absent such access, OIG reports it would have to use a general classification for hiring these positions that pays less than the other comparable state agencies. OIG indicates this inability to hire at the desired classification could affect its ability to attract and retain top talent.

Notably, as mentioned previously, Chapter 71 requires OIG to select, appoint, and employ officers and employees necessary to carry out the functions of the office. It also further requires that, in making these selections, the IG must ensure that those officers and employees have the requisite training and experience to enable the office to carry out its duties effectively. This language suggests that Chapter 71 intended OIG to have the ability to hire well-qualified, experienced staff to support the mission of the office.

DOF's Failure to Notify the JLBC About Modifications to OIG's Request May Fall Short of Meeting Legislative Intent. The mix of permanent and limited-term positions proposed—ten permanent staff and four temporary staff—differs from the proposal originally submitted to the administration by OIG, which requested that all the positions be permanent. DOF did not provide a notification to JLBC that the Governor's budget modified this request. Our office only learned about this modification because we specifically asked if any changes were made to the initial OIG proposal. While the administration's perspective is that a notification was not required under the statute since the total amount of *funding* provided matches what OIG requested for 2024-25, DOF did change the proposal materially. Indeed, the changes made by the administration affect OIG's out-year budget amount, given the temporary nature of the positions results in a limited-term need for funding. This raises questions about whether DOF's failure to notify the JLBC of the change to OIG's budget proposal is consistent with the Legislature's intent to provide OIG with robust budgetary independence.

Additional JLBC Involvement in Potential Midyear Augmentations Could Boost OIG's Budgetary Independence. As mentioned previously, the Governor's budget proposes to retain existing budget bill provisional language that allows OIG to request midyear resources from DOF. The language further authorizes DOF to make an augmentation—of up to $1 million—no sooner than 30 days after notifying JLBC. This provision could be an important tool for OIG to secure any additional resource needs that it may identify outside of the standard budget cycle, particularly as it is first launching and determining its funding requirements. Under the existing language, however, JLBC does not directly receive notification of any midyear funding requests OIG may submit to DOF. Instead, it is only notified if and when such a request is approved by DOF. This lack of concurrent notification of OIG's request for resources could make it difficult for the Legislature—through the JLBC—to monitor OIG's resource needs and ensure that the administration is addressing them promptly. For example, the Legislature may be left unaware if DOF delays acting on or rejects a midyear request from OIG.

This circumstance would deny the Legislature the opportunity to review and evaluate such a request and—should it disagree with DOF's decision and feel that OIG urgently needs the requested funding to support its independent operations—to potentially intervene.

Launching OIG Represents Important Opportunity to Ensure Consistency With Legislative Vision and Priorities. The Governor's proposal provides resources to fully launch OIG, thus setting the course for how the office will be staffed and operated. As such, this represents an important juncture for the Legislature to assess whether the proposed plan for the office is consistent with legislative intent and vision. Such an assessment should include consideration of whether the proposed scope of work and time lines are consistent with what the Legislature seeks from the office. The Legislature also can consider whether OIG's proposed use of HSRA staff to support activities such as human resources and budgeting—at least in the short term—is sufficient to preserve the office's independence, or whether it would feel more comfortable having an outside entity—such as the Department of General Services—providing these services (which likely would result in an additional cost).

LAO Recommendations.

Fund Positions on a Permanent Basis. We recommend modifying the Governor's proposal to fund all of the requested positions, but on a permanent basis (rather than funding a portion of the positions on a limited-term basis as proposed). This is because (1) we expect OIG will have sufficient workload to support these positions on an ongoing basis and (2) authorizing positions on a limited-term basis could compromise OIG's ability to attract and retain highly qualified staff. We note that providing the positions on a permanent basis would be consistent with the budget request OIG submitted to the administration and would not affect the condition of the General Fund, as the positions would be funded from the PTA.

Provide Authority to Use Requested—or Similar—Classification. We recommend the Legislature provide OIG with authority to use the requested classification—Staff Management Auditor (Specialist)—or a similar one with a comparable salary. This might be achieved in a number of ways. One option that could accomplish this objective would be for the Legislature to adopt budget trailer language providing OIG with authority to create classifications and set salaries as needed to complete its work. (CSA currently maintains this authority.) Alternatively, the Legislature could consider more narrowly targeted options for addressing OIG's staffing concerns, such as providing specific statutory authority to use the particular classification the office is seeking. We recommend the Legislature explore the various available options for ensuring OIG is able to hire and compensate sufficiently qualified staff, including requesting information from the administration regarding the trade-offs and technicalities of potential alternatives.

Adopt Budget Trailer Legislation Strengthening Requirement for JLBC Notification of Changes to Both Fiscal Year and Midyear OIG Budget Requests. We recommend that the Legislature adopt two changes to strengthen the JLBC's role in overseeing and safeguarding OIG's budget. First, we recommend adopting technical cleanup budget trailer legislation that would clarify that the administration is required to provide the JLBC with a notification of *any* changes DOF makes to a budget proposal requested by OIG as part of the standard fiscal year budget process—including modifications related to funding amounts in the budget year and out-years, classifications, limited-term versus permanent positions, contract resources, and operating expenses and equipment. We recommend the language also require the administration to provide a copy of OIG's original request to the JLBC along with the notification.

These statutory changes would help ensure that the Legislature has sufficient information to (1) assess the appropriate level of funding for OIG to complete its work and (2) safeguard the independence of the office.

Second, we recommend modifying budget bill language to require that OIG's midyear requests for additional funding be provided to JLBC concurrently with DOF (rather than only to DOF initially, as is currently the case). Such a change would ensure the Legislature is aware of the midyear resource needs that OIG identifies and can help ensure the office is promptly receiving a level of support consistent with legislative intent for its activities and deliverables.

Take Actions, as Relevant, to Ensure Consistency With the Legislature's Vision and Priorities for OIG. As noted above, the Legislature created OIG to improve oversight of HSRA. The launch of this office is an important opportunity for the Legislature to consider whether its proposed size, scope, and structure are consistent with its vision and priorities. We recommend that the Legislature determine its specific expectations for such oversight and make any adjustment—such as to OIG's responsibilities, authorities, staffing, and funding—necessary to ensure its expectations are met. For example, if the Legislature desires a different approach to the proposed work plan, it could adopt intent language or provide additional direction in statute. Depending on the scope of the Legislature's desired changes, if any, there could be an effect on the level of staffing and other resources required by the office.

Staff Recommendation: Hold Open.

VARIOUS DEPARTMENTS

Issue 5: Motor Vehicle Account Fund Condition

Background. According to the LAO:

MVA Supports Various State Programs. MVA is the primary funding source for CHP and DMV. The account also provides some funding for the California Air Resources Board. The uses of most MVA revenues are constitutionally limited to the administration and enforcement of laws regulating the use of vehicles on public highways and roads, as well as certain transportation activities.

Revenues Mainly Come From Vehicle Registration Fees. For 2023-24, MVA revenues are estimated to total about $4.7 billion. Of this amount, nearly $4.1 billion (87 percent) is projected to come from vehicle registration fees. The remainder largely is generated by other DMV fees such as driver license fees. (We note that DMV also collects various other fees at the time of vehicle registration that are not deposited into MVA, such as vehicle license fees, truck weight fees, and an additional registration fee charged to owners of zero-emission vehicles.)

Expenditures Outpacing Revenues. Between 2018-19 and 2023-24, MVA revenues have increased by $714 million (18 percent) while expenditures have increased by about $1 billion (26 percent). Since 2021-22, annual expenditures have exceeded yearly revenues, resulting in a structural imbalance. Some of the major expenditure cost drivers have included (1) replacement of older CHP area offices and DMV field offices, (2) increased employee compensation costs—which have been driven by both increases to staffing levels and growing salary and benefit costs at CHP, (3) workload related to the issuance of new driver licenses and ID cards that comply with federal standards—commonly referred to as "REAL IDs," and (4) supplemental pension plan repayments that began in 2019-20.

(These payments are related to a 2017-18 budget action that borrowed from the General Fund for a large one-time contribution to the state employee pension fund, requiring future repayment from all relevant funds that make employer pension contributions, including MVA. Over the next 30 years, MVA is expected to receive savings that outweigh these near-term loan repayment expenditures due to slower growth in employer pension contributions.) Despite this gap between revenues and expenditures, MVA has remained solvent thus far due to the state actions described in the next paragraph and by relying on its reserves. However, these reserves are rapidly declining. MVA entered 2021-22 with $585 million in reserves but its year-end balance is projected to drop to $130 million by the beginning of 2024-25.

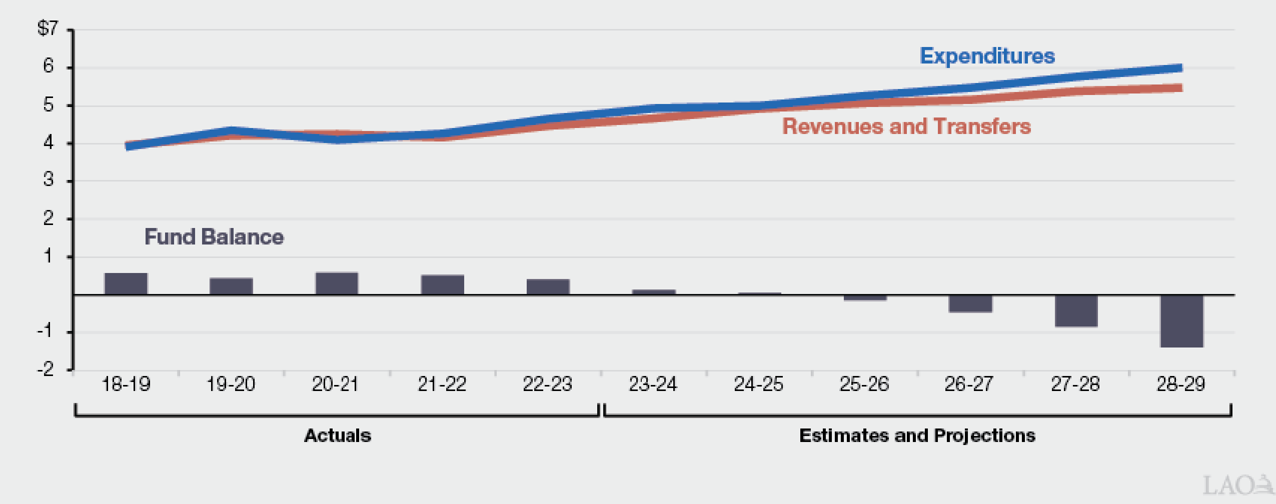
State Has Undertaken Previous Efforts to Address Deficits and Delay Insolvency. Over the last couple of decades, MVA has experienced periodic deficits and risks of insolvency. In response, the state has taken various actions to shore up the fund. Some of these past solutions provided temporary relief, such as the state making a one-time repayment of loans that previously were provided from MVA to the General Fund and delaying supplemental pension plan repayments to the General Fund (which temporarily reduced MVA expenditures but created additional out-year liabilities). Other solutions provided longer-term solutions, including (1) ending a previous practice of transferring about $90 million annually from MVA to the General Fund; (2) authorizing vehicle registration fees to be adjusted annually based on the percent change in the California Consumer Price Index (CPI) to account for inflation; (3) shifting certain programs from MVA to other fund sources; and, as we discuss in more detail below, (4) the state recently has shifted away from using up-front cash from MVA to pay for CHP's and DMV's facility needs.

Due to Ongoing Structural Imbalance, MVA Projected to Become Insolvent in 2025-26. Despite the previous efforts to address MVA's condition, the severity of the fund's imbalance is expected to become worse in the near term, with expenditures growing about 1 percent faster than revenues over the next several years. Due to this imbalance, MVA is expected to fully exhaust its reserves and become insolvent in 2025-26, as shown in Figure 3. Specifically, the administration projects expenditures will exceed available resources by roughly $140 million in 2025-26. If left unaddressed, expenditures would continue to outpace revenues, resulting in a negative fund balance of $1.4 billion in 2028-29. For context, total MVA revenues are projected to be about $5 billion in 2024-25. By 2028-29, these revenues are only projected to increase by about $500 million while expenditures are projected to increase by roughly $1 billion.

Figure 3

Motor Vehicle Account Facing Insolvency in 2025-26

(In Billions)



LAO Comment.

Governor Proposes New Spending From MVA. The Governor's budget does not include a proposal to address MVA's fund condition or structural deficit. In contrast, the January budget includes various proposals for DMV and CHP that would increase cost pressures for MVA. Specifically, the Governor proposes $18 million in 2024-25 (including $10 million ongoing) from MVA for various DMV programs. In addition, the Governor proposes $4 million annually in ongoing spending from MVA for outside counsel to represent CHP and its officers in civil litigation cases related to officer-involved shootings.

Debt Service for Infrastructure Projects Could Create Additional MVA Cost Pressures. CHP and DMV both operate large numbers of facilities across the state, many of which have significant needs. Traditionally, CHP's and DMV's facility projects—such as office replacements—have been funded up front with cash from MVA. However, due to concerns about MVA's condition, over the past several years, the state has explored alternative ways to fund CHP and DMV facilities. In 2019-20, this included issuing lease revenue bonds with plans to repay the debt service from MVA, in an effort to spread the costs of the projects over time and limit near-term pressures on the fund. In 2021-22 and 2022-23, when the state was experiencing a budget surplus, the state provided cash from the General Fund to support such projects. However, as the General Fund condition has worsened, funding for recent projects has been shifted to lease revenue bonds. While this approach reduces costs to move forward with the projects in the near term, repaying the bonds will create cost pressures in future years. Whether the General Fund or MVA will bear the burden of these future costs currently is unclear, as the fund source for repaying the bonds has not yet been determined. The administration indicates that these decisions will be made during annual budget deliberations beginning in 2025-26.

Automatic Pay Increases for CHP Officers Could Impact MVA Cost Pressures. The impact future employee compensation costs will have on MVA's fund condition is somewhat uncertain and depends on future pay trends decided upon by select local governments. For more than 40 years, statute has based highway patrol officers' compensation on an average of specified elements of compensation provided to peace officers employed by five local jurisdictions.

The five jurisdictions are Los Angeles County and the Cities of Los Angeles, Oakland, San Diego, and San Francisco. Because these statutory pay increases are wholly dependent on decisions made by the five local governments, actual pay increases for CHP officers could be higher or lower than current assumptions—potentially impacting MVA cost pressures in future years.

Temporary Actions Could Delay, but Not Prevent, Insolvency. The Legislature has a couple of options for actions that could temporarily delay insolvency for MVA. First, the Legislature could direct the administration to make a loan or transfer to MVA from another fund source such as the General Fund. However, the current General Fund condition and overall budget problem would make this challenging. Second, the administration could temporarily suspend supplemental pension plan repayment requirements. Doing so, however, would result in higher cost pressures for MVA in the near future because the principal and interest for the loan still would need to be repaid by June 30, 2030. Moreover, suspending these repayments would only delay MVA's insolvency by a few months.

Legislature Could Address MVA Fund Condition Through Reducing or Constraining Costs… As noted, MVA's expenditures are outpacing revenue growth and cost pressures could be higher than projected depending on future lease revenue bond debt service decisions and employee compensation trends. To help address the fund condition, the Legislature could take steps to reduce or constrain expenditures. For example, the Legislature could reduce overall employee compensation costs by cutting the number of positions at DMV and CHP. However, such actions would result in a decrease in the level of service the departments would be able to offer, which could affect both public satisfaction (in the case of DMV) and safety (with regard to CHP). Going forward, the Legislature also could consider MVA's fund condition when it is evaluating agreements negotiated between the administration and the employee unions that represent the majority of DMV and CHP employees pertaining to pay and other benefits. Specifically, the Legislature could take into consideration the level of costs the fund can support as one of the factors it weighs when considering whether to approve these draft agreements. As we noted previously, the state currently has limited control over CHP officer pay because it is determined based on a formula. However, the Legislature could consider changing this methodology to regain more decision-making power and the ability to align costs with what MVA can afford to support.

…And/Or Through Increasing Revenues. The Legislature also could help MVA remain solvent by taking steps to increase its revenues. One option would be to raise vehicle registration fees—either through a base increase or by changing the methodology for annual fee adjustments such that they exceed changes in the CPI. A strong policy rationale exists for raising fees in that it would continue to task vehicle owners with paying to support the services from which they benefit. Based on the number of vehicles currently registered in California, we estimate that every $1 increase in vehicle registration fees would increase MVA revenues by about $36 million. However, one key trade-off to consider is that increasing fees would result in additional costs to households and businesses that own vehicles. This could be particularly burdensome for lower-income households. As of January 1, 2024, base vehicle registration fees were $74 but once other fees (such as weight fees and vehicle license fees) are factored in, the average cost vehicle owners pay when registering a vehicle is $329.

LAO Recommendation.

Consider MVA Cost Pressures When Evaluating New Spending Proposals. As noted, the Governor's budget includes proposals that would increase expenditures from MVA by roughly $22 million in 2024-25 and $14 million ongoing. Regardless of the merits of these specific proposals—and absent actions to address the MVA fund condition—approving them will make the structural deficit worse and hasten the time line for MVA going insolvent.

Until a plan is put in place to address MVA's structural deficit, we recommend the Legislature set a high bar for considering approval of any proposals that create additional MVA cost pressures and accelerate the risk of insolvency.

Develop Plan to Ensure Fund Remains Solvent. In order to remain solvent, MVA expenditures and revenues must be brought into balance. As such, we recommend that the Legislature develop a plan to address MVA's structural deficit on an ongoing basis. To achieve ongoing sustainability for the fund, the state will need to reduce MVA's costs, increase the fund's revenues, or adopt some sort of combination of these strategies. To help determine which options best align with legislative priorities, the Legislature could hold hearings to get a better understanding of the fund condition, any actions the administration is considering to address the problem, and the trade-offs associated with options such as raising fees or reducing positions at CHP and DMV.

Consider Cost Pressure Impacts From Employee Compensation. Even if the Legislature takes action to address MVA's current deficit, the fund could be at risk of future insolvency if expenditures related to employee compensation outpace revenues in the future. When addressing the MVA fund condition, the Legislature will want to consider how the fund could absorb future increases in employee compensation. The Legislature also might want to consider whether changes to the methodology for setting CHP officer pay could be needed to increase the state's flexibility for controlling MVA expenditures.

Similarly, the Legislature might want to consider MVA's fund condition and impact of employee compensation costs when evaluating future memoranda of understanding negotiated between the administration and the employee unions that represent the majority of DMV and CHP employees. While the state currently has limited discretion over the formula that determines CHP officer pay, the Legislature could change this methodology to regain more decision-making power.

Staff Recommendation: Hold Open.

2720 CALIFORNIA HIGHWAY PATROL

Issue 6: Augmentation for Retention of Conflict Counsel

Governor's Proposal. The Governor's Budget includes $4 million from the Motor Vehicle Account (MVA) for retention of outside conflict counsel to represent the California Highway Patrol (CHP) and its officers in civil litigation cases arising from officer-involved shootings.

Background. AB 1506 (McCarty, Chapter 326, Statutes of 2020) requires the Attorney General (AG), as the state prosecutor, to investigate incidents of officer-involved shootings that result in the death of an unarmed civilian. As a result, the AG has determined that its investigation of CHP officers involved in shooting incidents resulting in the death of an unarmed civilian creates a conflict in the AG's representation of the CHP and its officers in civil litigation arising from those incidents. Because the AG will not represent the CHP in those incidents, additional funding is required to cover the costs associated with the retention of outside counsel.

Staff Recommendation: Hold Open.

Issue 7: Capital Outlay Projects

Governor's Proposal. The Budget includes a number of capital outlay proposals for the California Highway Patrol, including:

- **Keller Peak: Tower Replacement – Revert and Fund New.** CHP requests to revert the existing authority of $3,231,000 and appropriate $4,877,000 from the MVA for the construction phase of the continuing Keller Peak: Tower Replacement Project.
- **Performance Criteria Funding for Six Area Offices – Cash to Bonds.** CHP requests to replace existing current year authority of $13,130,000 General Fund with $13,130,000 Public Buildings Construction Fund, for the performance criteria phase of the Gold Run, Redding, Los Banos, Antelope Valley, Barstow, and Porterville Area Office Replacement Projects.

Keller Peak requires additional funding because (1) working drawings have been delayed due to design and site challenges and (2) costs of steel needed for the tower has increased significantly since 2022. The remaining projects are requested to shift from the General Fund to lease revenue bonds, due to the projected budget problem.

Staff Comment. CHP capital outlay projects has historically been funded from the Motor Vehicle Account (MVA). However, in recent years, these projects have been supported by the General Fund, due to potential operational shortfalls facing the MVA. As the General Fund condition worsened this budget year and the MVA fund condition remains structurally imbalanced, the administration proposes to shift performance criteria funding for six area offices from General Fund to lease-revenue bonds. According to the administration, it has not been determined whether the lease-revenue bonds will be paid by the General Fund or the MVA. As a result, the Legislature may want to consider whether it is prudent to proceed with these capital outlay projects, given the condition of both the MVA and the General Fund.

Staff Recommendation: Hold Open.

2740 California Department of Motor Vehicles

Issue 8: Capital Outlay Projects

Governor's Proposal. The Budget includes a number of capital outlay proposals for the Department of Motor Vehicles, including:

- **El Centro: Field Office Replacement – Cash to Bonds.** DMV requests to replace $2,458,000 General Fund with $2,458,000 from the Public Buildings Construction Fund for the performance criteria phase of the El Centro Field Office Replacement project, which also includes consolidation of the Brawley office and addition of a Commercial Drive Test Center.
- **Oxnard: Field Office Replacement – Cash to Bonds.** DMV requests to replace the existing authority of $14,254,000 General Fund with $15,480,000 Public Buildings Construction Fund for the construction phase of the Oxnard Field Office Reconfiguration Project.

These projects are requested to shift from the General Fund to lease revenue bonds, due to the projected budget problem.

Staff Comment. DMV capital outlay projects has historically been funded from the Motor Vehicle Account (MVA). However, in recent years, these projects have been supported by the General Fund, due to potential operational shortfalls facing the MVA. As the General Fund condition worsened this budget year and the MVA fund condition remains structurally imbalanced, the administration proposes to fund the construction of two field offices with lease-revenue bonds. According to the administration, it has not been determined whether the lease-revenue bonds will be paid by the General Fund or the MVA. As a result, the Legislature may want to consider whether it is prudent to proceed with these capital outlay projects, given the condition of both the MVA and the General Fund.

Staff Recommendation: Hold Open.

Issue 9: REAL ID Automated Document Verification (RADV)

Governor's Proposal. The Governor's Budget includes $7,472,000 from the MVA in 2024-25 and $5,472,000 ongoing to support the REAL ID Automated Document Verification (RADV) process.

Background. RADV allows customers to upload the identity and residency documents necessary to apply for a REAL ID Driver License or Identification Card prior to arriving at the field office. This allows DMV to ensure the customer has the correct documentation needed for the transaction, which decreases the customer's time in a field office and return visits. The RADV process was originally funded in the 2021 Budget Act—DMV received funding for six temporary IT positions through 2023-24. Currently, RADV is utilized by approximately 40 percent of all REAL ID customers. To support RADV, the DMV requests funding for IT positions, software and vendor support contracts, consultant contracts, and program support positions.

- **IT Resources.** The DMV requests $1,027,000 ongoing to convert the six temporary IT positions to permanent to support and maintain RADV, and potentially expand the use of RADV to Virtual Field Office, Digital Mailroom, Lien Sales, Disabled Parking Placard recertification, and accounts payable invoices processing.
- **Software and Vendor Support Contracts.** The department requests $2,800,000 ongoing for AWS hosting services and software and vendor support costs to maintain, modify, and improve the current process flows for various customer services.
- **Consultant Contracts.** The department requests $2,000,000 one-time for consulting services, to support and onboard permanent staff to manage RADV.
- **Program Support Positions.** The department requests $1,645,000 ongoing for 15 positions to manually review, analyze, and process documents.

Staff Recommendation: Hold Open.

Senate Budget and Fiscal Review—Scott D. Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, March 21, 2024
9:30 a.m. or Upon Adjournment of Session
State Capitol – Room 112

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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.

ITEMS FOR DISCUSSION

8120 Commission on Peace Officer Standards and Training (POST)

Issue 1: Department Overview and SB 2 Implementation

Governor's Budget. The Governor has proposed $112.2 million ($63.4 million General Fund, $46.8 million State Penalty Fund, and $1.96 million reimbursements) and 263 total positions to support POST in 2024-25. The Governor's budget also reflects a reversion of $8 million one-time in 2023-24 related to the implementation of SB 2 (Bradford and Atkins), Chapter 409, Statutes of 2021, and $2.9 million ongoing in unused local assistance authority.

Panelists

- Manny Alvarez, Executive Director, POST
- Joshua Wittmershaus, Junior Staff Analyst, DOF
- Allison Hewitt, Principal Program Budget Analyst, DOF
- Jared Sippel, Principal Fiscal and Policy Analyst, LAO
- Drew Soderborg, Deputy Legislative Analyst, LAO

Background. POST is an 18-member commission responsible for overseeing standards and training for certain California peace officers, including city police and county sheriff's deputies. Fifteen of the POST commissioners are appointed by the Governor and confirmed by the Senate, one commissioner by the Speaker of the Assembly, and one commissioner by the Senate President pro Tempore. The Attorney General is an ex officio member and also serves as a commissioner.

POST is responsible for setting minimum selection and training standards, developing and running law enforcement training programs, improving law enforcement management practices, and reimbursing local law enforcement for training. About 600 law enforcement agencies employing roughly 90,000 peace officers participate in POST's programs and abide by the commission's minimum standards.

Peace Officers Require Certification From POST. Existing state law requires peace officers (excluding certain classifications like correctional officers) to receive a basic certificate from POST. This certificate is issued by POST when officers have met all minimum standards and requirements, such as completing required training, passing background checks, and completing a probationary term of employment with their law enforcement agency (typically lasting 18 to 24 months after the date of hire).

Peace Officer Decertification. SB 2 (Bradford and Atkins), Chapter 409, Statutes of 2021 established a process for POST to suspend or revoke a peace officer's basic certificate for serious misconduct, such as dishonesty related to an investigation or abuse of power by intimidating witnesses. (Prior to the enactment of SB 2, POST lacked the authority to suspend or revoke an officer's basic certificate.) This decertification temporarily (in cases of suspension) or permanently (in cases of revocation) makes a person ineligible to be a peace officer in California. In addition, SB 2 requires officers who do not have a basic certificate (typically officers completing their probationary terms and certain reserve officers) to obtain a proof of eligibility (pre-certification) from POST. Similar to a basic certificate, SB 2 allows POST to suspend or revoke a peace officer's proof of eligibility for serious misconduct.

Decertification Process. SB 2 requires POST to review allegations of serious misconduct to determine whether decertification is warranted. The steps are as follows:

1. *Report.* POST receives allegations of serious misconduct in the following ways:

    a. Since January 1, 2023, all agencies employing peace officers must report to POST allegations of serious misconduct when they occur.

    b. By July 1, 2023, agencies also had to report any allegations of serious misconduct that occurred from January 1, 2020 to January 1, 2023 (the lookback period).

    c. Since January 1, 2023, the public can directly report allegations of serious misconduct to POST, including misconduct that occurred prior to January 1, 2023.

    d. POST can choose to review an allegation of serious misconduct it becomes aware of in other ways, such as through media coverage.

2. *Review.* These reports are reviewed by a new division within POST, the Peace Officer Standards and Accountability Division. This division was created by SB 2 to review all allegations and determine whether decertification is warranted.

3. *Decertification Recommendation.* If the division recommends decertification, the next step depends on whether the officer contests the recommendation. If the officer does not contest, the case ends and the officer's certificate or proof of eligibility is suspended or revoked.

4. *Peace Officer Standards Accountability Advisory Board (POSAAB).* If the officer contests the recommendation, the case is referred to the POSAAB, a new nine-member board within POST. Seven members of this board are appointed by the Governor, one member by the Speaker of the Assembly, and one member by the Senate Rules Committee. The Board votes on whether to recommend decertification to the full Commission.

5. *POST Commission.* If the board determines decertification is warranted, the case is referred to the full 18-member POST commission, who then votes whether to decertify the officer.

6. *Office of Administration Hearings.* If the POST commission votes for decertification, the case is referred to an administrative law judge at the Office of Administrative Hearings (OAH) who prepares a proposed decision to be voted on by the POST Commission. The Commission renders the final decision.

Previous Resources for SB 2 Implementation. The 2022 budget included $23 million General Fund in 2022-23 and $20.6 million and 127 positions ongoing to implement SB 2. The 2023 budget included an additional $4.5 million in 2023-24 and $3.9 million ongoing to fund OAH costs, and

$6.1 million one-time in fiscal year 2023-24 and $5.3 million in 2024-25 and 2025-26 to fund Department of Justice (DOJ) legal costs related to SB 2. As of December 2023, POST had staffed 89 positions and had 45 vacancies.

Workload. POST's initial workload estimates anticipated receiving 16,000 reports of serious misconduct annually, with 3,500 of those including sustained allegations. As of January 2024, POST has received over 22,000 reports of serious misconduct, with roughly 2,000 cases that have been screened and tentatively appear to rise to the level of serious misconduct.

As of March 14, 2024, the division has issued 13 notices of intent to revoke certification. Of these, six have not been contested to date, with one still pending the 30-day appeal time frame, five resulting in default decertifications, and one surrendering their certification. Of the six cases that have been appealed, two were heard by the POSAAB on December 14, 2023, and four cases are scheduled to be heard on March 21, 2024. The POSAAB recommended revocation in both cases heard in December 2023. These two cases were heard before the full Commission on March 7, 2024, where the Commission determined that revocation in one case was appropriate, and deferred the other case back to the division for consideration of settlement terms. Tentatively, there are four scheduled for the Commission meeting on June 13, 2024, pending the outcome of the POSAAB hearing. No cases have reached the OAH stage as of January 2024.

There are a number of unknowns in evaluating POST's ongoing workload. POST is still sorting through the influx of initial allegations, so the final number of cases with serious misconduct is unknown. Few cases have made it very far in the process, making it difficult to evaluate the workload at each step. In addition, POST is currently handling both current allegations and allegations submitted for the "lookback period," from January 1, 2020 to January 1, 2023. However, the Administration notes that the volume of reporting has not slowed even after the deadline for the lookback period, and POST is still receiving over 200 reports of serious misconduct weekly from law enforcement agencies. Finally, POST is currently only receiving reports from 379 out of 614 total covered agencies. Just over half of the non-reporting agencies employ a dozen or less peace officers (53 percent).

General Fund Solutions. The Governor's budget includes the following proposed General Fund solutions related to POST:

- *Estimated SB 2 Current Year Savings.* The funding provided in the 2023-24 was largely for the hearings that take place as the last stage of the decertification process. Since no cases have made it to that stage, POST will likely not spend the funding provided in the 2023-24 budget for OAH hearings and DOJ legal costs. The Administration is proposing to revert $8 million out of the $10.6 million budgeted for these two costs.

- *Local Assistance Funding Reversion.* POST has identified a non-specific local assistance appropriation totaling $2.9 million that has not been utilized in recent years. Peace officer training is funded through other local assistance appropriations within POST's budget.

Staff Recommendation. Hold Open.

0820 Department of Justice (DOJ)
1111 Department of Consumer Affairs (DCA)

Issue 2: Controlled Substance Utilization Review and Evaluation System Fee Increase

Governor's Budget. The Governor's budget includes proposed trailer bill language to increase the Controlled Substance Utilization Review and Evaluation System (CURES) fee from $9 to $15 beginning April 1, 2025 to cover the costs of administering the program.

Panelists

- Ashley Harp, Budget Office, Department of Justice
- Chris Ryan, Chief of Operations, Department of Justice
- Taylor Schick, Chief Fiscal Officer, Department of Consumer Affairs
- Anthony Franzoia, Finance Budget Analyst, Department of Finance
- Amy Ascencio, Department of Finance
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

Background. CURES (Controlled Substance Utilization Review and Evaluation System) is a database of Schedule II, Schedule III, Schedule IV and Schedule V controlled substance prescriptions dispensed in California. The database is designed to track prescription drug use in order to reduce abuse and diversion of prescription drugs. Certain health care practitioners and pharmacists are required to register with CURES, in order to consult the prescription history and record new prescriptions of patients under their care. In addition, specified regulatory agency officials and law enforcement officials may access information in CURES only to assist the efforts of their agencies to control the diversion and resultant abuse of controlled substances.

CURES is funded by an annual fee paid by the doctors and pharmacists registered with the system. The fee was set at $6 in 2014, and temporarily increased to $11 in April 2021, before reverting to $9 in April 2023. The fee collection and fund administration is handled by DCA, and the database is maintained and operated by DOJ. The yearly revenues from the fee are listed in the table below.

Fiscal Year	Total
2013-14	$ 311,000
2014-15	$ 1,559,000
2015-16	$ 1,632,000
2016-17	$ 1,640,000
2017-18	$ 1,632,000
2018-19[1]	$ 1,937,000
2019-20	$ 1,712,000
2020-21[2]	$ 1,868,000
2021-22	$ 3,224,000
2022-23[3]	$ 3,258,000
Total	$ 18,773,000

[1] One-time revenue spike due to a change in the way CURES fee payments were recorded into FI$Cal.

[2] Revenue split between $6 and $11 fee (effective April 1, 2021)

[3] Revenue split between $11 fee and $9 fee (effective April 1, 2023)

According to the DOJ, the CURES program is expected to run a deficit of around $1 million (see table below). Previous deficits have been covered by excess General Fund authority within DOJ. Increased program costs are due to employee compensation, equipment costs, and additional requirements generated by legislation. DCA and DOJ are projecting employee compensation costs to continue to increase by 3 percent a year, and are expecting additional legislative expenditures.

	FY 2022-23	FY 2023-24	FY 2024-25 (Projected)
DCA CURES Fund Appropriation	**$2,673,000**	**$2,765,000**	**$2,789,000**
DOJ Projected Costs	**$3,019,000**	**$3,401,000**	**$3,933,000**
Personal Services	$1,796,000	$2,047,000	$2,062,000
Operating Expense & Equipment	$927,000	$936,000	$1,453,000
Departmental Services	$296,000	$418,000	$418,000
DCA CURES Fund Shortfall	**$346,000**	**$636,000**	**$1,144,000**

Proposed Fee Increase. The Governor's budget proposes to increase the annual fee to $15, effective April 1, 2025. The current and estimated revenue amounts by program are included in the table below.

Program Name	Percentage of CURES Revenue	2023-24 Estimated Revenue	Estimated Revenue due to Fee Increase	2025-26 Estimated Revenue
Dental Board	11.40%	$301,878	$215,340	$517,218
Medical Board	40.60%	$1,073,394	$765,688	$1,839,082
Naturopathic Medicine	0.30%	$7,596	$5,418	$13,014
Optometry	2.30%	$62,118	$44,311	$106,429
Osteopathic Medicine	3.20%	$85,392	$60,913	$146,305
Pharmacy	21.80%	$575,730	$410,687	$986,417
Physician Assistant	5.00%	$132,102	$94,233	$226,335
Podiatric Medicine	0.60%	$15,210	$10,850	$26,060
Registered Nursing	10.60%	$280,962	$200,420	$481,382
Veterinary Medicine	4.20%	$111,546	$79,569	$191,115
Total	100.00%	$2,645,928	$1,887,429	$4,533,357

DOJ noted that a $14 fee would require General Fund backfill in the amounts of $45,000 in fiscal year 2024-25 and $311,000 in 2025-26 and ongoing in order to continue services at existing levels. A $13 fee would require General Fund backfill in the amounts of $91,000 in 2024-25 and $623,000 in 2025-26 and ongoing in order to continue services at existing levels. These General Fund amounts combined with the adjusted fees equate to the same level of funding through 2028-29 that the $15 fee would provide. Should a lower fee amount be approved without the necessary backfill, DOJ would be unable to absorb the shortfall without negative impacts to other programs.

Staff Recommendation. Hold Open.

0820 DEPARTMENT OF JUSTICE (DOJ)

Issue 3: Department Overview

Panelists

- Chris Ryan, Chief of Operations, Department of Justice
- Ashley Harp, Budget Officer, Department of Justice
- Anthony Franzoia, Finance Budget Analyst, Department of Finance
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

Background. Under the direction of the Attorney General, the DOJ provides legal services to state and local entities; brings lawsuits to enforce public rights; and carries out various law enforcement activities, such as seizing firearms and ammunition from those prohibited from owning or possessing them. DOJ also provides various services to local law enforcement agencies, including providing forensic services to local law enforcement agencies in jurisdictions without their own crime laboratory. In addition, the department manages various databases including the statewide criminal history database and CURES, as discussed in the previous issue.

The Governor's budget proposes $1.3 billion to support DOJ operations in 2024-25, a decrease of $47 million (or 4 percent) over the revised amount for 2023-24. About 38 percent ($487 million) of DOJ's budget is General Fund; the remainder is from approximately 35 special funds. About half of the proposed funding ($686 million) supports DOJ's Division of Legal Services, while the remainder supports the Division of Law Enforcement ($345 million) and the California Justice Information Services Division (CJIS; $253 million). The proposed budget would provide DOJ with a total of about 5,900 positions in 2024-25, roughly the same as the revised 2023-24 level. The activities of each division are outlined below.

- The Division of Legal Services is made up of the following subdivisions:

  - Division of Civil Law: This division is made up of nine sections, including Business Litigation, Cannabis Control, and Licensing. This division provides legal services to state agencies and officials in trial and appellate litigation.

  - Division of Criminal Law: This division is made up of six sections including Appeals, Writs and Trials and the eCrime Unit. This division upholds the Attorney General's constitutional responsibility to represent the people of California in criminal cases.

  - Division of Public Rights: This division is made up of ten sections including Antitrust, Corporate Fraud, Environment, and Land Use and Conservation. This division safeguards the states' environment, lands, and natural resources; prevents fraudulent business practices; protects consumers; monitors Indian and Gaming Practices; preserves charitable assets, and protects the civil rights of Californians.

- The Division of Law Enforcement includes sworn peace officers and other law enforcement staff involved criminal investigations that range from white collar crime, narcotics enforcement, gambling control, etc. This section includes the Division of Law Enforcement, the Bureau of Firearms, the Bureau of Gambling Control, the California Justice Information Services Division, and the Division of Medi-Cal Fraud and Elder Abuse.

- Administration is made up of the Division of Operations and Directorate Programs which includes units such as the Public Inquiry Unit, the Office of Legislative Affairs, and the Local Assistance Unit.

- CJIS provides criminal history and analysis, supports the DOJ's information technology infrastructure, and includes eight sections, including the Department of Justice Research Center and the Criminal Information and Analysis Bureau.

Client Agencies. When the DOJ represents a state agency, the funding for that work can be scheduled either directly under the DOJ budget, or under the agency's budget, which they then use to reimburse DOJ. Typically, agencies with consistently large legal workloads (more than 1,000 hours per year for multiple years) reimburse DOJ for legal costs out of their own budgets. For agencies with small legal workloads, DOJ typically covers the cost, as the workload for any given small client can fluctuate year to year, and they may not need ongoing appropriations. In 2021, the DOJ received $4 million General Fund for three years to support small client legal workload. The Governor's budget proposes to extend this funding for three more years, from 2024-25 through 2026-27.

Budget Proposals. The Governor's budget includes various proposals for the Department of Justice. Two of these, a fee increase to support DOJ workload and a special fund loan, will be discussed in other issues. In addition, the Governor's budget includes:

- *Charitable Trusts Enforcement Workload*. The Department of Justice requests 3 positions and Registry of Charities and Fundraisers Fund spending authority of $860,000 in 2024-25, $832,000 in 2025-26, and $832,000 annually thereafter to support increased workload in the Registry resulting largely from statutory changes, which require organizations to be in good standing in order to receive donations from platform fundraisers.

- *Tribal Key Employee Licensing Workload*. The Department of Justice, Division of Law Enforcement, Bureau of Gambling Control requests 6 permanent positions and $874,000 from the Indian Gaming Special Distribution Fund in 2024-25 and ongoing to maintain the Tribal Key Employee Licensing workload.

- *Small Client Legal Workload.* The proposed budget includes $4 million General Fund in 2024-25 through 2026-27 to support workload on behalf of small client departments. This retains baseline funding that was authorized for three years in the 2021 budget.

Staff Recommendation. Hold Open.

Issue 4: Armed and Prohibited Persons Update

Panelists

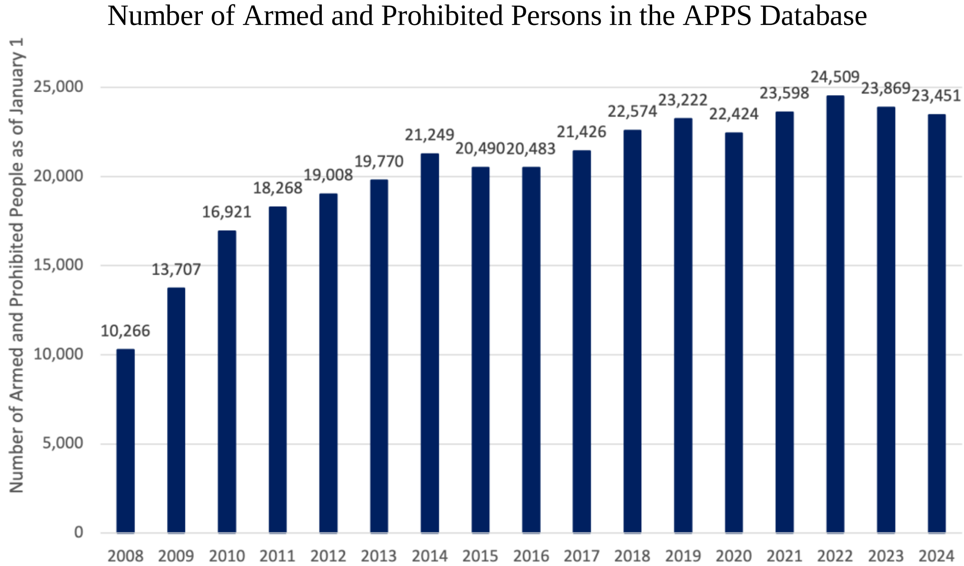
- Michael Redding, Special Assistant Attorney General, Department of Justice
- Peter Wold, Assistant Director, Bureau of Firearms, Department of Justice
- Anthony Franzoia, Finance Budget Analyst, Department of Finance
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

Background. When a firearm owner becomes prohibited from keeping firearms they own or possess, for example by being convicted of certain crimes or having active restraining orders with firearm prohibitions, California law generally requires that individual promptly surrender their firearms and provide documentation to a court and/or law enforcement agency to verify that they did so. The best time to remove a firearm from a prohibited person is at or near the time they become prohibited, such as when a local law enforcement official serving a restraining order takes possession of any firearms simultaneously.

However, if the prohibited individual fails to comply with the law, and local law enforcement cannot promptly separate the firearms from the individual, that individual is flagged in the Armed and Prohibited Persons System (APPS) database. Since 2006, California has used this database to monitor individuals who legally purchased or acquired firearms and later failed to relinquish those firearms after they became legally prohibited from owning or possessing them. APPS cross-references databases of recorded firearm purchasers against other records identifying individuals who have become prohibited from owning or possessing firearms. DOJ locates and seizes firearms from illegally armed prohibited persons identified through the APPS database.

APPS Activities in 2023. The DOJ released their annual APPS report on March 11, 2024[1]. As of January 1, 2024, the APPS database contained 23,451 armed and prohibited persons.

Number of Armed and Prohibited Persons in the APPS Database



Source: DOJ

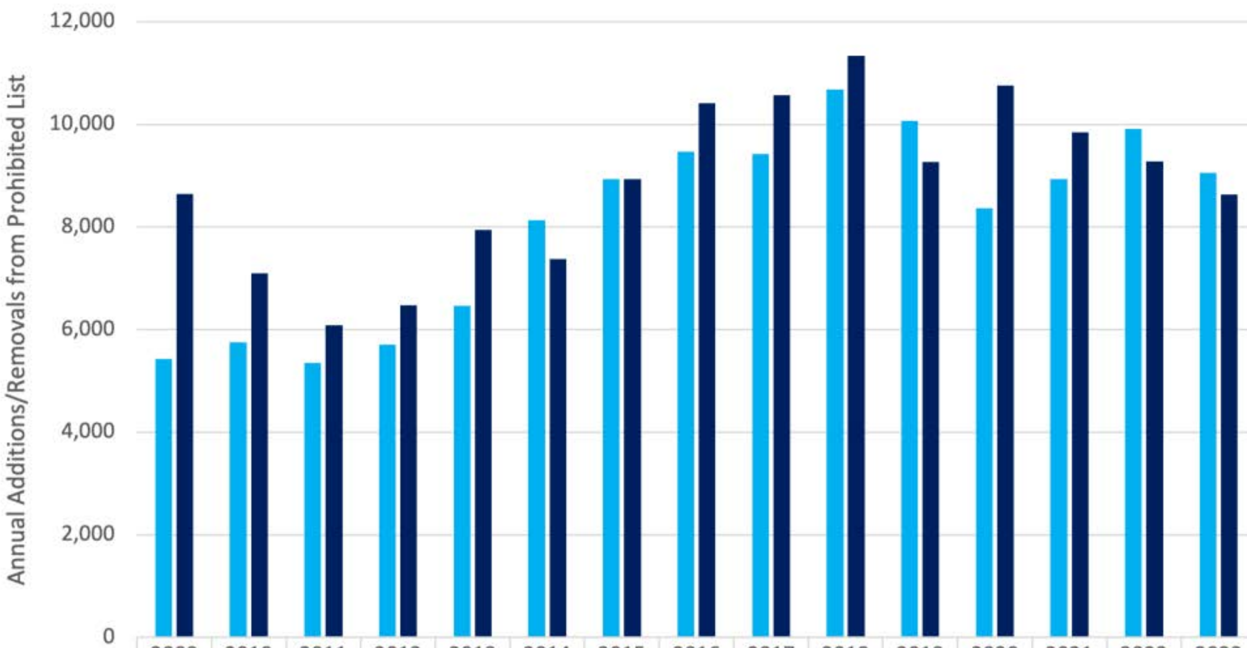
[1] https://oag.ca.gov/system/files/media/2023-apps-report.pdf

Reasons for Prohibitions. The statistics below outline the number of armed and prohibited individuals in each prohibiting category of the APPS database, as of January 1, 2024. Persons can be prohibited under more than one category, which is why the total number exceeds 100 percent.

- 11,815 (50 percent) were prohibited due to a felony conviction.
- 4,879 (21 percent) were prohibited due to the federal Brady Handgun Violence Prevention Act (18 U.S.C. §§ 921, 922).
- 4,795 (20 percent) were prohibited due to mental health-triggering events.
- 3,173 (14 percent) were prohibited due to a restraining order.
- 2,282 (10 percent) were prohibited due to a qualifying misdemeanor conviction.
- 409 (2 percent) were prohibited per the conditions of their probation.

Additions and Removals. In 2023, DOJ removed 9,051 people from APPS, and 8,633 people were added, a decrease of 1.75 percent. 2023 saw the fewest additions to the prohibited persons list since 2014, following a steady decline across the past several years.

Number of Armed and Prohibited Persons Added and Removed



	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Removals	5,433	5,748	5,347	5,708	6,459	8,130	8,937	9,470	9,424	10,681	10,064	8,370	8,937	9,917	9,051
Additions	8,647	7,095	6,087	6,470	7,938	7,371	8,930	10,413	10,572	11,333	9,266	10,762	9,848	9,277	8,633

Removals Additions

Source: DOJ

As shown in the table on the next page, the majority (59 percent) of individuals were removed from the database because their prohibitions expired. 38 percent were removed because they were disassociated from all known firearms, and 3 percent were deceased.

Reason for Removal	2019	2020	2021	2022	2023
No Longer Prohibited	7640	5291	5365	5940	5353
Firearms Removed	1927	2822	3221	3598	3449
Deceased	188	257	351	379	249

Source: DOJ

In 2023, 1,845 individuals who were prohibited due to restraining orders were removed because they were dissociated from all known firearms. However, 3,702 individuals who were prohibited due to restraining orders were removed because their restraining order expired; these individuals were recorded as being in unlawful possession of firearms throughout the duration of the restraining order. In many cases, these individuals were subject to emergency or temporary restraining orders that generally expire within 5 to 21 days; however, ideally they would have been separated from their firearms at the time the restraining order was served.

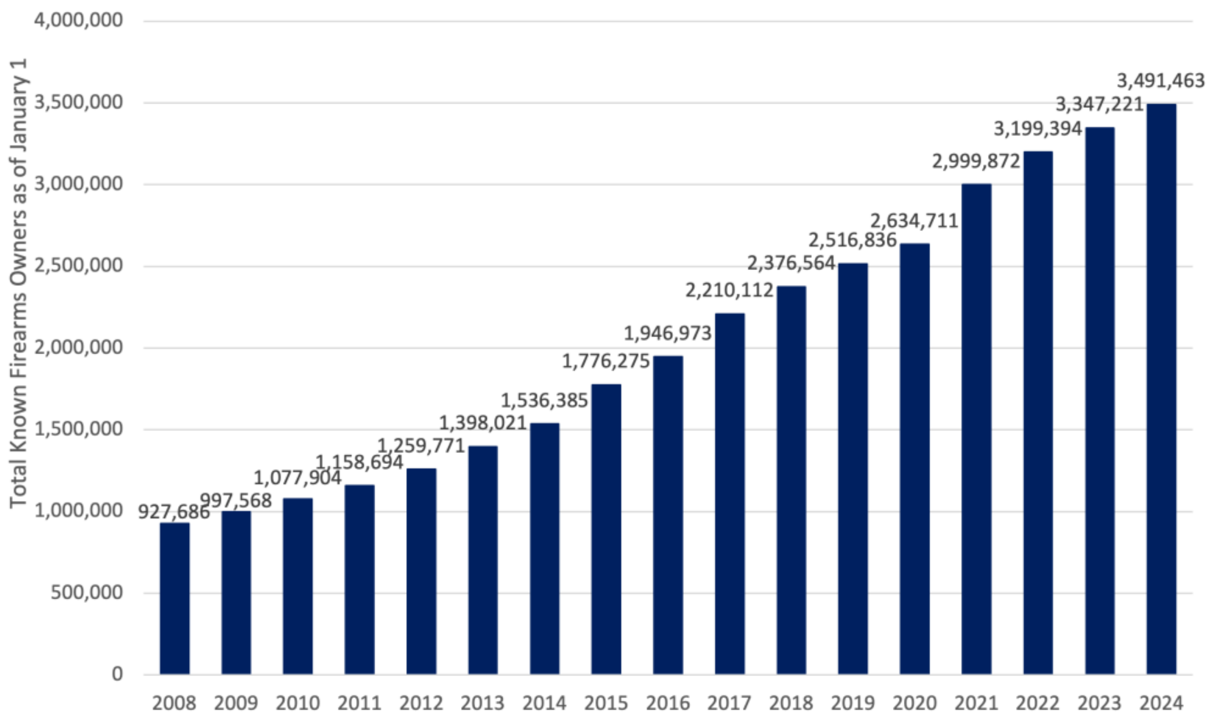
Case Status. Of the 23,451 cases, 8,903 are active, and 14,548 are pending. Active cases have either not yet been investigated or they are in the process of being investigated but all investigative leads have not yet been exhausted. Pending cases have been thoroughly analyzed and all investigative leads were exhausted. Of the pending cases, 6,592 (45 percent) were unable to be cleared, 2,365 (16 percent) were unable to be located, 3,982 (27 percent) moved out of state, and 1,609 (11 percent) were prohibited under federal prohibitions only. Additionally, there are 1,189 incarcerated individuals in the APPS database.

Enforcement Activities. In 2023, DOJ's Bureau of Firearms (BOF) had between 34 and 37 Special Agents and between 11 and 14 Special Agent Supervisors working to address the number of armed and prohibited individuals. In total, agents made approximately 25,500 contacts in 2023, 1,500 more than in 2022. This is the highest number of contacts since the APPS program came into existence. In 2023, DOJ investigated 8,500 individuals who were identified as armed and prohibited persons in the APPS database.

Through the APPS program in 2023, DOJ recovered 1,443 firearms from illegally armed individuals, including 683 handguns, 364 rifles, 216 shotguns, 39 assault weapons, 88 ghost guns, 51 receivers or frames, and 2 short-barreled shotguns. Of these, 901 (62 percent) were firearms identified in the APPS database and 542 (38 percent) were non-APPS firearms. Non-APPS firearms are those not known to be associated with the prohibited person but are found in that person's possession.

Registered Firearm Owners. As of January 1, 2024, the APPS database of recorded firearm owners included 3,491,463 individuals. This number grew by 144,242 in 2023 (meaning those individuals did not own a registered firearm at the start of 2023 and purchased a firearm during the year).

Number of Known Firearm Owners in the APPS Database



Source: DOJ

Recommendations. The most recent APPS report included the following recommendations:

- Promote more consistent firearm relinquishment at the time of prohibition (i.e. at the time of conviction or immediately when a restraining order is issued).

- Move towards competitive salaries for DOJ agents who perform APPS enforcement.

- Modernize the APPS database.

Recent Budget Actions for APPS and Firearm Relinquishment. Recent budgets included the following resources related to APPS and firearm relinquishment from prohibited persons:

- The 2019-20 budget package included $17.5 million ongoing General Fund to support APPS enforcement teams. This amount included (1) $11.9 million to shift existing support for the teams from three special funds to the General Fund and (2) $5.6 million in increased support for the teams.

- The 2019-20 budget package included $3 million General Fund (available through June 2022) for the Gun Violence Reduction Pilot Program. This program awarded grants to four counties: Alameda ($1 million), San Diego ($1 million), Ventura ($750,000), and Santa Cruz ($250,000). The 2021-22 budget package included $10 million General Fund (available for two years after award) for the Gun Violence Reduction Program. To date, this program has awarded grant to ten counties totaling $5 million in December 2021 and to five counties totaling $2.8 million in November 2022.

- The 2022-23 budget package included $40 million General Fund (available through June 2025) for trial courts to enforce court orders removing firearms and ammunition from prohibited persons. Courts are to prioritize removals stemming from domestic violence restraining orders, gun violence restraining orders, and other civil orders. Each court receiving funding is required to partner with at least one law enforcement agency within the county and to use at least 30 percent of its funding for law enforcement costs.

Staff Recommendation. This item is informational, and no action is needed.

Issue 5: Litigation Deposit Fund Loan

Governor's Budget. The Governor's 2024-25 budget proposes provisional language allowing DOF to authorize an additional, up to $100 million no-interest loan from the Litigation Deposit Fund (LDF) to the General Fund, subject to 30-day legislative notification. Similar to the requirements for the 2023-24 loan, DOJ would be required to provide a list of all cases whose litigation proceeds would be loaned to the General Fund within 60 days after transfer of the funds and to report certain information until the loan is repaid. Additionally, these litigation proceeds would be exempt from transfer out of the LDF until the entire loan is repaid.

Panelists

- Anthony Franzoia, Finance Budget Analyst, DOF
- Ashley Harp, Budget Officer, Department of Justice
- Chris Ryan, Chief of Operations, Department of Justice
- Anita Lee, Principal Fiscal and Policy Analyst, LAO

Background.

LDF Receives Certain State Litigation Proceeds. The LDF is a state special fund that receives litigation proceeds—or monies required by settlement agreements or court judgements to resolve legal cases—in cases where the state is a party to the case and no other state law specifically provides for (1) the handling and investing of the money, and (2) how any earned interest is distributed. The fund primarily supports payments to people and entities harmed by those breaking the law, as well as transfers to various state special funds—most notably, DOJ special funds to support current and future litigation-related costs. State law requires that any monies remaining in the LDF that are not needed to satisfy court-ordered payments or to support DOJ litigation costs be transferred to the state General Fund no later than July 1 of each fiscal year.

LDF Revenues Primarily Transferred to DOJ Special Funds. Tens of millions of LDF revenues are regularly transferred to four DOJ special funds—the Unfair Competition Law (UCL) Fund, the False Claims Act (FCA) Fund, the Antitrust Account, and the Public Rights Law Enforcement Special Fund (PRLESF)—that support litigation-related costs. For example, $87 million was transferred to these four funds in 2022-23. State law specifies what types of litigation proceeds can be transferred into these funds and provides guidelines on how these proceeds are to be used. These DOJ special funds are part of the annual state budget process. This means the Legislature receives key revenue and expenditure information to monitor the health of these funds and makes decisions about how much funding should be available from them to support DOJ litigation activities.

Concerns With Legislative Oversight of LDF Prior to 2023-24. Prior to changes made in the 2023-24 budget package described below, the Legislature had concerns with the level of oversight it had of the LDF. This is because the LDF was created to hold monies as a trust fund. Accordingly, it is not reflected in or considered part of the state budget, similar to other state funds with this status. Instead, DOJ is responsible for administering the fund and had significant discretion over when funds would be transferred from the LDF—including to its own special funds. This allowed for the LDF fund balance to steadily grow—reaching nearly $900 million by the end of 2022-23.

Additionally, DOJ was only required by state law to report limited information on the fund to the Legislature on a quarterly basis.

Key Changes Made in 2023-24 to Increase Legislative Oversight of LDF. To increase legislative oversight of the LDF, the 2023-24 budget package made various changes. One key change was that it revised Government Code 16427 to require that most litigation proceeds deposited into the LDF be transferred to a state special fund subject to legislative oversight (1) within three months after case resolution for deposits made after July 2023 or (2) by January 2024 for deposits made before July 2023. This requirement ensures that monies transferred to these funds are considered in the annual state budget process and subject to greater legislative oversight. Additionally, this transfer requirement will generally only leave monies in the LDF that were pending allocation to specific entities or narrowly defined purposes, as well as funds tied to cases awaiting final resolution. Another key change made by the 2023-24 budget package required DOJ provide the Legislature with increased information for litigation proceeds deposited into or transferred from the LDF.

$400 Million Loan From LDF to General Fund. The 2023-24 budget included budget provisional language allowing the Department of Finance (DOF) to authorize an up to $400 million no-interest loan from the LDF to the General Fund to help address the state's budget problem. DOF is required to notify the Legislature at least 30 days before transferring funds associated with the loan. The budget required DOJ provide a list of all cases whose litigation proceeds would be loaned to the General Fund within 60 days after the transfer of funds and report certain information (such as any restrictions on the use of such funds) until the entire loan is repaid. The budget also exempted these litigation proceeds from being transferred out of the LDF until the entire loan is repaid. This is to ensure that the repaid monies will be used to comply with the underlying settlement agreements and court judgements of these cases. DOF notified the Legislature of its intent to authorize the full $400 million loan in January 2024.

LAO Comments.

LDF Fund Balance Has Decreased Significantly. While the LDF fund balance reached $958 million at the end of September 2023, it decreased to nearly $657 million as of the end of December 2023, largely due to the transfers required by Government Code 16427. Specifically, as of the end of December 2023, $484 million had either been transferred ($389 million) or was pending transfer ($95 million) from the LDF to state funds subject to legislative oversight. These monies will be transferred to four DOJ special funds—the UCL Fund ($263 million), the FCA Fund ($100 million), the PRLESF ($64 million), and the Antitrust Account ($57 million)—and will be available to support DOJ litigation-related costs.

Proposed Loan Would Help Address Budget Condition, but LDF Not an Ideal Source. Given the state's fiscal condition, the LAO finds it reasonable for the administration to propose a loan to the General Fund, as this will help reduce the level of reductions necessary for other programs supported by the General Fund. Despite this, the LAO is concerned about making such a loan from the LDF. This because much of the $657 million LDF fund balance is not an ideal source for a loan. Specifically, about $500 million (or 76 percent) of this fund balance consists of the litigation proceeds that will already be loaned to the General Fund (which are exempt from transfer) or were in the process of being transferred to state special funds, as required by Government Code 16427. This leaves about $157 million in the LDF. However, these funds are generally to be used for narrowly defined purposes or are attached to cases that have not been fully resolved. This makes these funds a less than ideal source for a loan for various reasons. For example, monies held in the LDF for a case that has not been resolved (such as due to the case being on appeal) may need to be returned. As such, it would be difficult for the LDF to support the proposed additional $100 million loan.

Funds Transferred to DOJ Special Funds Likely Able to Support Loan. DOJ's UCL Fund, FCA Fund, PRLESF, and Antitrust Account will receive nearly $485 million in transfers from the LDF to support DOJ litigation activities. Assuming expenditures levels from these funds remain relatively constant at approximately $105 million, it appears likely that $100 million could be borrowed from these special funds without impacting DOJ's operations supported by the special funds in the near term.

Various Ways Available to Ensure Loans From DOJ Special Funds Do Not Impact DOJ Activities. There are various ways to ensure any loans authorized from the UCL Fund, FCA Fund, PRLESF, and Antitrust Account do not negatively affect the ability of DOJ to pursue the litigation supported by the special funds. For example, most—if not all—of the money could be borrowed from the UCL Fund and the FCA Fund. This is because these two funds received three-quarters of the money recently transferred from the LDF. Additionally, these two funds have traditionally received deposits of litigation proceeds on a more regular basis. Accordingly, if there was an unexpected increase in litigation expenses before the loan is repaid, it is more likely that additional revenues would be forthcoming to these special funds to maintain ongoing support for DOJ litigation activities. Additionally, DOJ could be required to report on specific cases whose litigation proceeds were being used to make this loan, similar to the reporting requirements related to the $400 million loan from the LDF. This transparency would help ensure that the state complies with the underlying settlement agreements and court judgements of these cases when monies are repaid.

LAO Recommendation.

Reject Loan From LDF. The LAO recommends the Legislature reject the Governor's proposed loan from the LDF as it will be difficult for the LDF to support the loan. The monies currently left in the fund balance are to support the 2023-24 authorized loan or narrowly defined purposes or are tied to cases that have not yet been resolved. Accordingly, these funds are not ideal candidates to support the loan.

Direct DOJ to Identify Specific Litigation Proceeds in Its Special Funds That Could Be Loaned. The LAO recommends the Legislature direct DOJ to provide by May Revision a list of cases whose litigation proceeds could be used to support up to $100 million in loans, along with the DOJ special fund or funds from which the monies would be borrowed. Such loans should come from one or more of the DOJ special funds that received LDF transfers. This allows DOJ to consider what litigation activities may currently be in progress, what activities may be necessary in the near future, and what litigation proceeds might be forthcoming when providing the Legislature with the department's recommendations for how much to borrow from its special funds. Additionally, such a list will help the Legislature ensure that the state complies with any underlying settlement agreements and court judgements when monies are ultimately repaid.

Authorize Loans From DOJ Special Funds to General Fund. The LAO recommends that the Legislature review DOJ's proposed list of cases whose litigation proceeds could be used to support General Fund loans to determine whether any changes are needed, such as changing the amount proposed to be borrowed from a particular special fund. The LAO recommends that the Legislature then modify the budget to reflect loans to the General Fund from the special funds holding the litigation proceeds identified on the final list. Additionally, for each of these loans, the LAO recommends requiring DOJ to report certain information (such as any restrictions on the use of the litigation proceeds) until the entire loan is repaid, similar to the reporting requirements related to the $400 million loan from the LDF. This will help the Legislature monitor and track loan repayments and ensure that monies are used appropriately when they are repaid.

Staff Recommendation. Hold Open.

0690 Office of Emergency Services (Cal OES)

Issue 6: Department Overview

Panelists

- Nancy Ward, Director, Cal OES
- Eric Swanson, Deputy Director of Finance and Administration, Cal OES
- Jared Sippel, Principal Fiscal and Policy Analyst, LAO
- Drew Soderborg, Deputy Legislative Analyst, LAO
- Vy Nguyen, Department of Finance
- Tess Scherkenback, Department of Finance

Background.

Cal OES serves as the state's leadership hub during all major emergencies and disasters. This includes responding, directing, and coordinating local, state, and federal resources and mutual aid assets across all regions to support the diverse communities across the state. Cal OES also builds disaster resilience by supporting local jurisdictions and communities through planning and preparedness activities, training, and facilitating the immediate response to an emergency through the longer-term recovery phase. During this process, Cal OES serves as the state's overall coordinator and agent to secure federal government resources through the Federal Emergency Management Agency.

The Governor's budget includes $3.2 billion ($530 million General Fund) and 1,909 positions for Cal OES. Of this total, $2.4 billion is proposed for Special Programs and Grant Management which includes the administration of various federal homeland security, emergency management, and victim service grants.

The Governor's budget also includes the following General Fund solutions for Cal OES:

General Fund Solution	Summary	Category
Community Hardening Grants Reversion	The budget proposes to revert $45 million unspent funds from the Community Hardening to Build Disaster Resilient Communities Program, which was originally approved in the 2021 budget at $100 million.	Reduction
Gun Buyback Program Elimination	The budget proposes to eliminate $21 million General Fund intended for a gun buyback program.	Reduction
Multifamily Seismic Retrofitting Reversion	The proposed budget removes $15 million one-time General Fund provided in 2023-24 to establish the Seismic Retrofitting Program for Soft Story Multifamily Housing.	Reduction
Flexible Assistance for Survivors of Crime Delay	The budget proposes to delay $47.5 million out of $50 million General Fund provided in the 2022 budget for assistance to survivors of violent crimes to 2025-26.	Delay

Recent budgets included a requirement for Cal OES to submit a report to the Legislature by March 1, 2024 that outlines the department's emergency preparedness and response planning for the state, including the department's operational framework for determining the appropriate resource capabilities and necessary capacity to carry out its duties. The report is not yet available.

Staff Recommendation. Hold Open.

Issue 7: Flexible Assistance for Survivors of Crime Delay

Governor's Budget. The budget proposes to delay $47.5 million out of $50 million General Fund for assistance to survivors of violent crimes, provided in the 2022 budget, to 2025-26.

Panelists

- Gina Buccieri-Harrington, Assistant Director of Grants Management, Cal OES
- Eric Swanson, Deputy Director of Finance and Administration, Cal OES
- Jared Sippel, Principal Fiscal and Policy Analyst, LAO
- Drew Soderborg, Deputy Legislative Analyst, LAO
- Vy Nguyen, Department of Finance
- Tess Scherkenback, Department of Finance

Background.

The 2022 budget included $50 million General Fund available over four years and trailer bill language to establish a grant program for community-based organizations to provide flexible assistance to survivors of crime. The Flexible Assistance for Survivors (FAS) Pilot Grant Program is established in Chapter 7.9 (commencing with Section 8699) of Division 1 of Title 2 of the Government Code, which was added by AB 200 (Committee on Budget), Chapter 58, Statues of 2022. Up to 5 percent was available to Cal OES for administration of the program.

Cal OES had created the Advisory Council required in statute, and had hired limited-term staff to work on the program. The Advisory Council was close to releasing a Request for Proposals (RFP) in January when the proposed delay was announced. The Administration indicated that they will be ready to release the RFP as soon as the funding is available. The Administration is proposing to retain the $2.5 million for administration, which will be used throughout the grant, and delay the remainder of the funding until 2025-26.

Cal OES is one of four state departments that house victim services programs. Most grants and programs reside at either Cal OES or the Victim Compensation Board (VCB). The other two entities are the California Department of Corrections and Rehabilitation (which handles restitution collection and notification) and DOJ (victim assistance and information services). Cal OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, Cal OES administered $486.5 million in grant funds. Likewise, VCB also combines federal and state funding—from fines and restitution orders paid by offenders convicted of traffic infractions, misdemeanors, or felonies—to offer compensation directly to, or on behalf of, victims and survivors who are injured or threatened with injury. The 2018-19 and 2019-20 budget packages directed VCB and Cal OES to work together to develop a plan to consolidate the state's victims programs under one organization, with the goal of providing one central place for victims and their families to obtain information and access services. This was intended to be included in the 2020-21 budget, but the consolidation proposal has not yet been put forward.

Staff Comment. Concerns have been raised about how to support survivors during the time it takes for a claim to be approved and processed by Cal VCB. Victims may have immediate needs that community-based organizations can help with, if flexible resources are available.

Staff Recommendation. Hold Open.

Issue 8: Public Safety Radio Modernization to Support Equal Access to 9-1-1 Services

Governor's Budget. Cal OES is requesting $6,366,000 in State Emergency Telephone Number Account (SETNA) Fund authority for four years, to be funded by an estimated increase of 5 cents to the 9-1-1 surcharge. This funding will provide 13 limited-term positions and add 12 new positions to complete the California Radio Interoperable System (CRIS) build out, increase the coverage footprint, and expand the network capacity.

Panelists

- Budge Currier, Assistant Director of Public Safety Communication, Cal OES
- Eric Swanson, Deputy Director of Finance and Administration, Cal OES
- Jared Sippel, Principal Fiscal and Policy Analyst, LAO
- Drew Soderborg, Deputy Legislative Analyst, LAO
- Vy Nguyen, Department of Finance
- Tess Scherkenback, Department of Finance

Background.

Cal OES manages a number of public safety communication networks that link emergency requests for assistance to first responders. These systems, which include the Next Generation 9-1-1 system (NG 9-1-1), the California Public Safety Microwave Network (CAPSNET), and the California Radio Interoperable System (CRIS), are largely funded by through a telephone access line surcharge, which is deposited in the State Emergency Telephone Number Account. The fee is defined in Revenue and Tax Code Section 41136. The fee is charged per line, and is set by dividing the annual expenditure by the number of eligible lines. This fee is currently 30 cents, and is capped at 80 cents. The projects proposed in the Governor's budget would result in a 5 cent fee increase, to 35 cents total, for the four years of increased authority. Carriers also pay 8 cents a line to support the 9-8-8 system, which is also operated by Cal OES. Cal OES noted that this is one of the lowest charges in the nation.

Next Generation 9-1-1 (NG 9-1-1). The existing 9-1-1 system is based on technology that was developed and deployed in the 1980s and has various limitations. For example, during disaster events, the system can get overwhelmed, making it difficult for callers to reach dispatchers. Additionally, the system has limited ability to handle data—such as photos and text messages—or provide accurate location information to first responders. Government Code Section 53121 requires Cal OES to implement and operate NG 9-1-1, which transitions California's 9-1-1 network from analog to an Internet Protocol based NG 9-1-1 technology. The transition to NG 9-1-1 is anticipated to be completed in 2023-24, and legacy 9-1-1 services will be terminated when the new system is in place and validated.

California Public Safety Microwave Network (CAPSNET). CAPSNET has been in service for more than 50 years spanning the entire State of California with over 300 locations. Managed and maintained by Cal OES' Public Safety Communications (PSC), the statewide microwave network enables greater communication coverage for first responders given the vast topology of California. During the 2018-19 budget cycle, PSC sought to address these issues by proposing to use SETNA funds to advance CAPSNET with newer digital technologies allowing for greater capabilities, much needed redundancy, resiliency, as well as provide the capacity needed to provide backup connectivity for the California Radio Interoperable System (CRIS), the California Earthquake Early Warning System, and NG 9-1-1 transport. The CAPSNET upgrade is anticipated to be completed in 2023-24.

California Radio Interoperable System (CRIS). The 2019 budget provided 13 positions and $59,464,000 General Fund for a four-year period to develop and implement CRIS, a statewide public safety radio system. CRIS allows interoperable communications during emergencies between first responders from different agencies, and with the NG 9-1-1 system. Eventually, CRIS could replace daily, non-emergency communications, referred to as “operable” communications. Some local entities can also leverage the network for communications, but they need to do an analysis with and set up an agreement with OES to ensure proper coverage of the local area. Cal OES indicated that a handful of counties have done this.

System Integration. When someone calls 9-1-1, their call is processed and routed by the NG 9-1-1 system, and directed to a PSAP to answer the call and dispatch on the ground resources. CAPSNET provides rapid statewide connections, and CRIS brings information locally to the first responder on the ground.

Previous Resources. The 2019-20 budget included $59.5 million one-time General Fund and eight positions in 2019-20, increasing to 13 positions in 2020-21, to build out the California Interoperable Public Safety Radio System. These funds are available through 2023-24.

In addition, the 2018-19 and 2019-20 budgets included limited-term funding and statutory changes to support the CAPSNET upgrade and the NG 9-1-1 projects. The 2023 budget included $137.6 million ($19.5 million state operations and $118.1 million local assistance) in 2023-24, $132.8 million ($12.1 million state operations and $120.7 million local assistance) in 2024-25, and $91.4 million ($6.2 million state operations and $85.2 million local assistance) ongoing State Emergency Telephone Number Account to support the completion of the California Public Safety Microwave Network buildout, completion of the Next Generation 9-1- 1 system, and the ongoing maintenance and support of these systems.

Proposed Upgrades. Cal OES is requesting $6,366,000 in SETNA fund authority which will provide four-year funding for 13 existing positions and to add an additional 12 to complete the build-out of CRIS and prepare it for daily use communications. The Administration noted that upon the completion of the CRIS buildout, Cal OES shall reassess the potential drop-off in workload and need for resources and update the number and classification of positions at that time.

Specifically, these positions will focus on:

- *Infrastructure Expansion*. Installing radio access sites to increase CRIS coverage and to continue deployment of the site infrastructure at 12 to 15 sites per year to meet coverage objectives for operable network (13 positions).

- *System and User Integration*. Supporting operational workload around expansion of the system from an interoperable system to an operable system (4 positions).

- *Backhaul Engineering and Security*. Managing significant network traffic management and configuring equipment for the network which will eventually include at least 150 sites (6 positions).

- *Site Management*. Managing installed sites (2 positions).

The Administration is also considering a proposal in the spring to include approximately $26,134,000 in additional SETNA Fund authority for CRIS equipment costs as an update to this proposal. This additional authority would be covered by the estimated increase to the 9-1-1 surcharge of 5 cents.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Scott D. Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, April 11, 2024
9:30 a.m. or Upon Adjournment of Session
State Capitol – Room 112

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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.

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS

Issue 1: Proposition 47 and Investments in Alternatives to Incarceration

Panelists

- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Kasey Warmuth, Chief of Research, Board of State and Community Corrections
- Tinisch Hollins, Executive Director, Californians for Safety and Justice

Background. In recent years, the state has taken steps to reduce its reliance on long-term incarceration to promote public safety. Studies have shown that carceral settings can exacerbate, not reduce, recidivism, and that the certainty of being caught is a more powerful deterrent than increasing the severity of punishment[1]. Changes made by the state include 2011 Realignment, where the responsibility for some offenders, primarily newly-convicted, low-level offenders without current or prior serious or violent offenses, was shifted from the state to counties; expanding credit-earning opportunities; creating a parole consideration process for nonviolent, determinately-sentenced incarcerated persons who have served the full term of their primary offense in state prison; expanding medical and elderly parole; and other significant reforms. Some of these were court-ordered changes to address severe overcrowding in the state prisons, and some were enacted as part of Proposition 57 in 2016, or through other propositions and legislation.

The state has also invested in programs to prevent crime, divert offenders away from jail and prison, and provide more meaningful opportunities for rehabilitation. For example, the state has invested over $200 million in the California Violence Intervention and Prevention grant over the past three years, which provides funding for cities and community-based organizations with the goal of reducing cycles of violence in their local communities. Previous budgets have also included funding for diversion programs, rehabilitative programming, and reentry programs, all with the goal of reducing crime, recidivism, and reliance on incarceration.

Proposition 47, the Reduced Penalties for Some Crimes Initiative, which passed in 2014, included both aspects: sentencing changes and reinvestment in prevention, diversion, and rehabilitation designed to reduce recidivism (and therefore crime), and promote public safety. The initiative adjusted many drug possession and property crimes. The stated purpose of the proposition is to "ensure that prison spending is focused on violent and serious offenses, to maximize alternatives for non-serious, nonviolent crime, and to invest the savings generated from [the proposition] into prevention and support programs in K-12 schools, victim services, and mental health and drug treatment" and to ensure "that sentences for people convicted of dangerous crimes like rape, murder, and child molestation are not changed." The proposition states that it "shall be liberally construed to effectuate its purposes."

[1] https://www.ojp.gov/pdffiles1/nij/247350.pdf; https://www.ojp.gov/ncjrs/virtual-library/abstracts/imprisonment-and-reoffending-crime-and-justice-review-research

Sentencing Changes Included in Proposition 47. Among other changes, the initiative restructured the sentencing penalties for possession for personal use of most scheduled drugs. The initiative also similarly modified the sentencing penalties of several theft crimes, including the dollar threshold of what is considered petty theft compared to grand theft[2]. Theft crimes restructured under Proposition 47 include forgery (PEN 473), making or delivering a check with insufficient funds (PEN 476a), and receiving stolen property (PEN 496). The crime of petty theft with a prior was also limited by the initiative to only apply to individuals with specified prior convictions (PEN 666). Proposition 47 reclassified drug possession offenses under Health and Safety Code sections 11350, 11357(a) [concentrated cannabis], and 11377. Proposition 47 added Penal Code Section 490.2 to expressly define petty theft as "obtaining any property by theft where the value of the money, labor, real or personal property taken" does not exceed $950. The law states that this new definition of petty theft applies notwithstanding "any other provision of law defining grand theft." (PEN 490.2). Proposition 47 also created the new offense of shoplifting, a misdemeanor, which is defined as "entering a commercial establishment with intent to commit larceny while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed nine hundred fifty dollars ($950)." (PEN 459.5.) Any other entry into a commercial establishment with intent to commit larceny is burglary.

Resentencing and Reclassification. Proposition 47 also allowed defendants who were either serving or had completed sentences for felony offenses that would have qualified as misdemeanors under the proposition to petition for resentencing or reclassification, respectively, pursuant to the new provisions.

Felony Theft Threshold. California's felony theft threshold is the tenth lowest in the nation (lower thresholds means stricter). The highest is Texas at $2,500. Increasing the felony theft threshold has not been shown to lead to an increase in property crime or larceny, or to encourage people to steal items of higher value[3]. Prosecutors are also allowed to combine separate incidents if "the acts are motivated by one intention, one general impulse, and one plan." (PEN 497; amended by AB 2356 (Rodriguez), Chapter 22, Statutes of 2022, which was declaratory of existing law in *People v. Bailey (*1961) 55 Cal.2d 514). However, some have argued that it is difficult to prove a single intention and plan.

Impact on Crime and Recidivism. Overall, it does not appear that Proposition 47 lead to a significant and lasting impact crime. In 2018, a study from the Public Policy Institute of California (PPIC) found no evidence that violent crime increased because of Proposition 47, but some evidence that Proposition 47 affected property crime; in particular, it may have contributed to a rise in larceny thefts between 2014 and 2018[4]. However, a similar study by UC Irvine in 2018 showed no impact[5], and larceny has decreased since the PPIC study in 2018. In addition, state data has shown no significant increase in reported shoplifting or overall theft in California since the measure passed, but there has been a decreased likelihood that police will arrest someone for stealing[6]. Proposition 47 is also focused on lower-level property crimes, not organized retail theft, which typically involves higher-level felonies such as robbery or conspiracy. However, some

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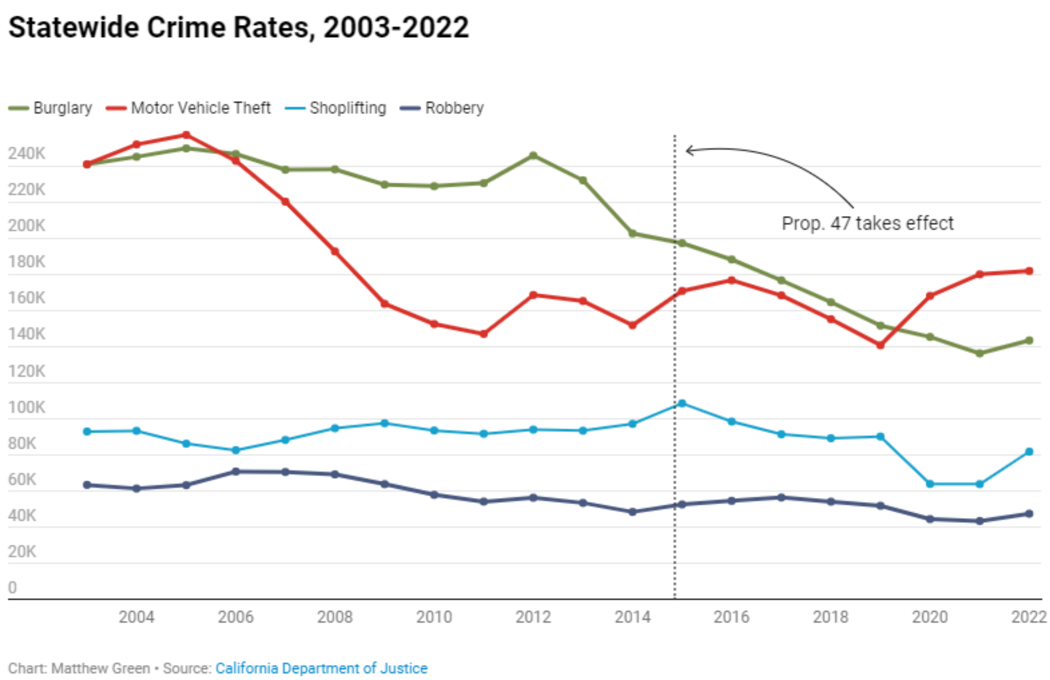
[2] https://www.courts.ca.gov/documents/Prop47FAQs.pdf
[3] https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/22/states-can-safely-raise-their-felony-theft-thresholds-research-shows
[4] https://www.ppic.org/wp-content/uploads/r_0618mbr.pdf
[5] https://news.uci.edu/2018/03/07/proposition-47-not-responsible-for-recent-upticks-in-crime-across-california-uci-study-says/
[6] https://www.kqed.org/news/11975692/prop-47s-impact-on-californias-criminal-justice-system

retailers and police departments have claimed that crime statistics may be artificially low due to underreporting, in part due to a perceived lack of consequences.

In addition, the PPIC study found that Proposition 47 reduced recidivism rates. Using data from 12 California counties, the study found that among individuals released after serving sentences for Proposition 47 offenses, the two-year rearrest rate was 70.8 percent, 1.8 percentage points lower than for similar individuals released before the reform. The two-year reconviction rate for individuals released under Proposition 47 was 46.0 percent, 3.1 percentage points lower than their pre-reform counterparts.



Source: KQED, with data from the Department of Justice[7]

Impact on Participation in Drug Courts. Some have argued that Proposition 47 resulted in a decline in participation in drug courts or other collaborative courts, as the threat of a felony is more of an incentive to participate than the threat of a misdemeanor[8]. According to a survey of 67 adult drug courts across the state, 67 percent of courts reported that their caseloads were down following the passage of Proposition 47, and 51 percent reported considerable decreases. The average caseload declined significantly, from 51 to 39[9]. However, as a result, more than half of the courts changed their legal eligibility requirements, which enabled them to increase their caseloads following Proposition 47. 23 percent of courts reported that their caseload was up following Proposition 47. Those that saw an increase in referrals also attributed the change to an expansion of eligibility criteria. Therefore, if courts can adjust to sentencing changes, they are able to maintain caseloads and participation.

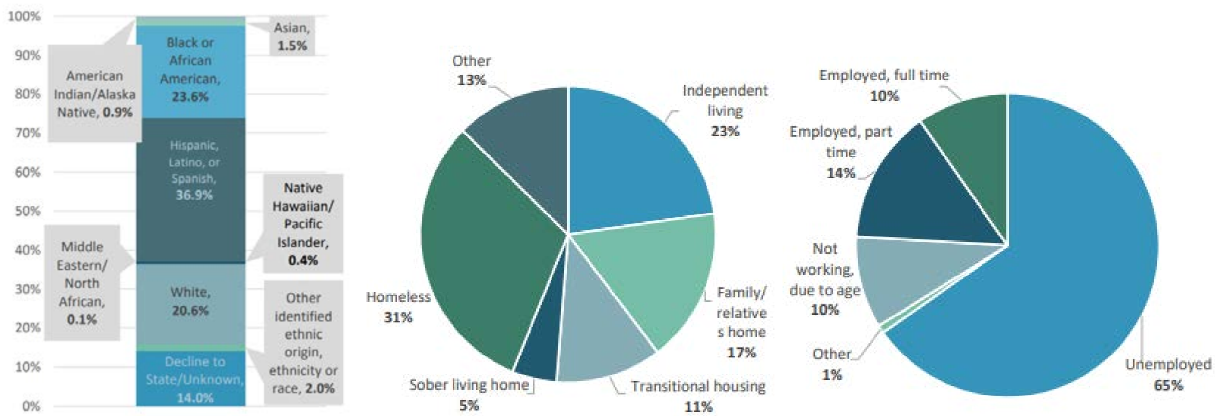
[7] https://www.kqed.org/news/11975692/prop-47s-impact-on-californias-criminal-justice-system
[8] https://www.kqed.org/news/11975692/prop-47s-impact-on-californias-criminal-justice-system#courts; https://calmatters.org/justice/2022/07/california-drug-courts-prop-47/
[9] https://www.innovatingjustice.org/sites/default/files/media/documents/2020-03/report_sentencingreform_03262020.pdf

Redirection of Savings. In addition to the various sentencing changes described above, Proposition 47 required the savings from those changes to be directly estimated, and used to fund mental health and substance use treatment programs. Specifically, the Department of Finance estimates the savings achieved through reducing the state prison population, and that funding is distributed according to the formula outlined in the initiative, which requires 65 percent be allocated for grants to public agencies to support various recidivism reduction programs (such as mental health and substance use services), 25 percent for grants to support truancy and dropout prevention programs, and 10 percent for grants for victims' services.

Since 2015, over $700 million has been redirected from incarceration towards these services and programs. For the 2024-25 budget, the Administration estimates net savings of $87.8 million General Fund in 2024-25 associated with Proposition 47. The types of services funded are included in the chart on the next page.

Recidivism Reduction Programs. The Board of State and Community Corrections (BSCC), which is responsible for administering the grants to public agencies to support recidivism reduction programs, has funded two completed cohorts (representing $103 million and $96 million in funding respectively). A third cohort is in progress with $125 million in funding, and a fourth cohort with $143 million available is scheduled to start shortly[10]. Tens of thousands of Californians have participated in these programs, at an average cost of a few thousand dollars per person. Most program participants were people of color. Cohort 2 programs served 36.9 percent Hispanic or Latino, 23.6 percent Black or African American, 20.6 percent white, and 18.9 percent other individuals. Sixty percent of participants had a high school diploma or less. At the time of enrollment, 31 percent of participants were unhoused, and 65 percent were unemployed.[11]

Demographics of Program Participants



Source: BSCC[12]

[10] https://www.bscc.ca.gov/s_bsccprop47/
[11] https://www.bscc.ca.gov/wp-content/uploads/2024/02/H-2-Proposition-47-Cohort-2-Final-Evaluation-Report-FINAL-1.pdf
[12] Ibid.

Proposition 47 Services

Required Services

Mental Health Services | 95% of grantees
Participant receives any type of mental health service from a trained, mental health professional. This may include services such as individual counseling, psychiatric care, or group therapy.

Substance Use Disorder Treatment | 91% of grantees
Participant receives any type of substance use disorder treatment from a trained professional. This may include services such as withdrawal management, residential treatment, outpatient treatment or medication-assisted treatment (MAT).

Diversion Program | 62% of grantees
Participant engages in any type of program that deters them from entering the criminal justice system and avoid prosecution if the participant successfully completes the program.

Support Services

Assistance with Food | 91% of grantees
Participant receives services to secure food. This may include gift cards to grocery stores, snacks/meals, or referrals to food banks.

Basic Necessities | 91% of grantees
Participant receives basic necessities (excluding food). This may include items such as clothing, hygiene kits, phone chargers, etc.

Case Management | 100% of grantees
Participant meets with someone who assesses, plans, implements, coordinates, monitors, and/or evaluates services and progress towards goals.

Education Services | 91% of grantees
Participant receives education related services or support. This may include GED preparation, vocational training, and college planning or enrollment.

Employment Services | 100% of grantees
Participant receives services or support to increase the likelihood of securing employment. This may include assistance with preparing resumes, mock interviews or job placement.

Housing Services | 95% of grantees
Participant receives housing related support. This may include motel vouchers, referral to a shelter, rental or security deposit assistance, and landlord disputes.

Legal Services | 95% of grantees
Participant received services or support to address legal issues. This may include assistance with obtaining social security cards or driver's license, record expungement, and reclassification of prior Proposition 47 convictions.

Social Services | 91% of grantees
Participant received assistance with enrollment in government funded programs such as MediCal and CalFresh.

Transportation Assistance | 91% of grantees
Participant received some form of transportation assistance. This may include bus passes, Uber rides, or gift cards to gas stations.

Other Services | 100% of grantees
Participant received some other type of service that did not fall in any of the above categories. Common services falling into this category included medical services, family assistance, and social skills training.

Source: BSCC[13]

[13] https://www.bscc.ca.gov/wp-content/uploads/2024/02/H-2-Proposition-47-Cohort-2-Final-Evaluation-Report-FINAL-1.pdf

Impact of Proposition 47-Funded Programs on Recidivism, Homelessness, and Employment. According to a February 2024 report from BSCC on Cohort 2[14], participants who enrolled in grant-funded services made available by Proposition 47 had a recidivism rate of 15.3 percent, more than two times lower than those traditionally incarcerated in state prison with estimated recidivism rates ranging from 35 to 45 percent. The recidivism rates were also lower for individuals who received ongoing services (around 13 percent) as compared to one-time interventions (27.6 percent).

In addition, the proportion of participants who were homeless decreased by 60 percent, and the proportion of participants living independently nearly doubled. The proportion of participants who were unemployed decreased by 50 percent. BSCC's evaluation also found that participants who were employed and who were living independently were less likely to recidivate.

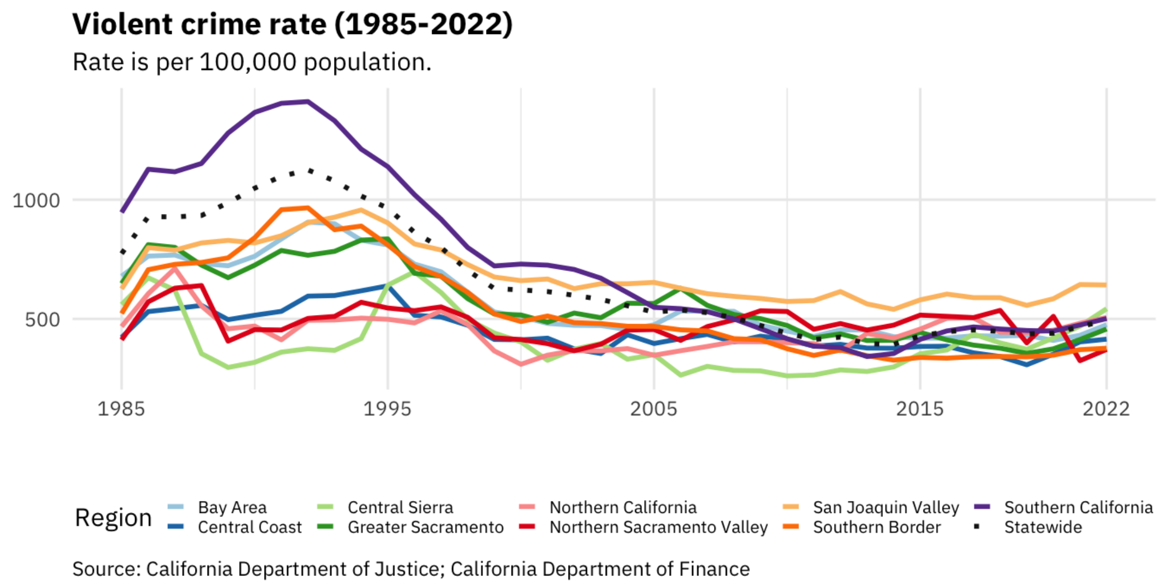
Other Programs Supported by Proposition 47. Proposition 47 also funds victim services (10 percent) and education programs (25 percent). These include:

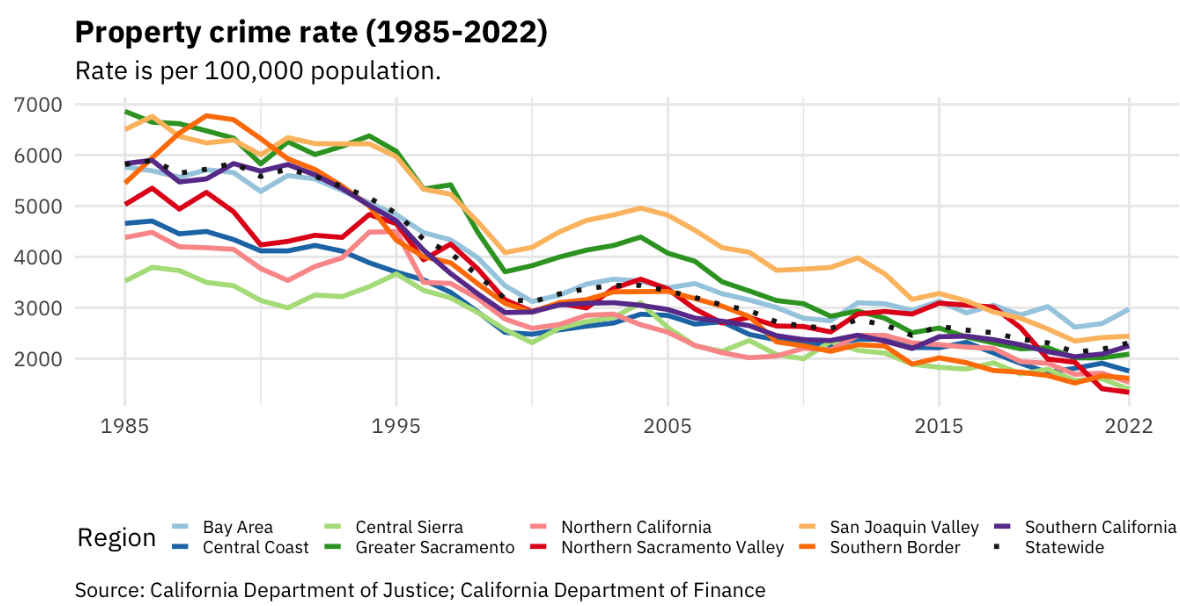
- *Trauma Recovery Centers (TRCs).* Proposition 47 has contributed over $70 million to fund victim services, including 22 Trauma Recovery Centers throughout California[15]. These centers provide vital support to crime survivors, including mental health and case management services, particularly for individuals who may not be eligible for victim compensation or who may be fearful of reporting a crime to law enforcement. TRCs are discussed in more detail in Issue 3.

- *Education Funding.* The California Department of Education receives 25 percent of the funds for the administration of the Learning Communities for School Success Program competitive grant opportunity, which is aimed at improving outcomes for public school pupils by reducing truancy and supporting those who are at risk of dropping out of school or are victims of crime[16]. Over 50 entities have received roughly $200 million in funding through this program over four cohorts.

[14] https://www.bscc.ca.gov/news/proposition-47-grant-program-evaluation-shows-recidivism-cut/
[15] https://victims.ca.gov/board/trauma-recovery-centers/
[16] https://www.cde.ca.gov/fg/fo/r8/fundresults2017-20.asp

Overall Crime Trends. California is experiencing historic lows in its crime rates. The two charts below show the violent and property crimes for the entire state and regions within the state. Violent crime is homicide, rape, robbery, and aggravated assault. Property crime is burglary, theft, and car theft. Overall, violent crime was 55 percent lower in 2022 compared to the peak rate in 1992. Property crime was 66 percent lower compared to the peak rate in 1980. While there are variations between the different regions over time, crime rates generally follow the same pattern of decline.

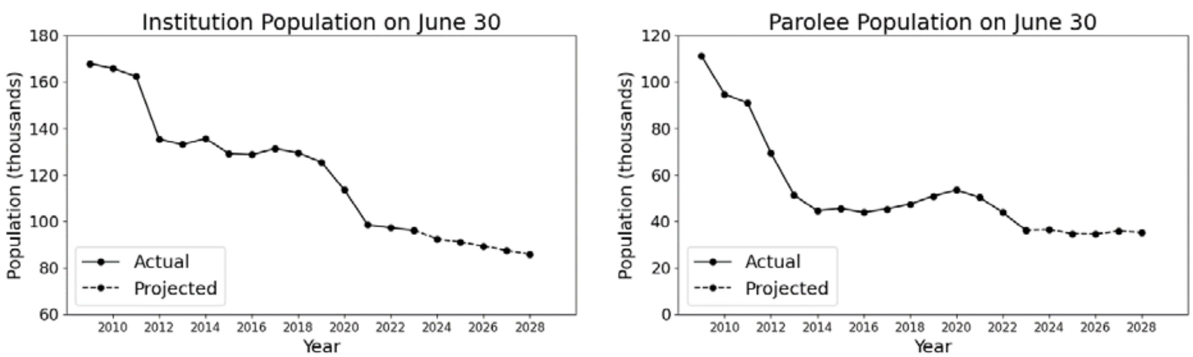




Source: Committee on the Revision of the Penal Code,
using data from the Department of Justice and the Department of Finance

Incarcerated Population. In additional to Proposition 47, several other policy changes have resulted in decreases in the incarcerated population across the state, both at the local jail and state prison level. The combined jail and prison population has dropped from about 257,000 at its peak in 2007 to around 151,000 now (a decrease of 41 percent)[17]. Collectively, these population decreases have resulted in significant savings at the local and state level. Directly tying these population reductions to specific policy changes, and estimating the cost savings from these changes is difficult (with the exception of Proposition 47, where it is required by law).

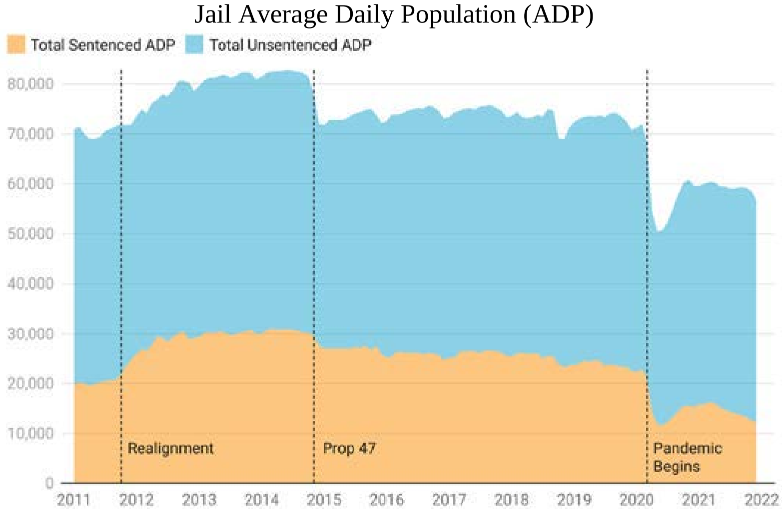
Prison Population. The total population incarcerated in state prison has decreased nearly 50 percent from the peak in 2006. The parole population has also declined, reflecting the declining prison population, changes to parole terms, realignment, and other policy reforms.



Data from CDCR[18]

Jail Population. Local jail populations have also significantly decreased in recent years, from a high statewide average daily population of 83,184 in 2007 to 59,328 in 2023.

Jail Average Daily Population (ADP)



Source: Committee on the Revision of the Penal Code and California Policy Lab, using data from BSCC[19]

Staff Recommendation. This is an informational item, and no action is needed.

[17] https://www.ppic.org/blog/county-jails-house-fewer-inmates-but-over-half-face-mental-health-issues/
[18] https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2024/01/Fall-2023-Population-Projections-Publication.pdf
[19] https://www.capolicylab.org/wp-content/uploads/2023/05/Covid-19-and-Incarceration-A-California-Overview.pdf; https://public.tableau.com/app/profile/kstevens/viz/JPSTableauDashboard/JailPopulationTrends2006to2023Dashboard

Issue 2: Healthcare for the Justice-Involved and Reentry Population

Panelists

Subpanel A

- Zlatko Theodorovic, Director, Judicial Council Budget Services
- Judge Maria Hernandez, Presiding Judge, Orange Superior Court
- David Yamasaki, Court Executive Officer, Orange Superior Court
- Andy Gutierrez, Retired Supervising Deputy Public Defender, County of Santa Clara, Community Outreach and Post-Conviction Unit

Subpanel B

- Autumn Boylan, Deputy Director, Office of Strategic Partnerships, Department of Health Care Services
- Michelle De La Calle, Director of System Integration for Santa Clara County
- Doug Bond, President and CEO, Amity Foundation
- Barbara Barney-Knox, Deputy Director, Statewide Chief Nurse Executive, California Department of Corrections and Rehabilitation (CDCR)
- Lisa Heintz, Director, Legislation and Special Projects, CDCR
- Heather Bowlds, Deputy Director, Adult Parole Operations, CDCR

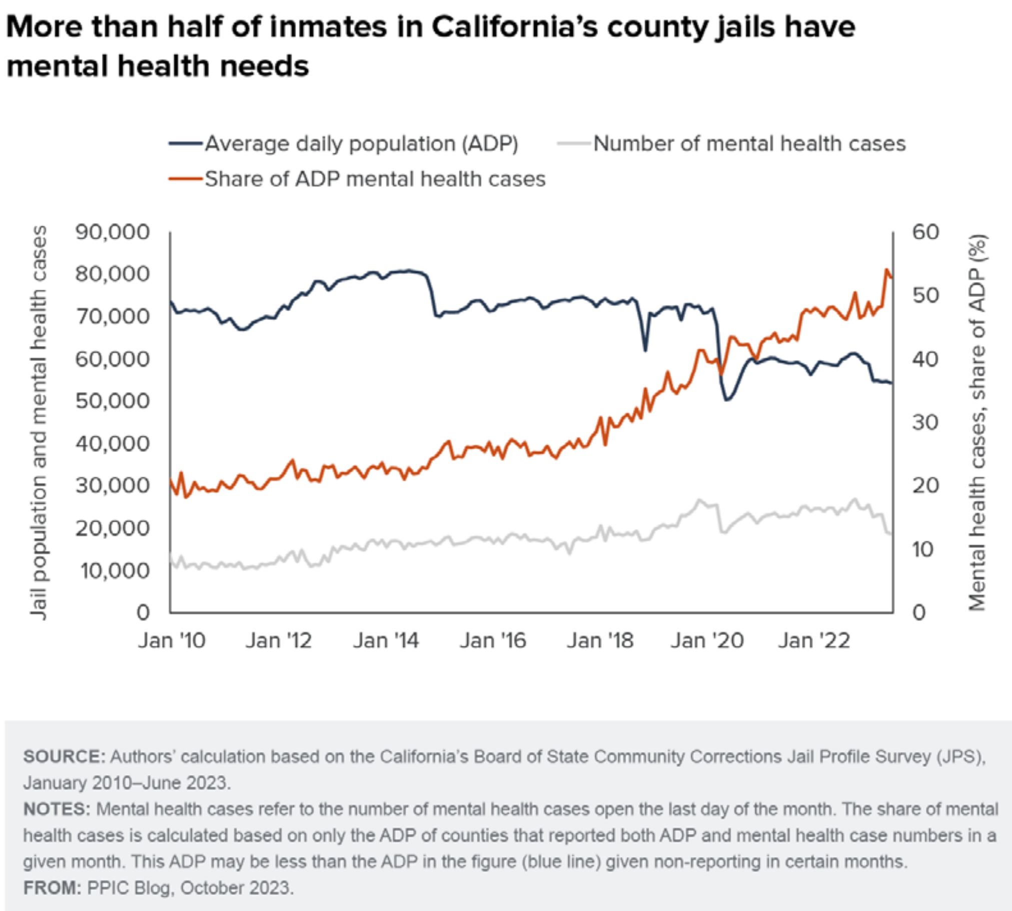
Background. Sixty-six percent of Californians in jails or prisons have moderate or high need for substance use disorder treatment[20]. Overdose is the leading cause of death for people recently released from incarceration, and people in California jails or prisons have a drug overdose death rate more than three times that of incarcerated people nationwide. In addition, more than half of the individuals in jails have mental health needs, and active mental health cases rose by 63 percent over the last decade, as shown in the chart on the next page.

In some cases, individuals end up receiving services and treatment due to justice-system involvement, rather than in their community, resulting in a reliance on incarceration and/or criminal consequences to treat mental health needs and substance use disorders. Incarceration can be destabilizing, particularly for individuals with mental health needs. They may be removed from Medi-Cal (depending on the length of incarceration) and experience gaps in treatment as they move in and out of facilities and the community. There has also been debate about how to encourage individuals to connect to and complete treatment, and whether to use incarceration or other criminal consequences to do so[21].

Prisons and jails in California have had to adapt to treat the needs of these growing populations, such as through through expanding mental health beds inside the facilities, expanding Medication-Assisted Treatment (MAT) and other substance use disorder treatments, and generally trying to improve accessibility and access to health care within facilities, but there are still gaps. For example, the state has invested $255 million ongoing for an integrated substance use disorder treatment program at CDCR. In addition, programs outside of correctional facilities, such as

[20] https://www.dhcs.ca.gov/CalAIM/Documents/CalAIM-JI-a11y.pdf
[21] https://www.nytimes.com/2023/12/13/opinion/addiction-policy-treatment-opioid.html

treatment courts; Community Assistance, Recovery, and Empowerment (CARE) Court; diversion programs; and programs for law enforcement and prosecutors to connect individuals to resources, among others, have been enacted to help individuals access treatment and resolve their legal issues without resorting to incarceration.



Source: Public Policy Institute of California[22]

CalAIM and the Justice-Involved Initiative. Medi-Cal—the state's Medicaid program—provides funding to cover the costs of health care services—including mental health and substance use disorder (SUD) treatment—for low-income families and individuals. The federal government provides reimbursement of up to 90 percent of the cost for services provided to Medi-Cal beneficiaries. In general, individuals who are incarcerated are not eligible for Medi-Cal Benefits (the "inmate exclusion").

Adopted in the 2021-22 budget package, the California Advancing and Innovating Medi-Cal (CalAIM) initiative is a large set of reforms to expand access to new and existing services and streamline how services are arranged and paid. Some key initiatives include (1) enhanced care management, which provides comprehensive care coordination to certain at-risk individuals; (2) community supports that provide housing support, transitional services, and other benefits that address the social determinants of health; (3) various capacity building initiatives that help counties

[22] https://www.ppic.org/blog/county-jails-house-fewer-inmates-but-over-half-face-mental-health-issues/

and other service providers provide a continuum of care that ranges from in-home support to more intensive inpatient and residential services; and (4) behavioral health payment reform to help counties transition to a less administratively burdensome and more timely process for receiving federal Medicaid funds for behavioral health-related services.

Justice-Involved Initiative. The CalAIM Justice-Involved initiative ensures continuity of coverage through Medi-Cal pre-release enrollment and provides key services to support a successful re-entry. Under the initiative, county jails, county youth correctional facilities, and state prisons:

- Ensure all eligible individuals are enrolled in Medi-Cal prior to release.

- Provide targeted Medi-Cal health care services to youth and eligible adults in the 90 days prior to release to prepare them to return to the community and reduce gaps in care. Eligible adults include those who have a mental health diagnosis or suspected diagnosis, a substance use disorder or suspected diagnosis, a chronic clinical condition, a traumatic brain injury, intellectual or development disability, or are pregnant or postpartum. All incarcerated youth in a youth correctional facility are eligible with no clinical criteria required.

- Provide "warm handoffs" to health care providers to ensure that individuals who require behavioral and other health care services, medications, and other medical supplies (e.g., a wheelchair) have what they need upon re-entry.

- Work with community-based care managers to offer intensive, community-based care coordination for individuals at re-entry, including through Enhanced Care Management.

- Work with community-based care managers to make Community Supports (e.g., housing supports or food supports) available upon re-entry if offered by their managed care plan.

Pre-release Services. The 90-day pre-release services component required federal approval. On January 26, 2023, the state was granted a federal Medicaid 1115 demonstration waiver to implement this proposal, making California the first state in the nation approved to provide Medicaid services to incarcerated individuals pre-release. These pre-release Medi-Cal services include intensive care coordination, as appropriate, and community-based physical and behavioral health clinical consultation services provided via telehealth or in-person as needed. Services may also include a supply of medications, consistent with Medi-Cal clinical policy, for use post-release into the community, including medication for MAT and durable medical equipment for use post-release into the community.

PATH Funding. In addition, the waiver authorizes $410 million for Providing Access and Transforming Health (PATH) Justice-Involved (JI) Capacity Building grants to support collaborative planning, and IT investments intended to support implementation of pre-release and reentry planning. Two rounds of PATH JI funding have been released: a planning grant round and an implementation grant round, and a third round is in progress[23].

[23] https://www.dhcs.ca.gov/CalAIM/Justice-Involved-Initiative/Pages/Path-JI.aspx

Reinvestment Requirement. The federal waiver requires the state to reinvest any savings in specific, related activities. DHCS and other stakeholders are working on a reinvestment plan.

Timeline. Correctional facilities and county behavioral health agencies may go live with specified components of CalAIM as early as April 1, 2024, depending on their readiness, and all correctional facilities and county behavioral health agencies must go live by March 31, 2026[24]. CDCR assumes implementation for the department will occur during the 2025-26 fiscal year. CDCR has indicated that the major implementation challenge will be developing a new Medi-Cal billing system to become a billable entity and collect reimbursements.

Table 4. Readiness Assessment Submission Process and Timeline		
Activities	State Prisons and Early-Adopter County Jails and Youth Correctional Facilities	All Other County Jails and Youth Correctional Facilities
DHCS releases readiness assessment submission tool(s)	Q4 2023	Q4 2023
DHCS facilitates all-comers webinar	Q4 2023	One per quarter until March 31, 2026
Readiness assessment submitted to DHCS	November 1, 2023	5 months before go-live
DHCS evaluates assessment and engages facility to address questions/feedback	December 2023-February 2024	3-4 months before go-live
DHCS communicates approvals with county SSDs and MCPs	February-March 2024	1-2 months before go-live
Correctional agency goes live with pre-release services	April 1, 2024	1st day of each quarter after April 1, 2024 (Note: All facilities must go live by March 31, 2026)

Source: DHCS's "Policy and Operational Guide for Planning and Implementing CalAIM Justice-Involved Reentry Initiative"[25]

Treatment Courts. Collaborative courts have emerged to help individuals with criminal charges pursue treatment and rehabilitation outside of a carceral setting, while still under the supervision of a court and with potential criminal consequences for failing to participate. California currently has more than 400 collaborative courts in all but two small jurisdictions (Alpine and Colusa), with

[24] https://www.dhcs.ca.gov/provgovpart/pharmacy/Documents/CalAIM-JI-Policy-and-Operations-Guide-Stakeholder-Comment-June-2023.pdf
[2525] https://www.dhcs.ca.gov/provgovpart/pharmacy/Documents/CalAIM-JI-Policy-and-Operations-Guide-Stakeholder-Comment-June-2023.pdf

many jurisdictions having four or more types of collaborative courts. The most numerous types of collaborative courts include adult drug courts (84), adult mental health courts (63), veterans' courts (46), dependency drug courts (32), juvenile drug courts (23), DUI courts (20), reentry courts (19), homeless courts (19), community courts (12), and juvenile mental health courts (12).

California's first adult drug court began in Alameda County in 1991[26]. Adult drug courts, or treatment courts, are evidence-based court programs that provide an alternative to traditional criminal justice case adjudication for high risk/high need individuals struggling with substance use disorders. These collaborative justice court models take a team based, less adversarial approach to case processing and combine close judicial oversight and monitoring with intensive supervision and substance abuse treatment services in lieu of incarceration.

The goals of these programs are to:

- reduce drug usage and recidivism.
- provide court supervised treatment.
- integrate drug treatment with other rehabilitation services to promote long-term recovery and reduce social costs.
- reduce the number of children in the Child Welfare System.
- access federal and state support for local drug courts.

48 of 58 counties in California have some form of drug court(s)[27]. Most adult drug courts in California are post-adjudication models in which participants are placed in drug court after entering a guilty plea. Charges can often be reduced after successful completion of the drug court program. Graduation requirements vary but typically involve completion of educational and job training requirements in addition to sobriety. Diversion and pre-pleas model courts work similarly, but do not require an initial guilty plea.

In California, each program operates independently by county. All are funded through a patchwork of local funds and some one-time state and federal competitive and discretionary grants. Because each operates separately, and reports to a variety of different funders and stakeholders, there is no one, centralized, reporting repository with data on participation and outcomes statewide. Studies have shown that drug courts lead to reduced recidivism, but that the impact varies depending on the programming offered and the particular judge assigned[28].

The Judicial Council recommends that drug courts follow the best practices outlined in All Rise's Adult Treatment Court Best Practices Standards[29]. There are standards included for the following categories:

- *Target Population*. Treatment courts are most effective and cost-efficient when they serve high-risk and high-need persons who require an intensive combination of treatment and supervision. This finding has been reported in all treatment court models examined to date.

[26] https://www.dhcs.ca.gov/individuals/Pages/Drug-Courts-Overview.aspx
[27] https://www.courts.ca.gov/documents/CollaborativeCourts_factsheet.pdf
[28] https://nij.ojp.gov/topics/articles/do-drug-courts-work-findings-drug-court-research
[29] https://allrise.org/wp-content/uploads/2023/12/All-Rise-Adult-Treatment-Court-Best-Practice-Standards-2nd-Ed.-I-VI_final.pdf

- *Equity and Inclusion*. Ensuring equitable access, services, and outcomes for all sociodemographic and sociocultural groups is a critical obligation of treatment courts. Research conducted in the past decade provides substantial guidance for treatment courts to monitor and rectify unwarranted cultural disparities. Examples of effective practices include removing invalid eligibility restrictions that needlessly exclude some cultural groups, engaging in proactive and culturally congruent outreach efforts, delivering culturally proficient treatments and complementary services, and avoiding monetary or other resource requirements that do not improve outcomes or protect public safety.

- *Roles and Responsibilities of the Judge*. Research underscores the critical impact of the judge in all treatment court models and for all sociodemographic groups examined thus far. Although biweekly court status hearings (every 2 weeks) produce superior outcomes in the first phase of adult drug courts, new evidence suggests that weekly hearings may be required in the first phase for participants needing greater structure and consistency, such as persons with a co-occurring mental health and substance use disorder or those lacking stable social supports.

- *Incentives, Sanctions, and Service Adjustments*. Delivering fair, effective, and safe responses for participant performance is critical for successful outcomes in treatment courts and one of the most difficult challenges for staff.

- *Substance Use, Mental Health, and Trauma Treatment and Recovery Management.* Treatment courts serve high-need persons with serious and persistent substance use, mental health, and/or trauma disorders. Achieving successful outcomes for these individuals requires treatment courts to deliver services that are desirable and acceptable to participants and adequate to meet their validly assessed treatment needs.

- *Complementary Services and Recovery Capital*. Complementary services are strengths-based and help participants to develop the personal, familial, social, cultural, financial, and other recovery capital needed to help them sustain indefinite recovery and enhance their overall quality of life. Examples of complementary services may include assisted housing, family or significant other therapy, and vocational, educational, or life skills counseling. Treatment courts should routinely assess participants' recovery capital and deliver desired complementary services to enhance their long-term adaptive functioning and life satisfaction.

Some of these standards have been adjusted in recent years to account for changing societal conditions and new research. For example, the opioid crisis and infiltration of fentanyl, xylazine, and other dangerous substances into illicit or unregulated drugs require treatment courts to recruit eligible persons as soon as possible after arrest or detention and offer them immediate voluntary pre-plea services. Previous benchmarks providing for entry within 1 to 2 months of an arrest are no longer tenable given the substantially increased risk of overdose and death pending evidentiary discovery, plea bargaining, and case disposition.

Staff Recommendation. This is an informational item, and no action is needed.

Issue 3: Supporting Survivors of Crime

Panelists

Subpanel A
- Jared Sippel, Legislative Analyst's Office
- Lynda Gledhill, Executive Director, California Victim Compensation Board
- Gina Buccieri-Harrington, Assistant Director, Grants Management, Office of Emergency Services

Subpanel B
- Grace Glaser, Public Affairs and Policy Manager, Valor
- Dr. Gena Castro Rodriguez, Executive Director, National Alliance of Trauma Recovery Centers
- Anthony DiMartino, Government Affairs Director, Californians for Safety and Justice

Background. Victim services are currently spread across four state departments with most grants and programs residing in the Victim Compensation Board (Cal VCB) and the Office of Emergency Services (Cal OES). The other two entities are the California Department of Corrections and Rehabilitation (which handles restitution collection and notification) and the Department of Justice (victim assistance and information services).

Cal OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, Cal OES administered $486.5 million in grant funds. Likewise, Cal VCB also combines federal and state funding to offer compensation directly to, or on behalf of, victims and survivors who are injured or threatened with injury. Most recently, Cal VCB approved more than 32,000 applications and provided more than $47 million in compensation for crime-related expenses, including income and support loss, medical and dental care, funeral and burial expenses, and other losses not reimbursable from another source.

In 2015, the Legislative Analyst's Office (LAO) published a report titled "Improving State Programs for Victims of Crime."[30] This report highlighted the fragmentation of victim services across the state, including a lack of coordination between Cal OES and Cal VCB. The report pointed out that this could also result in the state missing out on federal matching funds. The report recommended shifting all victim services to Cal VCB and restructuring the board membership.

The 2018-19 Budget Act required Cal VCB and Cal OES to work together to develop options and a recommendation for combining the state's victims programs under one organization, with the goal of providing one central place for victims and their families to obtain information and access services. A Consolidation Working Group was convened to complete the report and provide recommendations for consolidating the victims' programs. The report was released in October 2018[31]. The 2019-20 budget directed the Administration to develop a plan to consolidate the victim programs housed at Cal OES and Cal VCB within a new state department under the Government

[30] https://lao.ca.gov/Publications/Detail/3215
[31] https://victims.ca.gov/uploads/2021/02/FinalConsolidationReport.pdf

Operations Agency, and to identify victims programs in other departments that could be combined. The consolidation proposal was intended to be included in the 2020-21 Budget.

However, the proposal was not included, and plans for consolidation were complicated by the onset of the pandemic. There are significant logistical challenges in consolidating the entities, as well as the need to avoid negative impacts to those who receive funding and services to support victims and their families. However, the coordination of the state's delivery of victim services are necessary to ensure the efficient use of the limited resources allocated for these programs.

Cal VCB. California created the nation's first victim compensation program in 1965. The Department of Social Welfare administered the program until the Board of Control took responsibility in 1967. In 2001, the state renamed the Board of Control the "Victim Compensation and Government Claims Board" (VCGCB) to reflect its increasing roles and responsibilities more accurately. VCGCB oversaw the California Victim Compensation Program, the Revenue Recovery Program, and the Government Claims Program. In 2016, the Department of General Services assumed responsibility for the Government Claims Program. The state renamed VCGCB the California Victim Compensation Board. Cal VCB is a three-member board comprised of the Secretary of the Government Operations Agency, the State Controller, and a public member appointed by the Governor. Board members set policy for the organization and make decisions on matters, including appeals for victim compensation and claims of persons erroneously convicted of felonies. Cal VCB administers the Victim Compensation Program, which utilizes a reimbursement model for certain expenses to victims who have suffered physical, or the threat of physical injury, related to violent crime. Cal VCB also administers the Restitution Recovery Program, the Good Samaritan Program, and the Missing Children Reward Program.

Funding for the Victim Compensation Program (in millions)

Fund Source	2018-19	2019-20	2020-21	2021-22	2022-23
Restitution Fund	85.764	88.727	54.996	56.334	51.655
General Fund	0.134	0.138	23.636	40.94	47.175
Safe Neighborhoods and Schools Fund (Proposition 47)	6.413	7.596	10.15	11.583	14.696
Federal Funds	17.599	17.283	17.783	24.82	31.804
Reimbursements	0	0.543	0.951	0	0
Total	109.91	114.287	107.516	133.677	145.33

Source: LAO

Process for Application. Applicants may apply online, use a paper application, or seek assistance at a County Victim Witness Assistance Center. Cal VCB's website also indicates that advocates are available to help applicants to complete an application, find emergency shelter, file a temporary restraining order, and find other resources.

Eligible applicants are:

- California residents, even if the crime occurred out of state.
- Non-residents who are victimized in California.
- Specific members of the victim's family or person in close relationship to the victim.
- Any individual who assumes the obligation of paying a deceased victim's medical, burial, or crime scene clean up expenses.

Applications must be filed within seven years of the crime, seven years after the direct victim turns 18, or seven years from when the crime could have been discovered, whichever is later. If the application is based on specified crimes involving sex with a minor, the applicant may file at any time prior to their 28th birthday. Application extensions may be granted under certain circumstances if a "late filling consideration" form is submitted with their application. These circumstances are: (1) the prosecutor recommends the extension based on the applicant's cooperation with law enforcement and the prosecutor to catch and prosecute the accused; (2) the victim or derivative victim experiences additional pecuniary loss during the prosecution or in the punishment of the accused; or, (3) a delay in reporting due to the nature of the crime. Recommendations to approve or deny a claim are generally made within 90 days of receiving the application.

The types of expenses that applicants may apply for are:

- Crime scene clean up
- Funeral and burial expenses
- Home or vehicle modifications for victims who became disabled
- Income loss
- Medical and dental treatment
- Mental health services
- Relocation
- Residential security

Compensation Claims from 2018-2021. This table provide historical data on application claims processed by the Cal VCB.

	2018	2019	2020	2021
Claims Received	53,400	54,491	43,337	39,718
Total Payments	$61,570,330.34	$61,814,544.52	$55,138,750.74	$47,226,240.02
Claims Allowed	51,881	47,097	42,393	32,649
Claims Denied	5,046	4,208	5,857	5,180

Source: Cal VCB. All claims are paid from the Restitution Fund.

Of the claims that were denied, the following table indicates the reasons for denial.

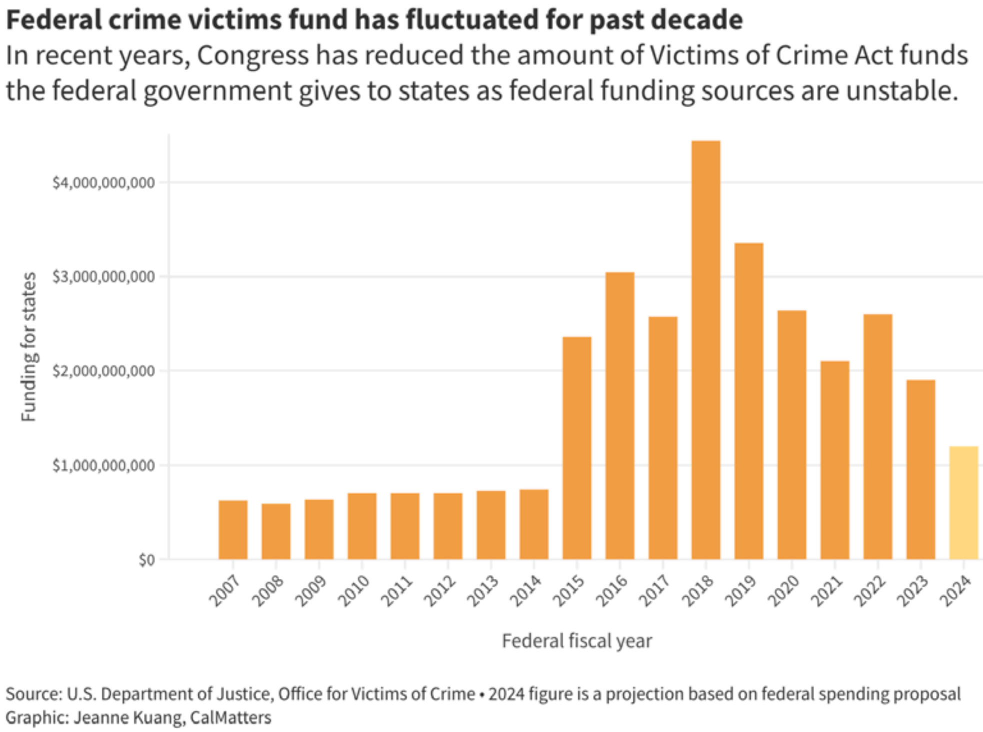
	2018	2019	2020	2021
Total Claims Denied	5,046	4,208	5,857	5,180
Claims Denied, By Reason (Claims may be denied for multiple reasons)				
Not a Covered Crime	2,021	1,761	2,107	1,736
Lack of Preponderance of Evidence	2,843	2,379	3,429	3,196
Involvement	934	735	745	713
Lack of Cooperation with Board	443	376	444	294
Lack of Cooperation with Law Enforcement	905	662	579	461
Doesn't Meet Residency Requirements	64	81	71	42
Late Application	216	166	133	120

Source: CalVCB

It can take weeks or months for Cal VCB to approve and process a claim. In 2021, it took 32 days on average to approve a claim. The time it takes Cal VCB to then process the claim depends on the category of the claim, with the slowest being 62 days on average to process income/support loss claims.

Trauma Recovery Centers (TRCs). TRCs are comprehensive centers that provide a variety of services to survivors, such as mental health treatment and legal advocacy. Cal VCB funds TRCs through a competitive grant process, which provides roughly $17 million annually in funding for 22 TRCs.

Victims of Crime Act (VOCA) Funding. The Crime Victims Fund was established by the Victims of Crime Act (VOCA) of 1984. The fund is financed by fines and penalties from convictions in federal cases. Federal, state, and Tribal victim assistance programs receive formula grants, discretionary grants, and set asides from the fund according to an annual allocation process. The funding is used to support critical services and programs that support Californians after they have experienced a crime. In recent years, the fund's balance has declined as changes in federal prosecution strategies have netted less in fines for the fund, and Congress has reduced the amount released. California is expecting $87 million in 2024, a 43 percent reduction from the allocation of $153.8 million in 2023.



Source: CalMatters, using data from the U.S. Department of Justice, Office for Victims of Crime[32]

Some of the changes in the distribution of the federal VOCA funding were included in the federal *VOCA Fix to Sustain the Crime Victims Fund Act of 2021*[33]. This act includes, but is not limited to, the following changes:

- Requires funds collected by the Federal Government under deferred and non-prosecution agreements to be deposited into the Crime Victims Fund.
- Clarifies that states may waive a requirement that victim compensation programs promote victim cooperation with law enforcement.
- Allows or requires states to waive matching requirements for Crime Victims Fund grant funds under certain circumstances.
- Provides the Attorney General with the authority to provide no-cost extensions to all Victims of Crime Act (VOCA) award recipients.

[32] https://calmatters.org/housing/homelessness/2023/12/domestic-violence-shelters/
[33] https://ovc.ojp.gov/news/announcement/president-biden-signs-voca-fix-sustain-crime-victims-fund-act-2021; https://www.congress.gov/bill/117th-congress/house-bill/1652

- Increases the reimbursement for states from 60 percent to 75 percent.

The federal government has also proposed regulatory changes to the victim compensation process[34]. The public comment period recently closed, on April 5, 2024.

Recent Budget Action.

- *Victims of Crime Act Supplemental Funding*. The 2021 budget included $100 million one-time General Fund to provide one-time supplemental funding for various programs that provide services to victims of crime, including rape crisis centers, domestic violence shelters, housing first, victim witness, and child advocacy centers programs. This funding was available over three years.

- *Trauma Recovery Centers.* The 2022 budget included $23 million General Fund one-time available over three years to expand Trauma Recovery Centers (TRCs). As of December 1, 2023, $17.3 million has been expended and encumbered. This included additional funding to eleven TRCs with annual budgets under $1.1 million, additional grants to fifteen existing TRCs, funding to establish two regional pilots in Northern and Central California, and funding for Flexible Emergency Cash Assistance, which was utilized by eighteen TRCs. Cal VCB also executed a contract with UC San Francisco in June 2023 to provide technical assistance to TRCs.
- *Benefit Limit Increases.* The 2022 budget included an increase of $7 million ongoing Federal Trust Fund expenditure authority to reflect the Federal Victims of Crime Act reimbursement rate increase from 60 percent to 75 percent. The budget also included trailer bill language to increase benefit limits for crime scene cleanup costs (from $1,000 to $1,700), funeral/burial costs (from $7,500 to $12,800), and relocation claims (from $2,000 to $3,400) to adjust for inflation since these limits were set in 2000. These benefit increases will be supported by the increased federal reimbursements.

- *Elimination of Restitution Fines and Expansion of Eligibility and Benefits*. Subject to fiscal conditions, the 2022 budget provided $75 million ongoing beginning in 2024-25 to support expanded eligibility and an improved process for the compensation of victims of crime, and to eliminate restitution fines. These changes included expanding eligibility, expanding benefits, increasing benefit limits, adjusting timelines, and making changes to the compensation for individuals wrongly convicted of crimes. These changes are outlined in AB 160 (Committee on Budget), Chapter 771, Statutes of 2022.

- *Flexible Assistance for Survivors.* The 2022 budget included $50 million General Fund available over four years and trailer bill language to establish a grant program for community-based organizations to provide flexible assistance to survivors of crime. The Flexible Assistance for Survivors (FAS) Pilot Grant Program is established in Chapter 7.9 (commencing with Section 8699) of Division 1 of Title 2 of the Government Code, which

[34] https://www.federalregister.gov/documents/2024/02/05/2024-02230/subject-victims-of-crime-act-voca-victim-compensation-grant-program#sectno-reference-94.205

was added by AB 200 (Committee on Budget), Chapter 58, Statues of 2022. Up to 5 percent was available to Cal OES for administration of the program.

The Governor's budget proposes to delay $47.5 million of this $50 million to 2025-26. Cal OES had created the Advisory Council required in statute, and had hired limited-term staff to work on the program. The Advisory Council was close to releasing a Request for Proposals (RFP) in January when the proposed delay was announced. The Administration indicated that they will be ready to release the RFP as soon as the funding is available. The Administration is proposing to retain the $2.5 million for administration, which will be used throughout the grant, and delay the remainder of the funding until 2025-26.

- *Outreach and Education.* The 2022 budget included $3 million one-time Restitution Fund for outreach and education related to the victim compensation program.

Staff Recommendation. This is an informational item, and no action is needed.

Senate Budget and Fiscal Review—Scott D. Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, April 18, 2024
9:30 a.m. or Upon Adjournment of Session
State Capitol – Room 112

Consultant: Christopher Francis, Ph.D.

Items for Discussion

Public Comment

ITEMS FOR DISCUSSION

7300 Agricultural Labor Relations Board (ALRB)
7350 Department of Industrial Relations (DIR)

The Department of Industrial Relations is responsible for enforcing the sections of the Labor Code that protect the health and safety of workers; promulgating regulations and enforcing laws relating to wages, hours, and workers' compensation insurance laws; adjudicating workers' compensation claims, and working to prevent industrial injuries and deaths. The Department also promotes apprenticeship and other on-the-job training, as well as analyzes and disseminates statistics measuring the condition of labor in the state.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2022-23	2023-24	2024-25	2022-23*	2023-24*	2024-25*
6080	Self-Insurance Plans	26.1	30.6	30.6	$7,032	$7,164	$7,183
6090	Division of Workers' Compensation	1,158.0	1,294.3	1,336.8	290,769	307,470	312,546
6095	Commission on Health and Safety and Workers' Compensation	9.1	10.8	10.8	3,872	3,942	3,828
6100	Division of Occupational Safety and Health	963.9	1,137.7	1,141.0	206,985	269,315	256,012
6105	Division of Labor Standards Enforcement	838.9	1,088.4	1,122.6	168,849	243,320	193,514
6110	Division of Apprenticeship Standards	94.3	112.0	117.0	109,122	94,877	30,082
6120	Claims, Wages, and Contingencies	-	-	-	410,712	471,712	474,712
9900100	Administration	565.0	-	-	100,953	-	-
9900200	Administration - Distributed	-	-	-	-100,953	-	-
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**3,655.3**	**3,673.8**	**3,758.8**	**$1,197,341**	**$1,397,800**	**$1,277,877**

FUNDING		**2022-23***	**2023-24***	**2024-25***
0001	General Fund	$124,060	$75,000	$10,000
0016	Subsequent Injuries Benefits Trust Fund	256,000	317,000	320,000
0023	Farmworker Remedial Account	291	291	291
0132	Workers Compensation Managed Care Fund	78	78	78
0223	Workers Compensation Administration Revolving Fund	398,134	414,970	423,870
0396	Self-Insurance Plans Fund	4,641	4,728	4,741
0452	Elevator Safety Account	33,300	44,332	44,462
0453	Pressure Vessel Account	4,300	5,831	6,183
0481	Garment Manufacturers Special Account	500	500	500
0514	Employment Training Fund	6,145	6,193	6,199
0571	Uninsured Employers Benefits Trust Fund	41,173	41,360	41,382
0890	Federal Trust Fund	37,879	38,231	38,020
0913	Industrial Relations Unpaid Wage Fund	500	500	500
0995	Reimbursements	15,340	15,340	15,340
3002	Electrician Certification Fund	3,147	3,206	3,213
3004	Garment Industry Regulations Fund	1,925	2,843	3,464
3022	Apprenticeship Training Contribution Fund	14,632	15,377	15,581
3030	Workers Occupational Safety and Health Education Fund	1,116	1,139	1,141
3071	Car Wash Worker Restitution Fund	421	421	421
3072	Car Wash Worker Fund	851	877	878
3078	Labor and Workforce Development Fund	8,697	108,212	48,463
3121	Occupational Safety and Health Fund	116,000	150,183	137,103
3150	State Public Works Enforcement Fund	13,030	23,288	25,006
3152	Labor Enforcement and Compliance Fund	115,181	127,900	131,041
TOTALS, EXPENDITURES, ALL FUNDS		**$1,197,341**	**$1,397,800**	**$1,277,877**

Issue 1: California Youth Apprenticeship Program

Panel

- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Adele Burnes, Department of Industrial Relations

Governor's Budget. The Governor's budget proposes to delay $25 million for the program to 2025-26.

Background

Overview of California's Apprenticeship System. California's apprenticeship system represents a partnership among industry, labor, education, and government. The Division of Apprenticeship Standards, within DIR, promotes apprenticeship training through the creation of partnerships, consults with program sponsors and monitors programs to ensure high standards for on-the-job training and supplemental classroom instruction. Through this effort, the retiring skilled workforce is replenished with new skilled workers to keep California's economic engine running strong. This system of training is efficient and cost effective because it eliminates expensive recruitment programs for people who are already trained, creates a diversified and flexible pool of employees with desired skills, and reduces costs of high labor turnover.

Apprenticeship itself is a highly-structured, longstanding, and extremely effective set of career ladders providing pathways to the middle class in the building and construction trades. As a form of both training and employment (often referred to as "earn-while-you-learn"), apprenticeship typically lasts two to four years with clearly defined wage and benefit increases based on skill attainment. Entrance is competitive. Pre-apprenticeship increases access to these high-quality careers in the trades for populations that face barriers to employment and/or remain under-represented in the industry (e.g., low-income, foster youth, women, people of color, and the formerly incarcerated).

The bulk of apprenticeships today are skilled trades, but the model can be adopted to many industries and occupations. Apprenticeships are well established in the construction industry, and there are many high-quality programs for electricians, carpenters, plumbers and pipe fitters. Today, apprenticeship programs are available to private and public employers regardless of the number of employees. More and more new industry sectors, such as information technology, education, health care, and advanced manufacturing are providing opportunities and access to sustainable careers for people to become registered apprentices. There are over 800 apprenticeable occupations approved in California, and over 400,000 individuals participating in apprenticeship programs throughout the United States (US Department of Labor). California currently has over 90,000 registered apprentices.

Growth in Apprenticeships Goal. Expanding the apprenticeship system both in number of participants and available occupations would strengthen the American economy by helping businesses meet the demand for skilled workers while offering workers higher wages and better employment outcomes. In 2018, Governor Newsom set the ambitious goal of reaching 500,000 active apprentices by 2029 acknowledging the benefits of apprenticeship programs in providing good paying jobs. With their proven track record for workers and employers in the skilled trades and in firefighting, apprenticeship innovations are also emerging in new sectors, such as health care, information technology, advanced manufacturing, and education, opening up access to good jobs for workers and students.

- ***California Youth Apprenticeship Program.*** The 2022 Budget Act included $20 million General Fund in 2022-23, $20 million in 2023-24 and $25 million in 2024-25 to establish the Youth Apprenticeship Grant Program. Trailer bill legislation in SB 191 did the following:

- Required the Division of Apprenticeship Standards (DAS) to administer the program, which would provide grants for the purposes of providing funding for existing apprenticeship and preapprenticeship programs or to develop new apprenticeship and preapprenticeship programs to serve the target population and satisfy the goals and objectives of the grant program, as specified.
- Defined "target population" as individuals from 16 to 24 years of age who are at risk of disconnection or are disconnected from the education system or employment, unhoused, in the child welfare, juvenile justice, or criminal legal systems, living in concentrated poverty, or are facing barriers to labor market participation. "Target population" also includes youth who face chronic opportunity educational achievement gaps, attend schools in communities of concentrated poverty, or attend high schools with a negative school climate.
- Authorized the grant funds for specific purposes.
- Required grant proposals to include, among other things, the knowledge, experience, and capacity to provide services to the target population, as defined, and the industries and career pathways targeted. Requires the program to collect, analyze, and report specified program data on race, gender, income, rurality, ability, foster youth, homeless youth, English language learner, and other key characteristics.
- Required the DAS to monitor and audit grant recipients to ensure compliance with policies, procedures, and requirements for use of the grant funds.
- Required the Chief of the DAS to convene a committee to develop recommendations, of specified topics, to DAS on the expansion of youth apprenticeships in California.

Implementation Snapshot. In February 2023, the DAS launched the California Youth Apprenticeship Committee, comprised of representatives from youth, youth serving organizations, labor, employers of youth, K–12 schools, community colleges, and the public workforce system. DAS completed planning in Fall 2023, including the funding details for planning and implementation grants, target population, and eligibility criteria.

The planning and implementation grants are part of the overall California Opportunity Youth Apprenticeship (COYA) Grant. COYA Grants will help develop and test innovative practices to increase the participation of opportunity youth in pre-apprenticeship and apprenticeship programs, and to demonstrate the impact of apprenticeship on employment and earnings outcomes for opportunity youth. The focus of the COYA Grant is on Interagency Advisory Committee on Apprenticeship connected programs. These are programs that serve occupations across all sectors of the economy except for the building trades. As examples, this includes healthcare, education, advanced manufacturing, information technology, public sector, transportation and more. Programs serving occupations in the fire trades are eligible to apply for this funding, however any proposal serving these occupations must be approved by the California Apprenticeship Council (CAC). The grant program does not apply to building and construction trades programs that are within the jurisdiction of the CAC.

The first round of grant application solicitation opened on February 5, 2024 with $25 million in available funding and concluded on March 15, 2024. Award recipients are to be announced at the time of this subcommittee hearing.

Suggested Questions

- **DOF:** Overall, how was the $25 million amount determined? Does this amount reflect previously budgeted funding that have unplanned uses? Low or lower than expected program participation? Delays in ramping up? Other reasons?
- **DIR:** What would be the impact of this delay going forward? Are there activities that will not occur due to this delay?
- **DIR:** There is a projected budget deficit for the next three fiscal years according to estimates. If this $25 million delay became a reduction in 2025-26, then what would be the impact to the program?

Staff Recommendation. Hold open.

Issue 2: Women in Construction Unit

Panel

- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Adele Burnes, Department of Industrial Relations

Governor's Budget. The Governor's budget proposes to reduce funding for the unit by $5 million General Fund in 2024-25 and ongoing and instead maintain the program at $10 million General Fund ongoing.

Background

Women in Apprenticeships. According to the Department of Industrial Relations, California leads the nation with over 1,200 apprenticeship programs providing life-changing skills for almost 91,000 apprentices of which 83,252 are male, 7,010 are female, 35 unknown and 33 are binary. In 2018, Governor Newsom set an ambitious goal of reaching 500,000 active apprentices by 2029 acknowledging the benefits of apprenticeship programs in providing good paying jobs. With their proven track record for workers and employers in the skilled trades and in firefighting, apprenticeship innovations are also emerging in new sectors, such as health care, information technology, advanced manufacturing, and education, opening up access to good jobs for workers and students.

This goal, and the funding efforts devoted towards increasing apprentices to half a million by 2029, will demand a more expansive and inclusive apprenticeship system. With women and nonbinary individuals making such a small percentage of the total apprentices, the opportunity exists for enhanced recruitment and retention efforts especially in a post COVID world where women have been disproportionately impacted by the pandemic. Promoting the opportunities for women in skilled labor fields will help build that workforce and provide women who pursue such employment with increased wages, retirement security, better health care and other benefits. Advancing the recruitment and retention of women and nonbinary people will increase gender diversity in the trades, and has the potential to increase racial diversity, as to date more women of color have applied to become skilled laborers.

Women in Construction Priority Initiative (2021). The Budget Act of 2021 included $15 million General Fund one-time for Women in Construction Priority Initiative to provide resources, support, outreach and education regarding worker's rights, health and safety and labor laws, and leadership training for forewoman.

Women in Construction Priority Unit (2022). Following up on the efforts of the 2021 Budget Act, the 2022 Budget Act included $15 million General Fund in 2022-23 and ongoing and trailer bill legislation, in SB 191 (Committee on Budget and Fiscal Review), Chapter 67, Statutes of 2022.. The law requires the DIR to establish a Women in Construction Priority Unit to coordinate and help ensure collaboration across DIR's subdivisions and maximize state and federal funding to support women and nonbinary individuals in the construction workforce. The law also does the following:

- Outlines the initial duties and responsibilities of this unit.

- Requires the director of DIR by July 1, 2023, to convene an advisory committee to make recommendations to advance the unit's objectives.
- Requires the advisory committee to be composed of representatives from recognized or certified collective bargaining agents representing construction workers, labor-management groups, construction industry employers or employer associations, state government departments, and non-profit stakeholders.

Implementation Updates. The Equal Representation in Construction Apprenticeship Grant, administered by the DIR and the Division of Apprenticeship Standards (DAS) distributed $25 million dollars to increase opportunities in the construction industry for women, non-binary, and underserved communities to cover the costs of child care and bolstering outreach.

Suggested Questions

- **DOF:** Overall, how was the $5 million ongoing baseline reduction determined? Does this amount reflect previously budgeted funding that have unplanned uses? Low or lower than expected program participation? Delays in ramping up? Other reasons?
- Is there an update on the amount of expended funding from prior year appropriations for the unit?
- **DIR:** What would be the impact of this reduction on the unit going forward? Are there activities that will not occur due to this reduction?
- **DIR and LAO:** Are there any activities that could be absorbed or supported through other fund sources if this a reduction is adopted in the final budget agreement?

Staff Recommendation. Hold open.

Issue 3: Various Governor's Proposals for DIR

Panel

- Andrew March, Department of Finance
- Courtney Massengale, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Josh Iverson, Chief Financial Officer, DIR
- Sebastian Sanchez, Deputy Secretary of Agriculture and Immigrant Workforce, Labor and Workforce Development Agency
- Deanna Ping, Chief Deputy Director, DIR
- Victoria Hassid, ALRB Board Chair
- Julia Montgomery, ALRB General Counsel

Governor's Budget. The Governor's January budget includes the following proposals for DIR:

- **Rural Strategic Engagement Program.** The budget includes $4.4 million Labor and Workforce Development Fund (LWDF) in 2024-25, 2025-26 and 2026-27 for the Agricultural Labor Relations Board and $3.4 million LWDF in 2024-25, $4.0 million in 2025-26, and $4.3 million in 2026-27 for DIR to educate workers in rural and semi-rural areas on workplace rights, increase access to state services for workers in those areas, and improve state labor enforcement programs.

- **Workers' Compensation Appeals Board.** The budget proposes $2.8 million Workers' Compensation Administration Revolving Fund and 13 positions over three years to reduce the backlog at the appeals board.

- **Cal/OSHA Data Modernization Project.** The budget proposes $25.2 million Labor and Workforce Development Fund in 2024-25 to develop a system that will meet federal and state-mandated requirements, consolidate information into a central database/repository, interface to other DIR systems, and automate manual processes across its units.

- **Electronic Adjudication Management System Modernization.** The budget proposes $22.1 million Workers Compensation Administration Revolving Fund in 2024-25 for DIR to support the replacement of the Division of Workers' Compensation's electronic case management and document storage system.

- **Public Works Information Technology System.** The budget proposes $10.6 million Labor and Workforce Development Fund in 2024-25 for DIR to complete enhancements to the Public Works Information Technology System.

- **Public Records Act Oversight Unit.** The budget proposes 12 permanent positions and $2 million in 2024- 25, 10 permanent positions and $3.3 million in 2025-26, and $3.2 million in 2026-27 and ongoing funded through various special funds to enable DIR and its divisions to timely respond to requests for public records under the California Public Records Act.

- **OSHA 23(g) Federal Funding Increase.** The budget proposes an increase of $1.37 million Federal Trust Fund authority in 2024-25 and ongoing associated with the Occupational Safety and Health Administration (OSHA) 23(g) State Plan Program Federal Grant base increase.

Suggested Questions on Rural Strategic Engagement Program

- Can you clarify the roles of DIR and ALRB for this program?
- Is this program modeled off other worker outreach programs? If so, in what ways?
- How is the Rural Strategic Engagement program is different from other worker outreach programs that the state previously supported? Are these differences meant to address obstacles in farmworker outreach that the other programs could not address?
- How many individuals are the ALRB and DIR anticipating to reach through the Rural Strategic Engagement program? How would you define success for this program?
- Have you involved, and do you plan to involve, stakeholders in the creation of this program?

Staff Recommendation. Hold open.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD)

The Employment Development Department (EDD) connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Innovation and Opportunity Act. Additionally, EDD collects various employment payroll taxes including the personal income tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2022-23	2023-24	2024-25	2022-23*	2023-24*	2024-25*
5900	Employment and Employment Related Services	1,382.4	1,342.7	1,342.7	$-219,335	$467,747	$339,704
5915	California Unemployment Insurance Appeals Board	571.0	567.9	567.9	104,281	108,608	108,134
5920	Unemployment Insurance Program	3,559.4	3,264.6	3,310.2	7,815,171	8,430,867	8,403,134
5925	Disability Insurance Program	1,482.5	1,505.3	1,737.9	10,543,247	11,960,333	13,901,935
5930	Tax Program	1,586.3	1,594.1	1,548.2	368,764	373,134	365,243
5935	Employment Training Panel	111.0	85.1	85.1	153,427	122,832	122,952
5940	Workforce Innovation and Opportunity Act	202.2	202.2	202.2	474,092	491,365	409,589
5945	National Dislocated Worker Grants	1.5	1.5	1.5	45,000	45,000	45,000
9900100	Administration	701.0	701.0	701.0	400	400	400
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**9,597.3**	**9,264.4**	**9,496.7**	**$19,285,047**	**$22,000,286**	**$23,696,091**

FUNDING		**2022-23***	**2023-24***	**2024-25***
0001	General Fund	$280,517	$850,722	$709,186
0184	Employment Development Department Benefit Audit Fund	22,439	23,003	22,958
0185	Employment Development Department Contingent Fund	233,538	241,271	269,478
0514	Employment Training Fund	110,255	126,217	226,355
0588	Unemployment Compensation Disability Fund	10,619,974	12,040,918	13,975,462
0869	Consolidated Work Program Fund	519,092	536,365	454,589
0870	Unemployment Administration Fund	1,211,025	1,184,895	1,158,582
0871	Unemployment Fund	5,886,015	6,862,676	6,745,531
0908	School Employees Fund	105,941	98,791	98,796
0995	Reimbursements	42,621	33,791	33,517
3288	Cannabis Control Fund	3,630	1,637	-
3345	Cannabis Tax Fund - Employment Development Department	-	-	1,637
8506	Coronavirus Fiscal Recovery Fund of 2021	250,000	-	-
TOTALS, EXPENDITURES, ALL FUNDS		**$19,285,047**	**$22,000,286**	**$23,696,091**

Issue 4: General EDD Updates and EDDNext

Panel

- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Nancy Farias, Director, Employment Development Department
- Ron Hughes, Special Consultant on Technology, Employment Development Department

Available for additional questions and detail:

- Caleb Horel, Employment Development Department

Governor's Budget. The Governor's budget includes $326.8 million one-time in 2024-25 ($163.4 million General Fund) to continue the planning and development of EDDNext, for the third year of a five-year plan to modernize EDD. The effort includes enhancements to EDD's benefits system, improving call centers, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and training.

Background

UI Program Assists Unemployed Workers. Overseen by the Employment Development Department (EDD), the UI program provides weekly benefits to workers who have lost their jobs through no fault of their own. The federal government oversees state UI programs but the state has significant discretion to set benefit and employer contribution levels. Under current state law, weekly UI benefit amounts are intended to replace up to 50 percent of a worker's prior earnings, up to a maximum of $450 per week, for up to 26 weeks. In 2019, the average benefit amount was $330 per week.

State Disability Insurance. In 1946, California enacted the State Disability Insurance (SDI) program. Although it was reported that the concept for disability insurance originated in California, the State of Rhode Island was actually the first state in the nation to create a disability insurance program in 1942. Other disability insurance programs have been established in New Jersey in 1948; New York in 1949; Puerto Rico in 1968; and Hawaii in 1969.

Unlike Unemployment Insurance (UI), which is based on a federal-state partnership, California's SDI is operated solely on state law with no involvement by the federal government. While UI is financed by payroll taxes paid by employers, SDI is financed by covered workers through payroll deductions. These payroll deductions, also referred to as "SDI contributions," are deposited into a dedicated fund that is used to pay benefits to eligible workers and finance the program's operating costs. California's EDD is the state agency responsible for administering SDI.

Benefits are payable for a maximum of 52 weeks and provide a wage replacement of about 60-70 percent. SDI covers more than 18 million individuals. According to EDD's SDI Statistical Information, for fiscal year 2020-21, there were a total of 639,744 claims paid with a total of $7,146,258,131 in benefits paid. The average weekly benefit amount was $697 for approximately 16.50 average weeks.

Paid Family Leave (PFL). Paid Family Leave provides approximately more than 18 million California workers with benefits to care for a seriously ill family member, bond with a new child, or participate in a qualifying event resulting from a family member's military deployment to a foreign country.

In 2002, Senate Bill 1661 was signed into law by Governor Gray Davis, creating the first PFL program in the nation. California's PFL leverages the financing structure of SDI to provide up to eight weeks of benefits to covered workers who need time off work to care for a seriously ill family member, to bond with a new child, or to participate in a qualifying military event.

Although the legislation was enacted in 2002, PFL benefits officially became available to covered workers on July 1, 2004. To cover the initial costs to provide these new benefits, workers provided additional contributions into the SDI Fund in calendar years 2004 and 2005.

As a result of this newly enacted legislation, SDI offers two types of benefits, Disability Insurance and PFL. Both benefits are financed by workers and paid from the SDI Fund.

Benefits System Modernization (BSM) Project. The 2020 Budget Act included $46 million and 147.5 positions funding equally by the General Fund and Unemployment Disability Fund, and a redirection of $3.1 million and 19 positions in 2020-21 for the BSM project. These resources began the multi-year implementation of an integrated and secure benefits system for unemployment, disability or paid family leave benefits. The BSM solution was intended to modernize the EDD's benefit systems by implementing a single, integrated benefit system that provides customers and staff a consistent, single portal into the EDD's services while being more agile and responsive for deployment of enhancements and lowering overall maintenance costs.

Pursuant to the September 2020 Strike Team report recommendations, EDD placed the BSM project temporarily on hold. On May 4, 2021, EDD announced a redesigning of the BSM, which would take into account lessons learned from the pandemic as well as new software technology that has since become available. For example, EDD notes that the BSM project was first designed based on demand levels from the Great Recession, which peaked at 3.8 million claims in a year, compared to 20 million claims during the pandemic. EDD notes that they will leverage work already done on the BSM, including an inventory of business rules and processes in the state unemployment insurance, disability insurance and paid family leave programs, and incorporate the information in a new project moving forward. EDD notes that they are working with the Department of Technology and the Office of Digital Innovation to help modernize the claimant process. The 2021 Budget Act included $11.8 million one-time to refocus and review the project, laying the basis for EDDNext.

EDDNext Modernization (2022). The 2022 Budget Act agreement included $136 million in 2022-23, split evenly between the General Fund and the Unemployment Compensation Disability Fund, for the EDDNext modernization effort. This multi-year effort focuses on EDD's benefits systems and services' modernization, including improvement to customer service across UI, SDI, and PFL programs through multiple IT projects over different phases. The budget agreement also included budget bill language making funding contingent on EDD demonstrating satisfactory progress towards implementation milestones.

EDDNext has five listed project objectives:

1) **Customer-Centered Service Design:** Ensure equity access via optimizing service channels (i.e. mobile social media, self-service website, chatbot, live chat) with multiple language access.
2) **Increase Self-Service Opportunities:** Simplify self-service functionality across all programs for claims intake and process.
3) **Mitigate Fraud:** Protect claimant identity, reduce fraudulent activities, and reduce the costly risk to the state by re-engineering claims processing and enhancing technology driven security.
4) **Improved, Consistent, Integrated Program Delivery:** Extend data analytics, improved dashboards, daily reporting on claim progress, fraud analysis, standardized user experience, and enhance EDD training to better serve claimants.
5) **Greater Adaptability for Faster Program Changes:** Integrated system that enables rapid program changes and enable scalability to meet he unusual spikes in workload demand and

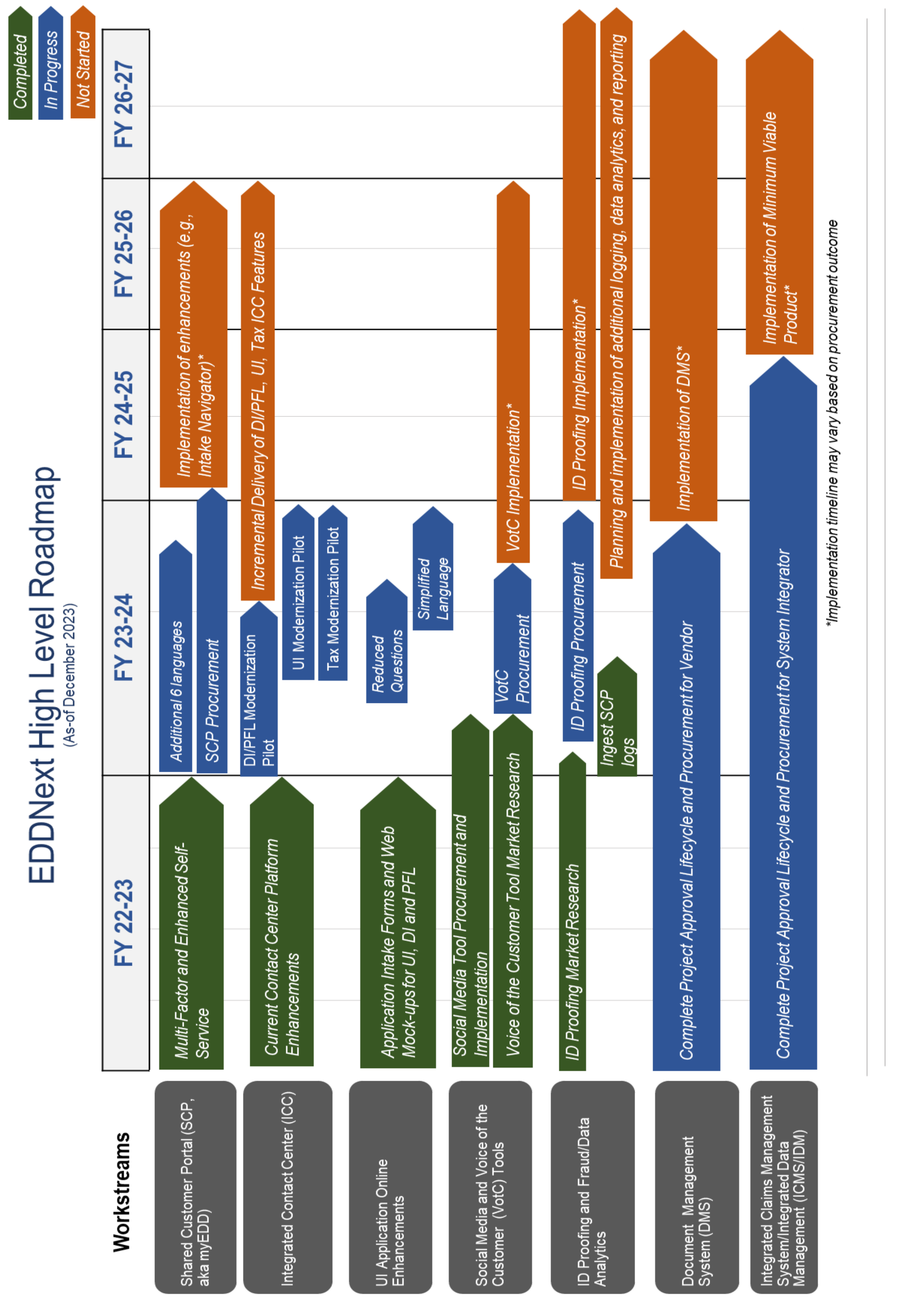
modifications required for compliance with the U.S. Department of Labor and California Rules and Regulations.

2023 Budget Act. The 2023 Budget Act included $198 million ($99 million General Fund) one-time in 2023-24 to continue the planning and development, for the second year of EDDNext.

Implementation Snapshot and Roadmap. In a January 2024 status update to the Legislature, EDD reported achieving the following milestones:

- Implemented multi-factor and enhanced service for the EDD shared customer portal launched in June 2023
- Launched support for three additional languages (Simplified Chinese, Traditional Chinese, and Vietnamese).
- Made enhancements to the contact center, including additional languages supported for UI, categorization features for DI/PFL, PFL and DI text messaging services for claims.
- Research and implementation of identity proofing solutions for improved fraud detection and mitigation.
- Made procurements for Project Executive, Project Advisor, Enterprise Architecture, Business Process Re-engineering, Organizational Change Management, and Governance services within the Transformation Office.

Below is the EDDNext roadmap of activities, as of December 2023, for each year of its five-year plan.



EDDNext High Level Roadmap
(As-of December 2023)
Completed
In Progress
Not Started
Workstreams
FY 22-23
FY 23-24
FY 24-25
FY 25-26
FY 26-27
Shared Customer Portal (SCP, aka myEDD)
Multi-Factor and Enhanced Self-Service
Additional 6 languages
SCP Procurement
Implementation of enhancements (e.g., Intake Navigator)*
Integrated Contact Center (ICC)
Current Contact Center Platform Enhancements
DI/PFL Modernization Pilot
Incremental Delivery of DI/PFL, UI, Tax ICC Features
UI Modernization Pilot
Tax Modernization Pilot
UI Application Online Enhancements
Application Intake Forms and Web Mock-ups for UI, DI and PFL
Reduced Questions
Simplified Language
Social Media and Voice of the Customer (VotC) Tools
Social Media Tool Procurement and Implementation
Voice of the Customer Tool Market Research
VotC Procurement
VotC Implementation*
ID Proofing and Fraud/Data Analytics
ID Proofing Market Research
ID Proofing Procurement
ID Proofing Implementation*
Ingest SCP logs
Planning and implementation of additional logging, data analytics, and reporting
Document Management System (DMS)
Complete Project Approval Lifecycle and Procurement for Vendor
Implementation of DMS*
Integrated Claims Management System/Integrated Data Management (ICMS/IDM)
Complete Project Approval Lifecycle and Procurement for System Integrator
Implementation of Minimum Viable Product*
*Implementation timeline may vary based on procurement outcome

Suggested Questions

- **EDD:** Does EDD anticipate spending all of its EDDNext 2023-24 appropriation by June 30?
- **EDD:** Please walk the subcommittee through the planned uses with the amount proposed in the Governor's budget.
- **EDD:** As of today, what is the projected overall cost for EDDNext? The project has been divided into multiple phases. What are the funding needs of these individual phases?

Staff Recommendation. Hold open.

7120 California Workforce Development Board (CWDB)

The California Workforce Development Board collaborates with both state and local partners to establish and continuously improve the state workforce system, with an emphasis on California's economic vitality and growth. The Board also provides leadership for a unified state plan that works in partnership with other state entities such as the Health and Human Services Agency, the Departments of Social Services and Rehabilitation, the Community Colleges, and the Department of Education. The workforce system is comprised of state and local programs and services that prepare current and future workers to meet the ever-evolving demands of California's businesses and industries. These services include matching job seekers with career opportunities and jobs; supplying high-skill workers to business and industry; providing labor market and economic information necessary for state, local, and regional planning; preparing the neediest youth for advanced learning and careers; and encouraging the inclusion of special populations as critical elements of the workforce.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2022-23	2023-24	2024-25	2022-23*	2023-24*	2024-25*
6040	California Workforce Development Board	58.1	107.0	107.0	$320,333	$152,306	$37,186
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**58.1**	**107.0**	**107.0**	**$320,333**	**$152,306**	**$37,186**

FUNDING		2022-23*	2023-24*	2024-25*
0001	General Fund	$305,496	$120,941	$20,633
0890	Federal Trust Fund	8,030	13,511	8,293
0995	Reimbursements	4	4	8,004
3228	Greenhouse Gas Reduction Fund	6,803	17,850	256
TOTALS, EXPENDITURES, ALL FUNDS		**$320,333**	**$152,306**	**$37,186**

Issue 5: General CWDB Updates and Governor's Proposals

Panel

- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Kaina Pereira, Executive Director, CWDB

Governor's Budget. The Governor's January budget includes the following proposals for CWDB:

Low Carbon Economy Grant Program. The budget proposes a $15 million General Fund reduction in 2024-25.

High Road Training Partnerships in Health and Human Services. The budget proposes to reduce this funding by $45 million in 2024-25.

Background

The CWDB is statutorily responsible[1] for the development and expansion of the High Road approach to workforce development, including the High Road Training Partnerships and High Road Construction Careers initiatives.

The California Global Warming Solutions Act of 2006 requires the reduction of greenhouse gas emissions across California's economy to 1990 levels by 2020 (AB 32, 2006) and to 40 percent below 1990 levels by 2030 (SB 32, 2016). This Act also requires the CWDB to report to the Legislature on workforce education and training needed for workers, communities, and specific industries to respond to the exigencies of climate change (AB 398, 2017).

The report titled, *Putting California on the High Road: A Jobs and Climate Action Plan for 2030*, was delivered to the Legislature in September 2020. The report offers the State of California a vision for integrating economic and workforce development into major climate policies and programs in order to help achieve California's climate goals, and recommends state investment in the High Road Training Partnerships and High Road Construction Careers initiatives to ensure disadvantaged Californians have access to high-quality employment and training needed for the transition to a carbon-neutral economy.

The "High Road" Approach and Goals Defined. The "high road" is a term used to define approaches that ultimately support employers and employees, meeting the supply and demand sides of businesses. The goals of "high road" approaches are to invest into workers to achieve economic growth, economic equity, racial equity shared prosperity and a clean environment. Specifically, this entails improving and increasing the accessibility and volume of quality jobs for women and people from underserved and underrepresented communities, provide a reliable pathway to the middle class for disadvantaged Californians, meet the skill and profitability needs of employers, and meet the economic, social, and environmental needs of the community.

Low Carbon Economy Grant Program. In 2019, the Legislature approved $165 million in Greenhouse Gas Reduction Fund (GGRF) money over five fiscal years, subject to the Legislature's annual appropriations process and to availability of revenue in the GGRF, to CWDB for HRTP and HRCC initiatives (together referred to as the Low Carbon Economy Initiative).

The intent of the program is to support sector-based regional partnerships, research and development of workforce programs, transition planning, regional economic and workforce planning, and technical assistance. The program prioritizes projects that provide quality jobs and upward mobility for residents of disadvantaged communities. Projects provide comprehensive, high-quality workforce development to these priority populations, including job training, supportive services, and placement assistance.

[1] Unemployment Insurance Code §14005, §14013

The initial goals of the 2019-20 investment in the HRTP initiative include:

- Expanding from eight to 20 HRTP projects in climate-impacted industries, resulting in 20 High Road industry sector partnerships sustained for long-term work;
- Serving at least 2,000 disadvantaged workers;
- Developing 10 new-state approved apprenticeship programs;
- Piloting two worker transition projects in sectors and regions facing imminent threat to mass worker dislocation;
- Project and initiative evaluation (done by the CWDB)

One budget appropriation was made in 2019-20 for $35 million but was subsequently reduced, due to lower-than-expected revenue to the GGRF, to $25.6 million for local assistance and $4.2 million for operations. In June 2021, the CWDB released the $25.6 million in local assistance funds to 22 new and existing HRTPs and expanded the work of the 11 regional HRCC partnerships. New industry sectors include zero-emission bus manufacturing, energy storage, food and agriculture, fossil fuel transition, clean transportation, forestry, utility line tree-trimming, and offshore wind.

General Fund Support for Low Carbon Economy Grant Program. The Budget Act of 2022 included $15 million General Fund annually from 2022-23 through 2024-25 to support the Low Carbon Economy Initiative. But, in response to the budget deficit for fiscal year 2023-24, the Budget Act of 2023 shifted the fund source for $15 million earmarked for that year from the General Fund to the Greenhouse Gas Reduction Fund.

In a status report to the subcommittee, the $30 million ($15 million General Fund and $15 million Greenhouse Gas Reduction Fund) over 2022-23 and 2023-24 have been expended or obligated, leaving the $15 million General Fund available in 2024-25.

High Road Training Partnerships in Health and Human Services. The Budget Act of 2022 included $135 million General Fund over three years ($45 million per year between 2022-23 and 2024-25) to recruit, train, hire, and advance California’s health and human services sectors. Funding will be awarded through regional grants. Partners may include community colleges, workforce boards, employers, and non-profit organizations.

Implementation Snapshot of HRTP in Health and Human Services. The HRTP Allied Healthcare Initiative was included in the California Workforce Development Board’s larger HRTP Resilient Workforce Program (RWD) program. Funding was awarded through regional grants with partners including community colleges, workforce boards, employers, and non-profit organizations. Due to the volume of HRTP applications received to date and spending of virtually all funding, the HRTP RWD application cycles planned for October 2023 and January 2024 are cancelled. In a status report to the subcommittee, the $90 million ($45 million General Fund in each of 2022-23 and 2023-24) have been expended or obligated, leaving the $45 million General Fund available in 2024-25.

Suggested Questions

- **DOF:** Overall, how were the specific amounts for proposed reductions determined? Do these amounts reflect previously budgeted funds that have unplanned uses? Low or lower than expected program participation? Delays in ramping up? Other reasons?

- **CWDB:** Please provide the subcommittee with a status update for prior year funds. What milestones have these initiatives achieved (partnerships have been supported, number of individuals served, etc.)?
- **CWDB:** What would be the impacts of the Governor's proposed reductions in 2024-25 to these programs?
- **CWDB and LAO:** Are there any activities that could be absorbed or supported through other fund sources?

Staff Recommendation. Hold open.

Senate Budget and Fiscal Review—Scott D. Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, May 2, 2024
9:30 a.m. or Upon Adjournment of Session
State Capitol – Room 112

Consultants: Nora Brackbill and Eunice Roh

ITEMS FOR VOTE-ONLY

Transportation

Public Comment

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.

ITEMS FOR VOTE-ONLY

Transportation

2600 California Transportation Commission

Issue 1: Administrative Workload Adjustments

Governor's Proposal. The Governor's Budget includes $539,000 in reimbursement authority to support three existing limited-term positions addressing the workload related to climate resiliency, the Local Transportation Climate Adaptation Program (LTCAP), and the Transit Intercity Rail Capital Program (TIRCP). Currently, the positions are funded from the State Highway Account (47 percent) and Public Transportation Account (53 percent). However, the funding will expire at the end of this fiscal year. As such, the department requests reimbursement authority for these positions through 2026-27 to continue implementing climate resiliency, LCTAP, and TIRCP, all programs that is expected to have grant and project management workload for the next several years. CTC will be reimbursed from the California State Transportation Agency (CalSTA), specifically out of the General Fund appropriations for TIRCP in the 2021 Budget Act.

In addition, the Budget includes one permanent Attorney IV position to provide legal services. In the 2023-24 Budget, the California Transportation Commission received $200,000 for a contract for legal services. However, the Commission has determined staff counsel that could provide dedicated legal services is more desirable than specialized contracted counsel because of they can provide more tailored expertise related to specific Commission functions, namely its role as a responsible agency under CEQA, but also related to Bagley-Keene Open Meeting Act matters, right-of-way matters, and other issues that arise.

Staff Recommendation: Approve as budgeted.

2660 California Department of Transportation

Issue 2: Administration Program Support

Governor's Proposal. The Governor's Budget includes $4,761,000 ongoing from the State Highway Account and 38 permanent positions for administration support. More specifically, Caltrans requests 34 positions in the Division of Human Resources and 4 positions in the Division of Procurement and Contracts. Over the past six years, the California Department of Transportation (Caltrans) has experienced significant expansion in resources, requirements, and functions. However, administrative staffing has not increased proportionally to the department's growth, putting a strain on resources as operational demands continue to grow and pose challenges to our existing support staff. As such, Caltrans requests these positions to address this increased administrative workload, and improve their hiring, recruitment, training, procurement, and contracting processes.

Staff Recommendation: Approve as budgeted.

Issue 3: Bridge and Tunnel Safety Inspection Resources

Governor's Proposal. The Governor's Budget includes $6,628,000 in 2024-25 and $8,518,000 ongoing from the State Highway Account to address new federal bridge inspection and data collection requirements. More specifically, recent revisions of federal bridge safety regulations require more in-depth inspections, increased inspections for bridges in poor condition, greater data collection in a new format, additional bridge inspection training, and new quality control and quality assurance measures. As a result, Caltrans requests 28 positions to address this additional workload, funding to purchase specialized inspection equipment, as well as operational expenses for travel and vehicle replacement and maintenance.

Staff Recommendation: Approve as budgeted.

Issue 4: California High Speed Rail Reimbursement Authority

Governor's Proposal. The Governor's Budget includes $3,065,000 in reimbursement authority in 2024-25 and 2025-26 for services rendered on behalf of the California High Speed Rail Authority (HSRA). More specifically, these resources will provide ongoing legal services to the California High Speed Rail Authority in real property acquisition and management for the Central Valley Madera to Shafter segment. There are approximately 291 parcels remaining on the Madera to Shafter segments. As the cases for the Madera to Shafter segments enter the trial phase, an extension of existing resources is requested to complete the process and secure the parcels based on court timelines and availability of judicial resources. The request includes 11 positions total—six attorneys, three legal secretaries, and two Associate Governmental Program Analysts—and funding for expert witnesses completing property appraisals, statement evaluations, site inspections, and agriculture impact assessments.

Staff Recommendation: Approve as budgeted.

Issue 5: Continuation of Proposition 1B Administrative Support

Governor's Proposal. The Governor's Budget includes $1,687,000 from various funds in 2024-25 and 2025-26 to continue addressing workload associated with Caltrans' responsibilities under Proposition 1B. Proposition 1B was approved on November 7, 2006 and is the transportation component of the infrastructure bond package. Administration of Proposition 1B involves a wide array of duties, including project programming and monitoring; contract preparation and monitoring; performing audits; accountability report preparation; managing nine different funds; invoice processing and financial report preparation; preparing reports to control agencies; as well as various other tasks required to implement and manage transportation projects. This proposal is based on work needs for the remaining active projects and are based on zero-based budgeting practices. 200 projects are still in the implementation phase, and will require monitoring for several more years before they are complete. Therefore, Caltrans request 11 positions for two years, to continue implementing Proposition 1B.

Staff Recommendation: Approve as budgeted.

Issue 6: Continuation of Road Charge Pilot (SB 339) Positions

Governor's Proposal. The Governor's Budget includes $1,042,000 from the State Highway Account in 2024-25 and 2025-26 to continue six two-year limited-term positions to implement a road charge revenue collection pilot, as required by SB 339 (Wiener, Chapter 308, Statutes of 2021). In the 2022 Budget Act, Caltrans received $6,010,000 over two years to fund $4,000,000 for contract services and $1,005,000 for six two-year limited-term positions. The department requests to extend these positions for another two years to complete the pilot project, manage the contract services (which ends April 30, 2026), and provide the final report to the Legislature by December 31, 2026.

Staff Recommendation: Approve as budgeted.

Issue 7: Culvert Inspection Program Statewide Crew Augmentation

Governor's Proposal. The Governor's Budget includes $8,142,000 in 2024-25, $9,529,000 in 2025-26, and $8,157,000 ongoing from the State Highway Account to improve the frequency of culvert inspections in the State Highway System. Culverts are designed to channel water under or alongside the roadway to keep roads clear and safe. Routine inspections help reduce culvert repair costs by identifying deficiencies that can be addressed quickly through field maintenance projects, rather than waiting to be programmed into the State Highway Operation and Protection Program (SHOPP), which can take years. In 2019, the Caltrans Office of Independent Audits and Investigations found the department's average current re-inspection cycle is approximately ten years. However, in some parts of the state, the re-inspection cycle is up to 23 years, due to staffing levels. Caltrans requests in total, 50 positions, equipment and tools for culvert inspection, as well as funding for ongoing maintenance and repair costs, to locate, inventory, and inspect the state's culverts and storm drain systems on a routine schedule of five-to-seven years, in alignment with the recommendations of the department's Office of Independent Audits and Investigations.

Staff Recommendation: Approve as budgeted.

Issue 8: Distributed Programs Abolishment

Governor's Budget. The Budget includes a shift to a centralized Administration and Equipment Program, instead of a distributed Administration and Equipment Program, as well as a consolidation of funding to the State Highway Account. In 2010-11, Caltrans transitioned to distributed programs, and a methodology was developed to equitably distribute both administrative and equipment resources and was adjusted annually with budget changes. Charges are distributed to programs on a percentage basis and consequently do not reflect true expenditures to Caltrans' various programs. By shifting back to a centralized Administration and Equipment program, Caltrans' budget will be more transparent and more easily accountable.

Staff Recommendation: Approve as budgeted.

Issue 9: Enterprise Data Governance Technology Solution Implementation

Governor's Budget. The Governor's Budget includes $7,747,000 in 2024-25 from the State Highway Account to implement the Enterprise Data Governance Technology Solution, which is a tool to help Caltrans staff manage data assets consistently and effectively. In prior budgets, Caltrans has received funding to complete the various planning stages of this IT project. The department now requests funding for the first year of implementation—specifically, this request is to fund activities for the technology component, specifically, to implement an enterprise set of data governance and management tools, which will be made available for all Caltrans staff to use. The department expects additional budget proposals for the rest of implementation as well as ongoing maintenance and operation of the project.

Staff Recommendation: Approve as budgeted.

Issue 10: Enterprise Data Storage Expansion

Governor's Budget. The Governor's Budget includes $12,873,000 in 2024-25 to address additional data storage and protection needs and completion of network infrastructure upgrades at designated location throughout the state. In addition, $10,195,000 is requested beginning in 2025-26 and ongoing for data expansion growth and vendor maintenance support for the network and data storage equipment. According to the department, there is growing need for data storage due to the increase in transportation projects in recent years, from both state and federal funding, as well as the shift to digital project management processes. This request is a continuation of an approved budget proposal from the 2022 Budget Act, which provided six permanent positions to support data storage expansion; limited-term funding for data storage expansion; enhancements to network infrastructure; and digital conversion of documents.

Staff Recommendation: Approve as budgeted.

Issue 11: Equal Employment Opportunity Program Support

Governor's Budget. The Governor's Budget includes $2,095,000 ongoing from the State Highway Account for Equal Employment Opportunity Program (EEOP) support and to implement equity related actions, trainings, and departmental policies. According to the department, over the last three years, EEOP has seen a slow, but steady, increase in the number of complaints being reported. As such, the department requests resources to provide more training and focus on preventative measures. This request includes $1,345,000 for ten positions to provide proactive training and programming; analyze and report internal data; support administrative activities to address change in organizational structure; as well as process and investigate internal complaints, respond to public information requests, and respond to external investigations. In addition, this request includes $750,000 for training, consulting services, facilitation, travel, software, and equipment.

Staff Recommendation: Approve as budgeted.

Issue 12: FI$Cal Onboarding Planning

Governor's Budget. The Governor's Budget includes $13,500,000 in 2024-25 from the State Highway Account to support the transition and onboarding to the FI$Cal system. Caltrans needs to transition to FI$Cal because the current system the department is currently using is no longer supported by the vendor and is at the end-of-life. As such, Caltrans has been in the process of shifting to FI$Cal. For example, in the prior year budget, Caltrans received $6,637,000 in one-time funding to start planning the transition. This request is a continuation, and includes 34 limited-term positions for reviewing, analyzing, and updated business and technical gaps, business requirements and business processes, identifying system interfaces, data conversion, testing, training, reporting, cybersecurity, communication, and organizational change management as well as consulting services for organizational change management, data conversion, data reporting, and testing.

Staff Recommendation: Approve as budgeted.

Issue 13: Transportation System Network Replacement

Governor's Budget. The Governor's Budget includes $4,204,000 in 2024-25 from the State Highway Account to replace the Transportation System Network. The Transportation System Network (TSN) is a safety data system that collects collision data, highway inventory, traffic volumes, and other roadway data. Currently, the Caltrans TSN only includes data from the State Highway System (SHS). However, the federal government requires states to collect roadway inventory information for all public roads, and not just on the SHS. As a result, Caltrans has begun developing and planning a replacement for the TSN, beginning in 2021-22. This request includes eight limited-term positions (5.5 for system development and implementation and 2.5 for maintenance and operations) as well as one-time system development cost of $1,982,000 and a system operations and maintenance cost of $737,000.

Staff Recommendation: Approve as budgeted.

Issue 14: Wildfire Litigation

Governor's Budget. The Governor's Budget includes $4,378,000 in 2024-25, 2025-26, 2026-27, and 2027-28 from the State Highway Account for wildfire legal defense. In recent years, the Caltrans Legal Division has faced increased workload due to wildfire litigation. In the 2021 Budget, the department received $2,756,000 on a three-year limited-term basis to address such workload. In those years, the Legal Divisions expenditures ranged from $1.1 million to $2 million and utilized seven positions annually. Caltrans expects increased staffing and litigation costs over the next several years as the wildfire litigation enters the discovery and trial phases, as there will be subpoenas, depositions and expert witness expenses incurred to determine the liability to Caltrans. The following litigation expenses may include, but are not limited to depositions, court reporters, reprographic services, aerial photography, jury consultants, trial support, and attorney fees.

Staff Recommendation: Approve as budgeted.

2665 HIGH-SPEED RAIL AUTHORITY

Issue 15: Central Valley Segment - Acquisition

Governor's Budget. The Governor's Budget includes a capital outlay appropriation of $6 million from the High-Speed Rail Property Fund for right-of-way acquisition, using excess parcel proceeds. The High-Speed Rail Authority (HSRA) has to purchase land in order to construct the high-speed rail system. Sometimes, HSRA is required to purchase a full parcel when only a partial parcel is needed. In these cases, the HSRA must later sell the excess portion. The Authority received direction from the FRA on March 6, 2023, indicating that the Authority could avoid returning federal funds associated with the sale of excess parcels, if it expended those funds on new right-of-way purchases. HSRA estimates excess property sales revenue will range between $38 to $95 million, and $5 to $12 million specifically for parcels purchased with federal funds. This request would allow HSRA to reinvest excess such revenue into the purchase of new parcels within the Central Valley Segment.

Staff Recommendation: Approve as budgeted.

Issue 16: Form to Function Budget Adjustments and Proposition 1A Cap Increase

Governor's Proposal. The Governor's Budget includes $13.5 million ($13.3 million Greenhouse Gas Reduction Funds and $279,000 Proposition 1A Bond Funds) and 67.0 positions to shift consultant resources to state staff on an ongoing basis. If approved, this request will allow HSRA to save $22.2 million, for a net decrease of $8.7 million. Shifting to state staff is aligned with a California State Auditor's recommendation from 2018, which found that HSRA was overly reliant on consultants to perform key functions for the project. In addition, the Authority requests trailer bill language to adjust the administrative cap of Proposition 1A from 2.5 percent ($225 million) to 5 percent ($450 million) of the $9 billion appropriation as specified in the language of Proposition 1A through Streets and Highway Code section 2704.08(h). This cap has not been adjusted since 2008, and given the continuing administrative workload the HSRA expects in the coming years, the Authority requests to increase the statutory cap to 5 percent.

Staff Recommendation: Approve as budgeted.

2720 CALIFORNIA HIGHWAY PATROL

Issue 17: Convert Administrative Positions from Sworn Personnel to Non-Uniformed Personnel

Governor's Proposal. The Governor's Budget includes permanent position authority for 34 positions to support CHP's administrative functions. Currently, these positions are filled by uniformed personnel, mainly out of need and availability. However, if these positions are instead filled by non-uniformed personnel, it provides several benefits to the state: (1) returning officers to the field; (2) less staff turnover, since uniformed personnel can only remain in administrative assignments for four years; and (3) cost savings, given that these professional staff cost less than uniformed personnel.

Staff Recommendation: Approve as budgeted.

Issue 18: Augmentation for Retention of Conflict Counsel

Governor's Proposal. The Governor's Budget includes $4 million from the Motor Vehicle Account (MVA) for retention of outside conflict counsel to represent the California Highway Patrol (CHP) and its officers in civil litigation cases arising from officer-involved shootings.

Background. AB 1506 (McCarty, Chapter 326, Statutes of 2020) requires the Attorney General (AG), as the state prosecutor, to investigate incidents of officer-involved shootings that result in the death of an unarmed civilian. As a result, the AG has determined that its investigation of CHP officers involved in shooting incidents resulting in the death of an unarmed civilian creates a conflict in the AG's representation of the CHP and its officers in civil litigation arising from those incidents. Because the AG will not represent the CHP in those incidents, additional funding is required to cover the costs associated with the retention of outside counsel.

Staff Recommendation: Approve as budgeted.

2740 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Issue 19: Cybersecurity Program Resources

Governor's Proposal. The Governor's Budget includes $7,408,000 in 2024-25, $7,314,000 in 2025-26, and $4,864,000 ongoing from the MVA for five permanent positions, information technology (IT) security consulting services, as well as IT security tools and training to improve the Cybersecurity Program. Audits and independent security assessments by the California Department of Technology Office of Information Security and the California Military Department has found that the DMV currently has moderate cybersecurity risk. This proposal will support the DMV to comply with State mandated security requirements and address risks identified in various audit and assessment findings.

Staff Recommendation: Approve as budgeted.

Issue 20: Enterprise Content Management (ECM) Project

Governor's Proposal. The Governor's Budget requests $3,279,000 from the MVA in 2024-25 to continue implementing a department-wide Enterprise Content Management (ECM) System. This project will allow the DMV to consolidate document resources by maintaining a centralized repository that integrates with existing systems. The ECM solution will also streamline business processes while increasing data security. In the prior year budget, the DMV received $3,433,000 from the MVA in 2023-24 to support the ECM project. Currently, the DMV expects to complete the implementation of the ECM project by March 2025.

Staff Recommendation: Approve as budgeted.

Issue 21: REAL ID Automated Document Verification (RADV)

Governor's Proposal. The Governor's Budget includes $7,472,000 from the MVA in 2024-25 and $5,472,000 ongoing to support the REAL ID Automated Document Verification (RADV) process.

Background. RADV allows customers to upload the identity and residency documents necessary to apply for a REAL ID Driver License or Identification Card prior to arriving at the field office. This allows DMV to ensure the customer has the correct documentation needed for the transaction, which decreases the customer's time in a field office and return visits. The RADV process was originally funded in the 2021 Budget Act—DMV received funding for six temporary IT positions through 2023-24. Currently, RADV is utilized by approximately 40 percent of all REAL ID customers. To support RADV, the DMV requests funding for IT positions, software and vendor support contracts, consultant contracts, and program support positions.

- **IT Resources.** The DMV requests $1,027,000 ongoing to convert the six temporary IT positions to permanent to support and maintain RADV, and potentially expand the use of RADV to Virtual Field Office, Digital Mailroom, Lien Sales, Disabled Parking Placard recertification, and accounts payable invoices processing.
- **Software and Vendor Support Contracts**. The department requests $2,800,000 ongoing for AWS hosting services and software and vendor support costs to maintain, modify, and improve the current process flows for various customer services.
- **Consultant Contracts.** The department requests $2,000,000 one-time for consulting services, to support and onboard permanent staff to manage RADV.
- **Program Support Positions.** The department requests $1,645,000 ongoing for 15 positions to manually review, analyze, and process documents.

Staff Recommendation: Approve as budgeted.

Public Safety and the Judiciary

0250 JUDICIAL BRANCH

Issue 22: Statutory Statewide External Audit Program

Governor's Proposal. The Governor's Budget includes $1.3 million Trial Court Trust Fund in 2024–25, increasing to $1.5 million Trial Court Trust Fund in 2028–29 and annually thereafter to support independent, external audits of the trial courts as required by Section 77206 of the Government Code.

Background. Current statute requires independent audits of the revenues, expenditures, and fund balances under each trial court's control on a four-year cycle. These audits are performed by the State Controller's Office (SCO). These audits focus on each trial court's compliance with the state's financial rules for the revenues, expenditures, and fund balances under the trial court's administration and control.

The cost of these audits was determined by the SCO through a six-court pilot, which included two small, two medium, and two large courts: Amador, Tehama, Yolo, Sonoma, San Mateo, and Sacramento. After that pilot, through the fiscal year 2022–23, the SCO had completed 23 additional audits. This funding request addresses the long-term costs of auditing 14 to 15 trial courts per year, as required by statute, beginning in 2024–25 and annually thereafter.

Staff Recommendation: Approve as budgeted.

0690 OFFICE OF EMERGENCY SERVICES

Issue 23: California Earthquake Early Warning Program: Contract Encumbrance Period Extension

Governor's Proposal. The California Office of Emergency Services (Cal OES) is requesting to change the California Earthquake Early Warning (CEEW) Program's funding authority from the current one-year encumbrance period to a two-year encumbrance. This request does not require additional funding.

Background. The CEEW System is a public alerting system that uses ground motion sensors located at seismic stations across the state to detect earthquakes before shaking occurs. It is an earthquake safety tool, involving interrelated hardware, software, and communications.

When the CEEW Program was established, Cal OES received annual one-time appropriations to support the CEEW System. Beginning in fiscal year 2016-17, $10,000,000 in General Fund appropriations were allocated to contractors for sensor installation, social science research, education and outreach efforts, and research to improve telemetry and mass alert distribution. Since that time, California has identified the CEEW System as a core public safety function and added $15,750,000 to the program in 2018-19, $16,300,000 in 2019-20, $17,283,000 in 2020-21, and $17,283,000 in 2021-22. In 2022-23, the Legislature provided $17,086,000 to Cal OES in ongoing General Fund to support the CEEW System.

As OES continues to improve and implement aspects of the CEEW System, the complexity of the projects makes it difficult to encumber funds within one year, as currently required. A longer encumbrance period will support CEEW System implementation throughout the state by allowing for multiyear investments and contracts.

Staff Recommendation: Approve as budgeted.

Issue 24: Gun Buyback Program Reduction

Governor's Proposal. The Governor's Budget proposes to eliminate $21 million General Fund intended for a gun buyback program at Cal OES.

Background. The 2022 Budget Act included $25 million General Fund one-time for the Board of State and Community Corrections to administer grants to local law enforcement agencies for gun buyback programs. In 2023, $21 million of this funding was moved Cal OES for the same purpose. The Governor's Budget proposes to revert this funding.

Staff Recommendation: Approve as budgeted.

0820 DEPARTMENT OF JUSTICE

Issue 25: Charitable Trusts Enforcement Workload

Governor's Proposal. The Department of Justice (DOJ) requests 3.0 positions and Registry of Charities and Fundraisers Fund spending authority of $860,000 in 2024-25, $832,000 in 2025-26, and $832,000 annually thereafter to support increased workload in the Registry of Charities and Fundraisers resulting largely from statutory changes, which require organizations to be in good standing in order to receive donations from platform fundraisers.

Background. The DOJ has supervisory authority over charities, charitable trustees, and professional charitable fundraisers as set forth in the Supervision of Trustees and Fundraisers for Charitable Purposes Act ("the Act", Gov. Code section 12580, et seq.). In 1959, the Legislature mandated that DOJ operate a Registry of Charitable Trusts (renamed to Registry of Charities and Fundraisers, effective January 1, 2024), and for charities and fundraisers to register and file annual reports with the Registry. The Act requires charitable organizations, charitable trustees, professional fundraisers, fundraising counsel, commercial coventurers, and charitable fundraising platforms to register and file annual reports with the Registry (Gov. Code sections 12581, 12584, 12590, 12599-12599.2, 12599.9). The Registry is a self-funded program supported by fees paid by its registrants. DOJ has the authority to deny, suspend, and revoke registration of fundraising and charitable organizations that fail to comply with the annual registration and reporting requirements; investigate charities and fundraisers for other abuses such as illegal or improper use of charitable funds; and file cease and desist orders and administrative and civil actions against noncompliant charities and fundraisers.

Charities that are listed as delinquent, suspended, or revoked are not able to receive donations from platform fundraisers (AB 488 [Irwin], Chapter 616, Statutes of 2021), which has led to an increase in charities trying to restore good standing, and increased workload for legal staff. Legal staff have also experienced an increased workload responding to public inquiries related to the registration status of charities in poor standing.

Staff Recommendation: Approve as budgeted.

Issue 26: Tribal Key Employee Licensing Workload

Governor's Proposal. The DOJ Division of Law Enforcement, Bureau of Gambling Control (BGC) requests 6.0 permanent positions and $874,000 from the Indian Gaming Special Distribution Fund in 2024-25 and ongoing to maintain the Tribal Key Employee Licensing workload.

Background. The BGC regulates legal gambling activities in California. Tribal key employees are employees in a California tribal casino in a supervisory or management capacity, who are empowered to make discretionary decisions regarding gaming operations. These employees must be approved by the Tribal Key Employee Unit at BGC, which is required to conduct background investigations on applicants to determine whether the applicants are suitable to be licensed for association with a gaming operation. All applications must be acted upon within 180 days of the date of submission.

The current number of positions within this unit does not provide the minimum level of support needed to handle ongoing incoming workload. Without permanent positions to fulfill the workload of the Tribal Key Employee Unit, workload will continue to backlog, and the BGC will be at risk for not meeting their mandated timeframes. As of November 30, 2023, there are 441 applications over six months old. An increase in tribal casinos has contributed to an increased workload for the Tribal Key Employee Unit, but staffing levels have not changed since 2011-12.

Staff Recommendation: Approve as budgeted.

5225 Department Of Corrections And Rehabilitation

Issue 27: Technical Adjustments

Governor's Proposal. The California Department of Corrections and Rehabilitation (CDCR) requests a reduction of $290,000 General Fund in 2024-25 and ongoing to correct the miscoding of positions from the 2023-24 May Revision Housing Unit Conversion Standard Adjustment resulting in an increase of $82,000, a reduction of $365,000 to reflect Prison Industry Authority janitorial savings from the California City Correctional Facility closure, a reduction of $7,000 to correct the miscoding of funds, and various net-zero realignments within CDCR programs.

Staff Recommendation: Approve as budgeted.

Issue 28: Amendments to Clemency Statutes Trailer Bill Language

Governor's Proposal. The Governor's Budget includes two pieces of trailer bill language related to record transmittal:

- *Amendments to Clemency Statutes: Capital Case Records.* Removes certain requirements for the courts to send hard copies of specified documents and transcripts to the Governor, and instead requires electronic transmittal of specified documents (but not the complete transcript).

- *Amendments to Clemency Statutes: Certificate of Rehabilitation.* Removes the requirement for individuals seeking a certificate of rehabilitation to give notice of the filing to the Governor's Office (GO). The GO would still receive a copy of any order granting a certificate of rehabilitation. Requiring an additional notice upon filing imposes additional burdens on the individuals and increased workload for the GO.

Staff Recommendation: Adopt placeholder trailer bill language.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

Issue 29: Extension of Medication-Assisted Treatment Grant Program: Reappropriation and Trailer Bill Language

Governor's Proposal. The Governor's Budget includes a reappropriation of $10 million in Medication-Assisted Treatment Grant funds originally authorized as part of the 2022 budget. The reappropriation would extend the availability for encumbrance and expenditure through June 30, 2027, and extend the reversion date to June 30, 2029. The Governor's Budget also includes statutory changes to extend the due date of the final report to July 1, 2028.

Staff Recommendation: Approve as budgeted and adopt placeholder trailer bill language.

ITEMS FOR DISCUSSION

0690 Office of Emergency Services

Issue 30: Emergency Preparedness and Response Planning Report

Panelists

- Eric Swanson, Deputy Director, Finance & Administration, Cal OES
- Christine Curry, Chief Deputy Director, Cal OES
- Jared Sippel, Principal Fiscal and Policy Analyst, Legislative Analyst's Office (LAO)
- Vy Nguyen, Principal Program Budget Analyst, Department of Finance
- Tess Scherkenback, Staff Finance Budget Analyst, Department of Finance

Background. The 2022-23 Budget Act (Provision 4 of Item 0690-001-0001 of the Budget Act of 2022, [Chs. 43, 45, and 249, Stats. 2022]) required Cal OES to submit a report as follows:

> The Office of Emergency Services shall submit a report to the budget committees of the Senate and the Assembly and the Legislative Analyst's Office by February 1, 2024. The report shall outline the assumed types and levels of risks that the department's emergency preparedness and response planning contemplates, the department's operational framework for determining the appropriate resource capabilities and capacity necessary to address the assumed risk, how the department's existing resources fit within that framework, and general areas of emergency preparedness and response that may need further development. The report shall also include, at a minimum, the following: (1) a description of the department's existing emergency response capacity and resources, including a description of how federal, other state, and local resources are deployed to support the state's emergency response and how those resources are considered when determining the Department's resource and capacity needs, (2) state emergency response goals, objectives, and metrics where appropriate, including, but not limited to, response capacity for emergencies, multiple simultaneous emergencies, and prolonged emergencies, (3) a description of the state's ability to meet the identified emergency response goals, objectives, and metrics where appropriate, including, but not limited to, regional response capabilities to handle all hazard emergency situations and for key emergency response activities, (4) a description of any gaps in the Department's current response capacity that prevent or delay meeting its emergency response goals, (5) an assessment of how the resources approved in the Budget Act of 2022 support the Department's ability to meet its emergency response capacity goals and gaps identified in this report, and (6) a description of the existing programs dedicated to mitigation of disaster related risks and how they align with the core mission of OES.

The 2023-24 Budget Act adjusted the report as follows:

> In the report being provided pursuant to Provision 4 of Item 0690-001-0001 of the Budget Act of 2022 (Chs. 43, 45, and 249, Stats. 2022), the Office of Emergency Services shall also include an assessment of how the resources approved in the Budget Act of 2023

> support the office's ability to meet its emergency response capacity goals and gaps identified in the report. Notwithstanding Provision 4 of Item 0690-001-0001 of the Budget Act of 2022 (Chs. 43, 45, and 249, Stats. 2022), the required report, as amended by this provision, shall be submitted to the budget committees of the Senate and the Assembly and the Legislative Analyst's Office by March 1, 2024.

A brief summary of some of the key points from the report is below.

Identifying and Assessing Hazards. Cal OES analyzes hazards and their associated risks based on impact (including severity and vulnerability), and whether it is a natural hazard or not (e.g. a wildfire versus an urban structure fire). Examples of high-impact natural hazards include earthquakes and extreme heat.

Disaster Response, Recovery, Mitigation, and Planning. Disaster response refers to the actions taken immediately after a disaster occurs. The next phases include recovery, hazard mitigation, and planning. These steps cover rebuilding, strategies to reduce the risk that a similar disaster would occur again, and planning for potential similar or other disasters in the future. Cal OES also completes After Action Reports to analyze the response and document lessons learned.

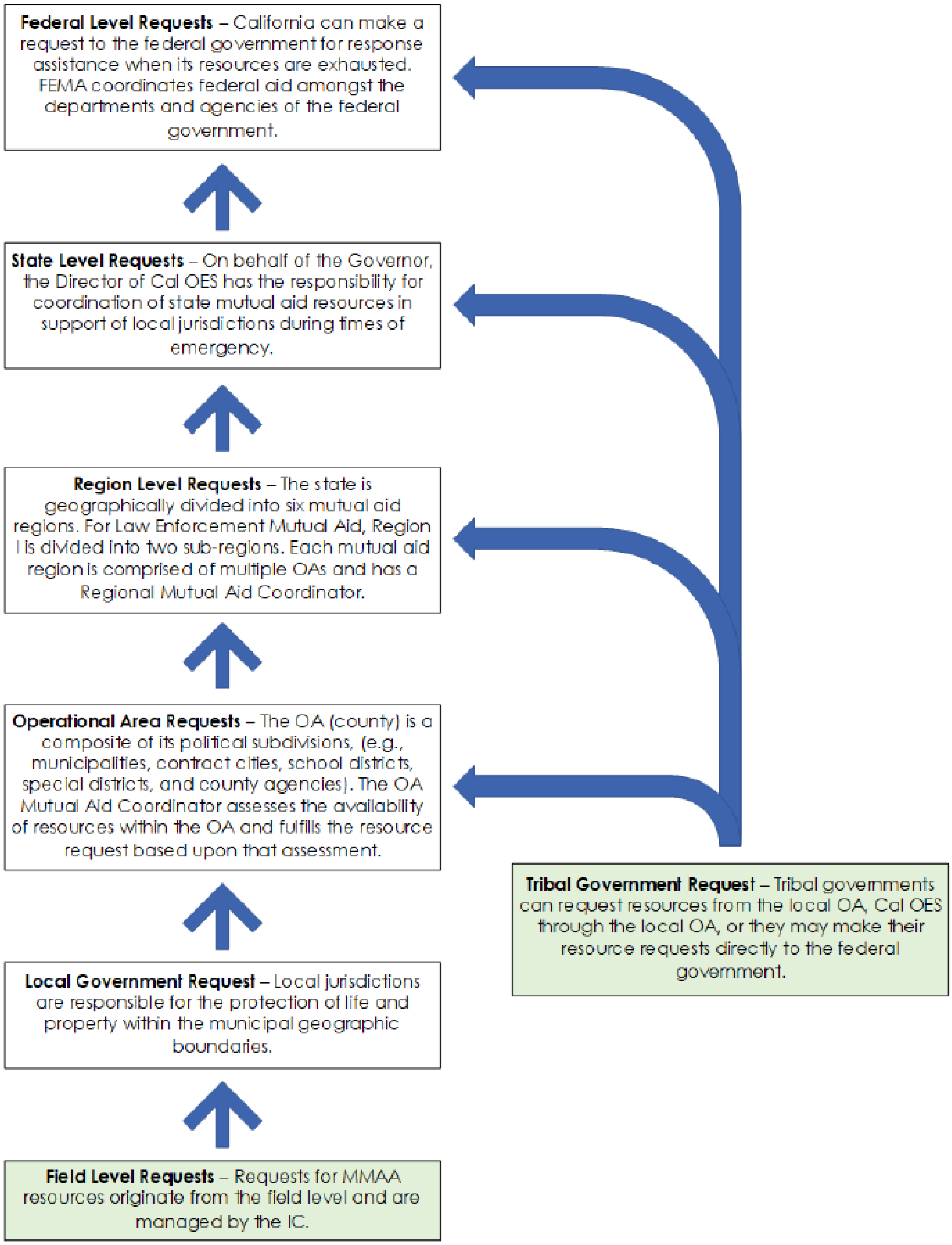
Mutual Aid. California operates using a Standardized Emergency Management System (SEMS), which creates a standard, consistent organizational structure and enables coordination between local, regional, state, and federal entities. At the local level, the California Master Mutual Aid Agreement (MMAA) allows cities, counties, and tribal governments to share resources as needed during disaster response. The agreement obligates each signatory entity to provide aid to each other during an emergency without expectation of reimbursement. At the federal level, the Emergency Management Assistance Compact (EMAC) further allows sharing of personnel and equipment between states.

Response. California has a State Emergency Plan (SEP) which outlines how to respond to emergencies in California and is updated every five years. Following the SEP, emergency responders set response-related goals, priorities, and strategies. Core priorities include: saving lives, protecting public health and safety, protecting property, and preserving the environment. Responses to large-scale events are coordinated by a Unified Government Group (UCG) convened and led by Cal OES along with the Governor's Office, Cabinet Secretaries, Department Directors, and federal agency officials, and tailored according to the nature of the emergency. The pathway for resource determination is outlined in the chart on the following page.

Cal OES Roles and Responsibilities. For state-level disasters, Cal OES coordinates resources through the State Operations Center (SOC). Cal OES also has the authority to mission task any and all state agencies to support activities to prevent, respond to, recover from, and mitigate the effects of disasters. Some state agencies have pre-assigned emergency responsibilities.

California State Warning Center (CSWC). The CSWC is staffed 24 hours a day, seven days a week to identify potential and emerging threats to California and provide alert notification to all levels of government. The CSWC also coordinates the information needed to determine the potential impact of a threat and provides updates and monitors the situation until it is resolved. The 2022

Budget Act included additional resources for the CSWC, including funding to create a mobile, backup unit.



Incident Support. The Budget Act of 2021 provided funding for Cal OES to establish a permanent incident support teams. Cal OES also requires all employees to be available to "activate" to the SOC or deploy to a local Emergency Operations Center (EOC), incident command post, recovery operation, or other disaster sites throughout the state, in response to emergencies. All Cal OES employees, regardless of position or level, participate in these activations as needed.

In addition, Cal OES has specialized response teams, including the following:
- Office of Access and Functional Needs (OAFN)
- Office of Tribal Coordination
- Office of NGO/Public Private Partnerships (including the Business Operations Center and the Utilities Operations Center)
- Public Safety Communications
- Victim Services
- Public Information
- State Threat Assessment Center

Regional Coordination and Support. Cal OES has three regions (Coastal, Inland, and Southern) that work with each of the 58 counties, or Operational Areas (OAs). Region staff maintain relationships with county emergency management day to day and during emergencies.

Fire and Rescue. Cal OES Fire and Rescue coordinates the California Fire and Rescue Emergency Mutual Aid Plan, hazardous materials prevention and response programs, regional urban search and rescue and swiftwater search and rescue teams, among other duties. The Fire Integrated Real-Time Intelligence System (FIRIS) program provides real-time, aerial information, such as fire perimeters, to partner agencies during fires and other disasters, such as landslides.

Law Enforcement. Cal OES Law Enforcement coordinates with local, state, federal, and tribal law enforcement stakeholders in response to incidents and security events throughout California. Cal OES Law Enforcement plans, trains, and coordinates emergency response for Search and Rescue (SAR), Coroners' mutual aid, and other law enforcement emergency activities amongst California's 58 counties and more than 600 law enforcement agencies. Cal OES also administers the Law Enforcement Mutual Aid Fund, designed to reimburse law enforcement agencies that respond to disasters and emergencies outside their jurisdictions for their extraordinary costs.

Warehousing. Cal OES leads the Logistics Task Force, which was formed in response to supply chain disruptions during COVID-19 to manage demands for emergency supplies and equipment, and runs a warehousing program. The warehousing program maintains fluctuating quantities of supplies, including but not limited to: masks and other personal protective equipment, cots, blankets, water, ready-to-eat meals, medical stations, field office kits, staging area kits, and 2 million sandbags. Cal OES has 8 trailers to facilitate the movement of supplies during incidents.

Disaster Mitigation. Disaster mitigation includes various planning, training, and alert programs that prepare the state to withstand the impacts of disasters. Cal OES prepares a state-level Continuity of Operations Plan, reviews local emergency operations plans, and assists various other state agencies with their disaster planning, and provides training and exercises through the California Specialized Training Institute. Cal OES also leads the Earthquake Early Warning System, in collaboration with numerous entities, to provide rapid alerts of eminent earthquakes, before shaking occurs.

Cal OES also has numerous programs that focus on protecting communities through infrastructure improvements, nature-based risk reduction, and other risk-reduction strategies. After disasters, in addition to funding for the immediate response, the Federal Emergency Management Agency (FEMA) provides funding to the affected communities to invest in mitigation efforts. Cal OES develops and maintains an enhanced State Hazard Mitigation Plan, which qualifies the state to receive additional funding for that purpose. Cal OES helps locals prepare and apply for federal funding for hazard mitigation and manages FEMA's Hazard Mitigation Assistance programs.

Opportunities to Improve Emergency Response Capacity. In the report, Cal OES identified the following gaps and opportunities for improvement in response capacity:

- Ongoing and consistent community outreach
- Local emergency and mitigation planning capacity and resources
- Training and credentialing opportunities for local and state partners
- Public information and warning systems, including in multiple languages and with broad accessibility for individuals with Access and Functional Needs
- Regional support
- Search and rescue capacity and specialty knowledge and equipment
- Mutual aid related to animal care and sheltering needs
- Capacity to respond to large, complex, and concurrent fires year-round
- Logistics
- Hazard mitigation financial support for local communities
- Emergency housing and other basic living needs following disasters

Staff Comment.

Information about local capacity. Given the reliance on mutual aid discussed in the report, more clarity may be needed on the level of insight Cal OES has on the resources and capacity of locals.

Other Cal OES duties. The Legislature may wish to consider how Cal OES's other programs, such as victim services, fit into its core mission of emergency response.

Staff Recommendation: This item is informational, and no action is needed.

0552 Office of the Inspector General
5225 Department of Corrections and Rehabilitation

Issue 31: Staff Misconduct Process Implementation Update

Panelists

- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Amarik Singh, Inspector General, Office of the Inspector General
- Chris Chambers, Director, Division of Internal Oversight and Research, CDCR

The Department of Finance is available for questions.

Background. In recent years, CDCR has made several changes to its process for handling allegations of staff misconduct, also known as the staff complaints process. These changes were largely in response to a series of reports from the Office of the Inspector General (OIG) and court orders in the *Armstrong* case.

Current Process for Handling Allegations of Staff Misconduct.

CDCR defines a staff misconduct grievance as an allegation that staff violated a law, regulation, policy, or procedure, or acted contrary to an ethical or professional standard[1]. CDCR receives most of these through the general grievance process (also sometimes referred to as the 602 process), which also includes routine grievances and other requests. For example, a routine grievance could be that the temperature in a cell is too hot, whereas an allegation of staff misconduct would be that staff are deliberately raising the temperature in the cell as retaliation or punishment.

CDCR's Office of Internal Affairs (OIA) screens grievances for allegations of staff misconduct, and conducts investigations of the most serious allegations. Routine grievances and less serious allegations of staff misconduct are returned to the prisons to be handled (although they may be elevated back to OIA). The final determinations and disciplinary actions are decided by the hiring authority (typically the warden of the institution).

In detail, the process works as follows:

1. *Intake, Screening, and Routing.*

    - Grievances are collected by the prison's Office of Grievances, and screened for any urgent issues (i.e. anything that would require an immediate response) within one business day.

[1] The definition used to also contain "that would more likely than not subject a staff member to adverse disciplinary action (such as a reprimand, pay reduction, suspension, or dismissal) if it were found to be true," but this is subjective and was removed in the most recent regulations.

- Grievances are sent to the Centralized Screening Team (CST) at OIA and processed within three to five business days. There, staff decide whether it contains: (1) a serious allegation of staff misconduct that requires investigation by the Allegation Investigation Unit (AIU) at OIA, (2) an allegation of staff misconduct that can be returned to the prison for a local inquiry, or (3) a routine grievance that does not contain any allegations of staff misconduct and can be returned to the prison. CST staff may also follow up with the person who submitted the grievance for more information if needed, and they log the grievance in the Allegation Against Staff Tracking System (AASTS).

2. *Investigation, Inquiry or Other*. Depending on the decision of CST, AIU will perform an investigation within 120 days, or a Locally Designated Investigator (LDI) will perform a local inquiry within 60 days. In the case of a local inquiry, the final report must be reviewed by an AIU Captain before the inquiry is completed. If the LDI establishes reasonable belief that an allegation occurred that is likely to lead to adverse action, the LDI is supposed to stop the inquiry and escalate the complaint directly to AIU. LDIs are also required to be at least one rank above the highest-ranking officer in the allegation.

3. *Resolution*. The results of the investigation or inquiry are returned to the hiring authority for review and disposition. The reports only contain a finding of facts – it is up to the hiring authority to decide if an allegation of staff misconduct is sustained. Hiring authorities must order some action if an allegation of staff misconduct is sustained. The outcome is recorded in the AASTS.

Source of Allegations. CST screens grievances from the following sources: CDCR Form 602-1 (Custody Grievance), CDCR Form 602-HC (Health Care Grievance), and CDCR Form 1824 (Reasonable Accommodation Request). In addition, CST also accepts grievances filed by third parties, including from or on behalf of *Armstrong* plaintiffs, and from anonymous parties, CDCR staff, and families.

Routing of Allegations. The decision to route allegations of staff misconduct for either an OIA investigation or a local inquiry is based on the Allegation Decision Index (ADI). The index includes serious allegations related to use of force, Prison Rape Elimination Act (PREA), sexual misconduct and harassment, destruction of evidence, discrimination and harassment, and others. The ADI requires a "causal connection" between a staff member's actions and a protected class or action before elevating allegations like discrimination and retaliation to OIA. It also specifies the minimum staff level (i.e. special agent, lieutenant, or sergeant) that should be assigned to the investigation.

Employee Discipline. The results of investigations and inquiries are returned to the hiring authority of the subject of the investigation – typically the warden of the institution. If the hiring authority believes adverse action is warranted (such as dismissal or suspension), they refer the case to the Central Intake Panel (CIP) at OIA, often referred to as the "989 process." CIP reviews any information already collected and can refer the case for further investigation (including criminal investigation), or authorize the hiring authority to take direct disciplinary action without further investigation. In response to *Madrid* litigation, CDCR established the Employee Advocacy and

Prosecution Team (EAPT) in CDCR's Office of Legal Affairs (OLA) in 2005. EAPT staff attorneys provide legal support and guidance to CDCR throughout employee investigation and disciplinary processes. EAPT staff attorneys also may participate in the OIA investigation process if the allegation would be likely to lead to adverse action.

OIG Oversight of the Staff Complaint and Employee Discipline Processes.

The OIG was established in 1994 to provide independent oversight of California's prison system. Over the years, the OIG has been restructured and its duties changed multiple times, typically in response to court orders for oversight or legislative priorities. In particular, the Legislature removed much of the OIG's authority and resources in 2011, but some of has since been restored. The OIG is currently tasked with monitoring the staff complaint process and the employee discipline process. Specifically:

- *Staff Complaint Monitoring and Complaint Intake.* In 2019, OIG was tasked with monitoring the staff complaint process, and the 2019-20 budget package provided OIG with five positions and about $780,000 in ongoing General Fund support for this purpose. The 2022-23 budget included an additional $7.9 million in 2022-23 and $15.1 million ongoing to provide contemporaneous monitoring of the new staff complaint process, including reviewing screening decisions and monitoring investigations.

- *Employee Discipline Monitoring.* The OIG has representatives on the CIP, although the final decisions are made by the OIA staff. However, in its public reports to the Legislature and Governor, OIG notes instances when its staff disagree with decisions made by OIA.

  The OIG also monitors about 15 percent of the investigations conducted as a result of the 989 process, focusing on the more serious investigations, such as cases involving alleged dishonesty, use of force, and criminal activity.

  In addition to monitoring the quality of the investigatory work, OIG monitors the performance of department attorneys involved in the investigation and discipline process and hiring authorities' imposition of discipline. OIG includes these findings in its public reports to the Legislature and Governor.

Recent Concerns Raised by the OIG.

In January 2024, the OIG published a special review stating that CDCR had improperly redirected backlogged allegations of staff misconduct to be processed as routine grievances[2]. The report states:

> We are issuing this special review to shed light on one particularly problematic decision the department made when determining how to address a backlog of complaints it amassed under its prior process for handling incarcerated persons' allegations of staff misconduct. The decision violated both the department's regulations and its policy for screening and investigating grievances received from incarcerated people who alleged staff misconduct.

[2] https://www.oig.ca.gov/wp-content/uploads/2024/01/OIG-Special-Review-No-SR-23-01.pdf

> The department's decision came to our attention during the course of our monitoring when we received a departmental memorandum outlining a directive to convert backlogged grievances containing allegations of staff misconduct into "routine grievances" and redirect them for handling by prison grievance offices.

The OIG reviewed 595 backlogged grievances received by the Department between February 2022 and February 2023, which were closed pursuant to the decision referenced above. The OIG determined the following:

- *The grievances did contain allegations of staff misconduct that should have been handled by the AIU per department regulations.* The OIG reviewed 71 grievances that were redirected to the institutions, which all contained at least one allegation of staff misconduct that included complex issues requiring specialized investigative skills or resources, and should've been routed to OIA according to current departmental regulations and policies. Of these, grievance offices only escalated one case back to the OIA for investigation (and another person's grievance about the same incident was denied by a different institution's grievance office).

- *The department wasted and misallocated resources.* The OIG noted that by "deviating from its regulations, the department wasted resources and reverted to handling these allegations of staff misconduct as it did in 2021, before it received approximately $34 million to restructure and improve its process." They also noted two examples where grievance office staff had already finished gathering facts, interviewing potential witnesses, and reviewing records, only for the grievance to be rejected because the responses were not completed on time.

- *The department had allowed the statute of limitations to take disciplinary action to expire in many of the cases.* State law generally requires the department to initiate discipline against peace officers within one year of discovery of the alleged misconduct. The OIG found 127 cases where the statutes of limitations had expired, meaning the department could not take disciplinary action even if sufficient evidence of misconduct was found. The OIG found 22 cases that contained serious enough allegations that, if substantiated, they could have resulted in discipline up to dismissal. The department also redirected 129 grievances with statutes of limitations set to expire within 60 days of the redirection, while CDCR policy states that investigations should be completed at least 60 days before expiration to enable to the department to initiate discipline if desired.

- *Upon return to the institutions, prison staff did not always adequately address or investigate the complaints.* In some cases, the grievance offices did not address all allegations contained in a grievance. In one grievance, an incarcerated person alleged a correctional officer threatened him, stating that he would have his sergeant "place [him] in administrative segregation, and beat the shit out of [him], and plant drugs on [him]." This allegation was not addressed in the grievance office's decision.

> The OIG notes that in some grievances they reviewed, "it did not appear that grievance office staff attempted to gather evidence at all," and that "grievance offices closed two grievances as duplicates even though they contained new allegations and a third as a duplicate even though it was not duplicative of another grievance."
>
> In addition, the OIG identified cases where the allegations of staff misconduct were investigated by staff ranked lower than the staff alleged to have committed misconduct (for example, a lieutenant was assigned to investigate a complaint against a warden). Regulations require locally designated investigators be ranked at least one classification higher than the accused staff member.
>
> In addition, the department's total processing time in the 71 cases reviewed ranged between 214 to 548 days, and it took the department more than a year to close 28 of the 71 cases (39 percent).

CDCR Response to the Special Review. In response, CDCR noted that as the new process rolled out, there was a period where allegations of staff misconduct identified by the CST were routed to either old Allegation Inquiry Management Section or the new AIU based on the institution the grievance came from (due to court instructions specific to certain institutions), and that AIMS developed a significant backlog. CDCR also alleged that the OIG confused components of the new and old processes in a misleading way, but the OIG responded that the Department had six weeks to review the draft report before it was released, and did not bring up this concern or any other factual inaccuracies.

CDCR also stated that they reviewed the backlog and determined that the grievances in question had been "incorrectly screened as including allegations of potential staff misconduct and assigned and routed to the Allegation Inquiry Management Section for inquiry rather than to local Office of Grievances for review and processing as routine grievances." As noted above, the OIG identified numerous allegations of staff misconduct in the redirected grievances (at least one in each of the 71 grievances sampled), and disagreed with the department's assertion that these were routine. In addition, the OIG notes that CDCR did not mention this review in the memorandum outlining the decision to redirect grievances, or in any discussions with the OIG about the decision, had no records of having conducted such a review, and justified the decision to the OIG as being necessary due to staffing and workload.

CDCR did acknowledge "responsibility for the reassigned grievances which exceeded statute of limitations dates prior to reassignment."

Annual Staff Misconduct Monitoring Report. On April 25, 2024, the OIG released their annual monitoring report[3]. They determined the department performed satisfactorily when making screening decisions, poorly in completing inquiries, and poorly in conducting investigations and the employee disciplinary process:

- They monitored 6,953 complaints for which the Centralized Screening Team made screening decisions, and found CST performed in a superior manner in 4, satisfactory in 6,248 (90 percent), and poorly in 701.

- They monitored 113 inquiry cases completed by locally designated investigators and found the department performed in a superior manner in none, satisfactory in 36, and poorly in 77 (68 percent), of the inquiry cases.

- They monitored 121 staff misconduct investigations and the employee disciplinary process for those cases. The department performed in a superior manner in none, satisfactory in 44 (36 percent), and poorly in 77 (64 percent), of the investigations and the employee disciplinary process for those cases.

The report also raised a number of specific concerns:

Centralized Screening Team

- The OIG noted concerns with CST training. The OIG attended a CST training in August 2023, where they noted that, "At the start of the training, instructors explained the objective of the training was to avoid inappropriate referrals to the Office of Internal Affairs' Allegation Investigation Unit. The training effectively discouraged the routing of grievances for investigations or inquiries and instead encouraged routing the grievances back to the prisons for a routine fact finding." CST staff also noted that they are trained to interpret allegations stating, "I believe," "I think," or "I feel," to be conjecture, and therefore routine rather than staff misconduct.

- CST routed complaints based on whether they believed the complaint to have merit. However, CST's role is not to judge the plausibility of a complaint, but to identify allegations.

- The Department failed to properly utilize the clarification interview process in several cases.

- The Department has frequently failed to accurately summarize claims resulting in improper routing decisions and inquiries and investigations that are incorrectly scoped. For example, a 602 alleged that officers failed to provide a female officer for a strip search upon request by a transgender inmate, and that the officers trashed the cell in retaliation. CST did not identify any allegations of staff misconduct in their summary of the grievance.

[3] https://www.oig.ca.gov/wp-content/uploads/2024/04/2023-Report-on-the-OIGs-Monitoring-of-the-Staff-Misconduct-Complaint-Screening-Inquiry-Investigation-and-Employee-Disciplinary-Processes.pdf

- Departmental medical subject matter experts frequently conducted a fact-finding analysis that contradicted policy. OIG found that nursing consultants who assisted in screen grievances reviewed files and otherwise making conclusions about allegations that were not the role of the CST.

Local Inquiries

- The Department's local inquiries are compromised because hiring authorities do not consistently assign appropriately ranked investigators or properly evaluate investigators for potential conflicts of interest.

- The Department refuses to audio-record interviews, which results in the loss of evidence vital to the investigators, the office of internal affairs' allegation investigation unit, and the hiring authority.

- The Department's policy regarding video retrieval inappropriately limits investigators' ability to obtain potentially relevant video-recorded evidence.

- Investigators failed to interview all pertinent witnesses and identify relevant evidentiary documents.

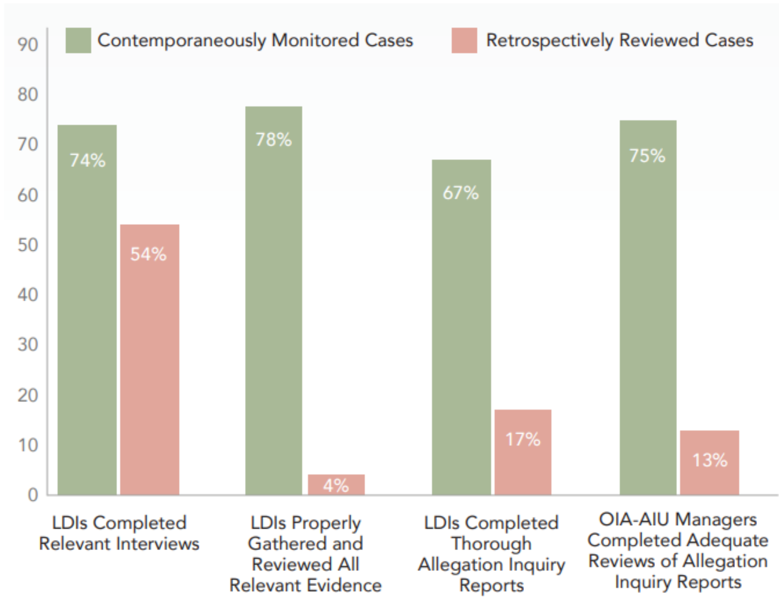
- Hiring authorities made final decisions that were inconsistent with evidence.

- The Department consistently failed to meet its own 90-day goal to resolve staff misconduct local inquiries.

- The Department failed to adequately communicate with the OIG, thereby preventing the OIG from performing its statutorily required monitoring functions.

- The Department performed worse in cases not contemporaneously monitored by the OIG (see figure on the next page).

Figure 3. The Department Performed Better in Cases That the OIG Contemporaneously Monitored



Source: The Office of the Inspector General Tracking and Reporting System.

Investigations and Employee Discipline

- Some Office of Internal Affairs investigators conducted biased and/or incomplete investigations. The OIG notes that in their annual report from last year, "we discussed that investigators failed to perform necessary interviews in 30 percent of the investigations we monitored in 2022. Despite our published findings, we observed a similar trend in staff misconduct investigations in 2023." They also note that 20 percent of OIA investigations are closed without conducting any interviews.

- Office of Internal Affairs investigators failed to secure video evidence in some investigations. Here is an example cited in the report:

> In another case, on May 19, 2023, the department received an allegation that an officer entered an incarcerated person's cell and touched the incarcerated person's genitals every two days between April 7, 2023, and May 19, 2023. On June 5, 2023, the Office of Internal Affairs' Allegation Investigation Unit assigned an investigator to the case and, on July 3, 2023, reassigned the case to a different investigator. The second investigator did not conduct the first interview for the investigation until August 7, 2023, more than 90 days after the majority of the alleged incident had occurred. Despite repeated recommendations from the OIG to timely obtain relevant video-recorded evidence, the investigator failed to obtain any video-recorded evidence before the department destroyed the recordings.

- Office of Internal Affairs investigators used poor investigative techniques when using video evidence in investigations.

- Office of Internal Affairs investigators failed to ensure the confidentiality of investigations. The OIG found investigators failed to maintain confidentiality in 22 of the 121 investigations, or 18 percent, that the OIG monitored and closed in 2023.

- Department attorneys performed poorly in nearly 50 percent of staff misconduct cases monitored by the OIG, including drafting few disciplinary actions, not litigating any evidentiary hearings before the state personnel board, and providing incorrect or poor advice in almost one-third of all monitored cases.

- Prison wardens performed poorly in half the staff misconduct cases monitored by the OIG, including making poor findings in 19 percent of cases monitored, delayed conducting an investigative and disciplinary findings conference for over a month in 52 percent of cases.

- Departmental staff entered or failed to correct inaccurate information about some of its staff misconduct cases in its database.

The OIG report also includes the following recommendations:

Centralized Screening Monitoring Team Decisions

- The department should clarify departmental policy in writing to require screeners to ask the complainant questions during a clarification interview to obtain sufficient information to ultimately make an informed screening decision about the allegation.

- The OIG recommends the department focus more quality-control attention on claims initially identified as routine matters. The OIG also recommends the department establish clear policy requiring medical subject matter experts review only claims related to medical treatment, and custody subject matter experts review claims related to custody and correctional issues, such as use of force, even when the person alleged to have committed misconduct is a medical employee.

- The OIG recommends the department require locally designated investigators to complete a conflict-of-interest review and acknowledge that they do not have an actual or potential conflict of interest before an inquiry begins. The OIG recommends the department adopt its already-existing conflict-of-interest form, used by the Office of Internal Affairs.

Staff Misconduct Local Inquiry Cases

- The OIG renews the recommendation made in the 2022 annual report that locally designated investigators audio-record all interviews.

- The OIG recommends that the department amend its policy to permit investigators the independence and authority to identify, obtain, and review all video-recorded evidence that they have determined to be potentially relevant to their inquiry.

- Hiring authorities should receive training on how to conduct thorough reviews of allegation inquiry reports and on departmental policy to ensure that they make proper staff misconduct determinations.

- The OIG recommends the department implement a policy requiring locally designated investigators and hiring authorities to complete the local inquiry process within 90 days of the date the Centralized Screening Team receives an allegation.

- The OIG recommends that the department develop, implement, and maintain a policy and process to require meaningful communication with the OIG during the course of each local inquiry to enable the OIG to perform its statutorily required monitoring activities. The OIG also recommends that the department hold employees accountable for failing to communicate with the OIG.

Staff Misconduct Investigation and Employee Disciplinary Cases

- The OIG recommends that the department require all members of an Office of Internal Affairs investigation team, including managers, to complete conflict-of-interest forms and recuse themselves from working on investigations in which they have a conflict of interest with—or bias for or against—any of the subjects or witnesses of an investigation.

- The OIG recommends that the department eliminate the use of summarized investigation reports which allow investigators to close staff misconduct investigations without conducting any interviews.

- The OIG recommends that the department expand its video-recording retention policy by increasing the minimum retention time for all recordings to one year to ensure that relevant video-recorded evidence is available for staff misconduct investigations.

- The OIG recommends that investigators determine the independent recollection of a witness before presenting him or her with video evidence.

- The OIG recommends that, during recorded interviews, Office of Internal Affairs investigators properly document which video file and which portion of the video file—including a time stamp—the investigator presents to the subject or witness during an interview.

- The OIG recommends that the Office of Internal Affairs conduct interviews in confidential settings. The OIG recommends that the Office of Internal Affairs investigators order subjects and witnesses to maintain the confidentiality of investigations while investigations are pending.

- The OIG recommends that the department issue a specific policy concerning the time frame in which a hiring authority, such as warden, must conduct an investigative and disciplinary findings conference after receipt of an Office of Internal Affairs investigation report.

- The OIG recommends that the department require its investigators, department attorneys, and wardens, or staff designated by a warden, to enter and maintain accurate information in its staff misconduct database. Moreover, the OIG recommends that the department establish a clear policy as to which departmental personnel are responsible for updating and maintaining specific information in the database to ensure that the records are timely and accurate.

Previous Reforms to the Staff Complaint Process.

Historically, allegations of staff misconduct were handled within the prison. Staff were responsible for screening claims to identify those that contained allegations of staff misconduct, conducting inquiries into those allegations, and reporting the results to hiring authorities (typically a warden). Unless the hiring authority determined that the report warranted a referral to OIA for potential disciplinary action, these allegations were not referred outside the prison and did not rise to the attention of OIA or OIG.

OIG Oversight. In 2019, the OIG released a report on the staff complaint process at Salinas Valley State Prison. The OIG report found that the inquiries performed by staff at the prison were inadequate in most cases. The staff reviewers received little to no prior training and were not sufficiently independent from the staff involved in the complaint, among other issues[4]. The report recommended an overhaul of the staff complaint process, including reassigning inquiries outside the prison's command structure, and providing ongoing and comprehensive training to staff who may conduct inquiries, among other suggestions.

Allegation Inquiry Management Section. In response to the OIG's report, CDCR implemented a new system which replaced local inquiries with a central inquiry unit at OIA called the Allegation Inquiry Management Section (AIMS). This unit contained correctional lieutenants who were assigned to specific institutions, and whose sole responsibility would be conducting staff complaint inquiries. In this system, *any* grievance containing an allegation of staff misconduct was supposed to be sent to OIA. Inquiries typically ended when reasonable belief that staff misconduct occurred was established.

In February 2021, the OIG released a special review on the implementation of the new process[5]. It found that wardens only referred 23 percent of grievances that alleged staff misconduct to AIMS and continued to handle most allegations locally. The OIG again recommended a series of changes to the staff complaint process, including sending grievances directly to OIA, clarifying and simplifying the definition of staff misconduct and the criteria for routing complaints, and directing AIMS to handle a larger range of misconduct allegations. In addition, in a separate letter, the OIG expressed concern about CDCR's response to allegations stemming from the attorneys representing incarcerated persons in the *Coleman* and *Armstrong* class action lawsuits[6].

Armstrong Court. In addition to the OIG reports, CDCR was directed to reform the staff complaint process as part of the *Armstrong* Remedial Plan (ARP). *Armstrong* is a class action lawsuit filed

[4] https://www.oig.ca.gov/wp-content/uploads/2019/05/2019_Special_Review_-_Salinas_Valley_State_Prison_Staff_Complaint_Process.pdf
[5] https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-Staff-Misconduct-Process-Report-2021.pdf
[6] https://www.oig.ca.gov/wp-content/uploads/2020/01/Letter-to-Secretary-Diaz-The-Departments-Handling-of-Allegations-of-Staff-Misconduct-Raised-by-Inmates-Attorneys.pdf

in 1994 on behalf of prisoners with disabilities that has resulted in continued court oversight and litigation. The court directed CDCR to develop measures to reform its staff complaint, investigation, and discipline processes; expand AIMS to handle alleged violations pertaining to other categories such as ADA, ARP, Health Care, Use of Force (UOF), and the Prison Rape Elimination Act (PREA), which were previously retained at the local level; and include a system for receiving complaints from third parties, including the attorneys representing class members in *Armstrong* and other lawsuits. On February 2, 2023, the U.S. Court of Appeals for the Ninth Circuit affirmed the district court orders related to the staff misconduct process, which the state had challenged were outside the purview of the case[7].

New Regulations. In response to the concerns raised by the OIG report and the *Armstrong* court orders, CDCR amended its staff misconduct processes statewide. The new emergency regulations[8], which went into effect January 1, 2022, were developed with feedback from OIG and the *Armstrong* plaintiffs.

CDCR made additional changes to the regulations in October 2022 without feedback from the court or plaintiffs[9]. These included moving the ADI from regulation to department policy, and requiring a “causal connection” between a staff member’s actions and a protected class or action before elevating allegations like discrimination and retaliation to OIA. The *Armstrong* plaintiffs objected to these changes, and the Court Expert noted that the proposed new standards were “difficult to apply in a consistent and objective manner”[10].

Major changes in the regulation changes include:

- Routing all grievances through CST.
- Establishing the CST, the ADI, the AIU (which absorbed the old AIMS staff, and conducts full investigations rather than inquiries), and the AASTS.
- Requiring legal representation and advice to be provided by EAPT attorneys in cases referred to AIU, in anticipation of these cases being used as the basis for taking direct adverse action or having other implications on employee discipline.
- Eliminating the requirement to file allegations within 30-days. There is no longer a time constraint for submitting allegations of staff misconduct. There is still a 60-day time limit for submitting routine grievances.
- Requiring a hiring authority to render a determination in every allegation, and follow through with corrective or adverse action when an allegation is sustained.
- Removing of the “likely to lead to adverse action” requirement in the definition of staff misconduct.

[7] https://rbgg.com/ninth-circuit-affirms-use-of-body-cameras-and-other-remedies-and-reform-of-guard-disciplinary-procedures-in-california-state-prisons-in-ada-class-action/
[8] https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2021/12/Staff_Misconduct_Emergency_Reg_Approval_ADA-12.31.21.pdf
[9] https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2022/10/Regulations_Approval_NCR_22-06-1.pdf
[10] https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline_-10-3-22-581-3.pdf

Implementation and Resources.

CDCR initially planned to implement the new process statewide in stages, with the complete process implemented statewide by June 2023. However, in response to concerns raised by the *Armstrong* plaintiffs[11], CDCR modified the timeline to fully implement the process at six specified prisons by September 2022, and phased in the process statewide by November 2023. The AIMS unit is no longer active.

Workload. From January 1, 2023, through December 31, 2023, the department reported receiving 183,051 complaints from incarcerated people, parolees, and third-party individuals or entities, which were routed as follows:

- 158,162 were classified as routine and returned to the local institution for processing.
- 12,520 included possible staff misconduct and were routed back to the institution for a local inquiry.
- 11,149 included possible staff misconduct and were routed to OIA for investigation.

Recent Budget Action. CDCR has $64 million annually and 325 positions directly supporting the staff misconduct process. This includes significant adjustments made in the 2022 and 2023 budgets. The 2022 budget included $34.4 million and 176.1 full-time equivalent positions in 2022-23 (based on funding a staggered implementation plan), $34.9 million and 192 positions in 2023-24, and $34.2 million and 192 positions ongoing to implement the new staff complaint process. The new process also absorbed $9.8 million and 47 positions previously allocated to AIMS in the 2019 budget. These resources were used to create the CST, transition AIMS to AIU, expand EAPT within OLA, and increase staffing at local Offices of Grievances (OOGs). The 2023 budget included an additional $9.6 million General Fund and 16 positions in 2023-24, $9.3 million and 16 positions in 2024-25, and $2.9 million General Fund and 16 positions in 2025-26 and ongoing to adjust the resources previously provided for the department's process for handling allegations of staff misconduct.

The 2023-24 Budget Act also required CDCR to submit a report to the Legislature by January 10, 2024, regarding implementation of the department's staff misconduct investigation process, including updates on recommendations implemented by the department identified in the Office of the Inspector General's 2022 Staff Misconduct Review Process Monitoring Report. In the report required by the 2023 budget, CDCR noted that they had created a Post-Investigation Review Panel to review AIU investigations. CDCR noted that they implemented two of the six recommendations made by OIG, and did not plan to implement the other four recommendations.

[11] https://rbgg.com/wp-content/uploads/Armstrong-Order-Re-Plaintiffs-Objections-to-Defs-Proposed-RJD-Plan-and-5-Prisons-Plan_-12-13-2021.pdf

Staff Comments.

Lack of improvement. The OIG notes that many of same mistakes continue to be made by the Department year after year, and that many of recommendations are repeats of previous recommendations. The Legislature should consider how to incentivize the Department to make the necessary changes to improve.

Serious use of force incidents. The OIG reports cites several concerning examples of use of force incidents that were not properly investigated and/or did not result in employee discipline. This includes a situation where an officer held a person down by kneeling on their neck, even after other officers were holding the person down with their collective body weight. While the person was being held down on the ground, the officer then "pulled out his baton, and struck the incarcerated person on the head with the baton. A body-worn-camera recording showed one of the other officers telling the officer to put away the baton." Despite this incident being on camera, the warden found that there was insufficient evidence to sustain an allegation of staff misconduct. Other examples cited include an incident where four officers allegedly kicked an incarcerated person and broke three of his ribs, and the OIA failed to perform any interviews, did not identify the officers involved, and did not indicate whether there were medical records that corroborated the incarcerated person's injuries. Another incident had sufficient evidence that an officer struck an incarcerated person with a baton on the spinal area, against department policy, but the warden did not sustain the allegation. The severity of these allegations, and the lack of follow through by the department, is a cause for serious concern by the Legislature.

Sexual assault and abuse. The next issue on the agenda covers sexual assault and abuse in prisons. The Legislature should consider how the lack of accountability for serious incidents leads to a lack of reporting and contributes to further incidents of assault and abuse.

Concerns of the Armstrong *plaintiffs.* The *Armstrong* plaintiffs have raised concerns about the quality of the investigations performed by OIA[12]. These concerns include failure to review or analyze all relevant footage and failure to interview all relevant witnesses, including other incarcerated people who observed the incident and, in some cases, the subject of the complaint. The *Armstrong* plaintiffs typically focus on reviewing serious allegations referred to OIA, which should be handled by experienced investigators.

Relation to employee discipline process. At the end of the investigation, the findings are returned to the hiring authority to decide whether to sustain a finding of staff misconduct and pursue disciplinary consequences. The hiring authority, typically the warden, must sift through the significant evidence gathered during the investigation, typically without a clear summary of the evidence or a discussion with the investigator, and decide on the merits of the case. At this stage, not many cases monitored by the OIG have been completed, but early indications are that few findings of staff misconduct are being sustained. The *Armstrong* plaintiffs also reported to the court that only six percent of investigations reviewed at RJD resulted in sustained findings of misconduct. The Legislature should consider how these significant investments in a new investigation process can lead to actionable changes.

[12] https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline_-10-3-22-581-3.pdf

Timing of investigations and availability of evidence. Under the new process, there is no time limit on submitting an allegation of staff misconduct. However, video is only available for 90 days after an incident, and it must be requested by the investigator and secured by the institution prior to that time. While CDCR maintains that nearly all allegations of staff misconduct are filed within 90 days of the event, a backlog of cases at OIA and difficulties identifying the relevant footage in time may lead to evidence being lost in some cases.

Training and independence of local inquiries. Local inquiries are performed by staff who are not trained as investigators, and who may be familiar with the parties involved in the complaint. The Legislature should consider how to ensure the integrity of these investigations.

Staff Recommendation: This item is informational, and no action is required.

Issue 32: Sexual Assault Response and Prevention Working Group and Report Update

Panelists

- Angela Kent, Associate Director, Female Offender Programs and Services, CDCR
- Amarik Singh, Inspector General, Office of the Inspector General
- Amika Mota, Executive Director and Co-Founding Member, Sister Warriors Freedom Coalition
- Emily Wonder, Advocacy Director, Sister Warriors Freedom Coalition

The LAO and Department of Finance are available for questions.

Background. As of April 17, 2024, California held 3,759 women in custody, primarily at two designated women's facilities: the California Institution for Women (CIW) and the Central California Women's Facility (CCWF). Sexual harassment and assault is unfortunately present in women's carceral settings. Recent prominent examples in California include the Dublin federal prison[13], CCWF[14], and Los Angeles juvenile facilities[15], among numerous other examples. Compounding the problem, researchers have noted an overwhelming prevalence of sexual abuse histories within the population of incarcerated women, with some figures suggesting that 86 percent of all women who are incarcerated have experienced sexual violence in their lifetime and 77 percent had experienced partner violence.

PREA and OIG. The Federal Prison Rape Elimination Act (PREA) of 2003 was established to address sexual abuse in carceral settings. The U.S. Department of Justice issues national standards to eliminate sexual abuse in detention facilities, which CDCR must comply with or it risks losing some of its federal funding. California's Sexual Abuse in Detention Elimination Act (SADEA) requires CDCR to have procedures to protect you from sexual abuse and to respond to reports of sexual abuse. Furthermore, prison staff are supposed to intervene if you appear to be the target of sexual harassment or intimidation.

The OIG serves as the ombudsperson for complaints related to SADEA and PREA, and reviews allegations of mishandled sexual abuse inquiries or investigations within correctional institutions.

Sexual Assault Response and Prevention Working Group. The 2023-24 Budget Act included $1 million for CDCR and the Sister Warriors Freedom Coalition to establish a Sexual Assault Response and Prevention Working Group and an Ambassador Program. The budget also required CDCR to submit a report as follows:

> By March 1, 2024, the Department of Corrections and Rehabilitation shall submit a report to the appropriate fiscal and policy committees of each house of the Legislature that includes, but is not limited to, discussion of the following: (a) protections for sexual assault

[13] https://apnews.com/article/prisons-california-united-states-sexual-abuse-only-on-ap-d321ae51fe93dfd9d6e5754383a95801; https://apnews.com/article/federal-prison-dublin-california-sexual-abuse-bureau-of-prisons-17731ecb5d0a14adf6011e853bf7e05d

[14] https://www.sfchronicle.com/politics/article/chowchilla-prison-lawsuits-18402440.php; https://www.sacbee.com/news/politics-government/the-state-worker/article271879907.html; https://www.sacbee.com/news/local/crime/article270470757.html; https://prisonlaw.com/wp-content/uploads/2016/08/16.08.18-Prison-Law-Office-report-on-CCWF.pdf

[15] https://www.latimes.com/california/story/2023-12-28/district-attorney-reviewing-cases-against-la-county-probation-employees-accused-of-sex-abuse

and harassment whistleblowers inside prisons or otherwise in the department's custody, (b) access to trauma-informed supports for incarcerated survivors, and (c) the process for handling allegations of staff misconduct that specifically involve allegations of sexual assault and harassment.

Working Group Activities. The working group consisted of leadership and staff from CDCR, advocacy groups, community-based organizations led by formerly incarcerated people, representatives from the ambassador groups, and individuals who have survived sexual assault in custody. Members of the group included California Coalition for Women Prisoners, Just Detention International, Justice First, Sister Warriors Freedom Coalition, Survived & Punished, and VALOR. Participation from CDCR was primarily provided by the Female Offender Programs and Services office with consultation from the Prison Rape Elimination Act Coordinator's office. The Sister Warriors reported that the working group spoke directly with over 700 people incarcerated at CCWF and CIW at town hall-style meetings, where people shared their firsthand experiences and perspectives[16]. Feedback was also collected via confidential legal mail and several small in-person group discussions.

CDCR Report. A brief summary of the report prepared by CDCR is below.

Protections for sexual assault and harassment whistleblowers inside prisons or otherwise in the department's custody. The report notes the following protections:

- *Body Worn Cameras and Audio Video Surveillance System*. CDCR has implemented the use of Body Worn Cameras (BWC) and Audio Video Surveillance Systems (AVSS) in many of CDCR's institutions. Currently, BWCs and AVSS are utilized at both women's institutions.

- *Retaliation Headquarters Review*. CDCR notes that allegations of sexual misconduct and harassment are closely monitored by CDCR staff for a minimum of 90 days following a PREA incident in order to detect and prevent any retaliation against those who file complaints.

The process for handling allegations of staff misconduct that specifically involve allegations of sexual assault and harassment.

- *When an allegation is received.* CDCR notes that they have a zero tolerance policy for sexual misconduct. When allegations are received, CDCR begins an investigation, and then follows designated steps including the immediate separation of the victim and alleged perpetrator, the preservation of potential evidence, thorough medical assessments, obtaining detailed statements, and ensuring access to support services. CDCR refers appropriate cases to the local County District Attorneys' Offices for possible felony prosecution.

[16] https://www.sisterwarriors.org/prison_sexualassault_report

- *Mechanisms to Report Misconduct.* Grievances submitted by incarcerated individuals that contain possible PREA allegations are considered to be allegations of staff misconduct, and therefore are routed to the OIA's AIU for investigation.

- *Restricted Housing.* In instances of sexual misconduct that do not involve staff, the alleged perpetrator is placed in the Restricted Housing Unit (RHU) during the investigation. In some cases, the victim may be placed in RHU if the victim states that they still have safety concerns that cannot be resolved through a bed move and/or transfer to another facility.

Access to trauma-informed supports in women's institutions.

- *Increased Communication and Awareness with Incarcerated Population*. CDCR cites town halls, listening sessions, other engagement with the Inmate Advisory Council and the population around reporting, various audits, and other policies.

- *Peer Educator Programs*. This has led to a peer educators' program for conflict resolution and the reintroduction of a PREA peer educator program. The Department is in the process of establishing a peer educator program for conflict resolution, where residents in the housing area will help resolve disputes to reduce violent incidents and housing changes. The PREA Peer Educator program provides women's health educational resources to the incarcerated by offering pamphlets, ensuring educational posters are present in the institution, and meeting with incarcerated persons that have questions.

- *California Model.* The CDCR report notes that CCWF is a pilot institution for the implementation of the California Model, and there have been several initiatives to enhance the relationships between staff and the incarcerated population, such as an event for them to have lunch and play games together.

- *Collaboration with Community-Based Organizations.* CDCR notes that it is soliciting input from a number of external groups, such as the Moss Group, to improve its policies and trauma-informed programming and support.

- *Staff Training.* CDCR notes a number of courses for staff to learn about bystander intervention and working with the female population.

Proposed Action Plan. CDCR's report notes the following potential improvements:

- Expand Rape Crisis Centers partnerships to provide additional support to survivors throughout the process.
- Expand trauma-informed programming.
- Establish full-time PREA Compliance Managers at CIW and CCWF.
- Expand staff training.
- Ongoing dialogue and collaboration with incarcerated women and stakeholders.

Community Report and Concerns. In addition to CDCR's report outlined above, various stakeholders included in the working group provided feedback and produced a separate report[17]. The report included five main categories of recommendations:

- Expedited release of survivors.

- Culture shifting, including:
  - Staff training and services.
  - Adjusting policies and practices that may retraumatize survivors and/or make reporting less likely (e.g. strip searches, forced housing transfers).
  - Community building within the incarcerated population.
  - Staff leadership development.

- Services for survivors.
  - Expanding the role of Rape Crisis Centers and increasing their onsite presence.
  - Peer Education programs.
  - Access to confidential hotlines and remote trauma services.
  - Increased access to community resources and legal supports.

- Investigation and reporting process.
  - Ensuring reporting is confidential to prevent immediate retaliation.
  - Independent reporting options.

- Accountability.
  - Whistleblower protections, especially in relation to transfers and strip searches.
  - Ensuring policy is being followed in regards to body-worn cameras.
  - External accountability for CDCR to respond to audits and OIG reports.

Stakeholders also reported concerns from their conversations around abuse by medical staff, the misuse of body-worn cameras, use of restricted housing for victims, use of excessive force, strip searches as retaliation, and denials of 602 forms for illegitimate reasons.

Staff Recommendation. This item is informational, and no action is needed.

[17] https://www.sisterwarriors.org/prison_sexualassault_report

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Issue 33: San Quentin Rehabilitation Center Update

Panelists

- Dave Lewis, Director, Facility Planning, Construction and Management, CDCR

The LAO and Department of Finance are available for questions.

Background. On March 17, 2023, Governor Gavin Newsom outlined a vision to overhaul the facility with a rehabilitation center[18]. On May 5, 2023, The Governor announced an advisory council in May 2023[19], and funding proposal was included in the 2023 May Revision and approved in the final budget.

The resources approved include $360.6 million one-time Public Buildings Construction Fund and $20 million one-time General Fund to build a new center focused on rehabilitation, education, and workforce development and make various other facility improvements at San Quentin Rehabilitative Center (formerly San Quentin State Prison). The budget also included statutory exemptions to enable project completion by 2025, as outlined in Senate Bill 135 (Committee on Budget and Fiscal Review), Chapter 190, Statutes of 2023.

Advisory Council. The recommendations of the Advisory Council were released in a report in January 2024[20]. The report cited three key principles: focusing on reentry, normalizing the environment, and establishing a correctional culture focused on rehabilitation. The report included 10 lead recommendations and 44 specific recommendationsin the following categories:

- Creating clearer and more coordinated rehabilitation and reentry pathways.
- Expanding programming.
- Debt reduction.
- Updating staff training and improving resources and conditions for staff.
- Improving facilities and conditions for the residents.
- Strengthening family and community engagement.

Two notable recommendations included reducing the population from 3400 to 2400 to end double-celling, and redirecting at least one-third of the funding from Building 38 to upgrade the campus and normalize the environment.

Project Status. In September 2023, CDCR contracted with McCarthy Construction for the educational and vocational center project. Design for the project has begun, and it is expected that demolition will begin in Spring 2024, with construction anticipated to start in Summer 2024 and be completed in January 2026. The scope of the educational facility was established and recognized by the State Public Works Board on March 8, 2024. As of December 2023, CDCR had not spent any of the $20 million General Fund.

[18] https://www.latimes.com/world-nation/story/2023-03-17/california-will-remake-san-quentin-prison-emphasizing-rehab
[19] https://www.cdcr.ca.gov/blog/san-quentin-state-prison-transformation/
[20] https://www.cdcr.ca.gov/wp-content/uploads/2023/06/FINAL-San-Quentin-Report_1.3.24.pdf

The project includes the demolition of the former California Prison Industry Authority (PIA) Warehouse Building 38 and design and construction of a new Educational and Vocational Center (Center). The Center is comprised of three primary buildings and various structures and facilities that support and/or are necessary for operation of the Center. To accommodate the expansion of existing programs and provide space for new programs, the new Center, which is planned for approximately 80,000 square feet, will include flexible classrooms, media and technology spaces, library space, counseling spaces, multi-purpose rooms, a store, a café, a central plaza with courtyard space or social gatherings, staff administrative offices, and restrooms for both staff and the incarcerated population. This project will also increase the amount of exterior gathering space available to the incarcerated population, which is relatively limited at San Quentin.

Staff Recommendation. This item is informational, and no action is needed.

Issue 34: Free Voice Calling (SB 1008)

Governor's Budget. The proposed budget includes an additional $7.4 million one-time in 2023-24 and $8.2 million ongoing, resulting in a total of $32.6 million in 2023-24 and $36.7 million ongoing General Fund to implement SB 1008 (Becker), Chapter 827, Statutes of 2022 and provide free voice calling to incarcerated individuals. The increase reflects increased phone usage by the incarcerated population.

Panelists

- Tristan Lemon, Associate Director, CDCR
- Sylvia Dumalig, Information Technology Manger II, Enterprise Information Services, CDCR
- Edmond Blagdon, Deputy Director, Integrated Business and Technology Solutions, CDCR
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Joshua Wittmershaus, Staff Services Analyst, Department of Finance
- Allison Hewitt, Principal Program Budget Analyst, Department of Finance

Background. Numerous studies have demonstrated the benefits of contact between incarcerated people and their loved ones[21]. These include improved mental and physical health for the incarcerated person, as well as better behavior while incarcerated, more successful re-entry, and reduced recidivism rates. Increasing opportunities for communication is both humane and promotes public safety for the community.

In addition to in-person visiting and writing letters, there are various ways that people in prison can maintain contact with friends and family through electronic communication. These include voice calls, video calls, and electronic messages. Voice calls can be made from standard, hardwired telephones located at all prisons and portable tablet devices issued to each person. The department regulates the use of telephones and tablets among the prison population, such as the times of day when calls can be made.

Most communication services provided to the incarcerated population are provided by ViaPath Technology (formerly known as Global Tel Link or GTL)[22]. As of September 2023, ViaPath had provided tablets to the entire incarcerated population, which they can use for voice and video calling, text messaging, and other functions. Incarcerated persons receive some free services, including phone calls and limited messaging, and access to certain books and reading materials. They can also pay for additional services, including music, videos, audiobooks and additional communications (see table below).

SB 1008 (Becker), Chapter 827, Statutes of 2022 required CDCR to provide accessible, functional voice calls free of charge. On January 1, 2023, CDCR began implementing this requirement by paying all charges accrued for voice calls. Though CDCR does not directly limit the number of minutes people can use, it does continue to restrict when calls can be made for operational reasons. The bill also requires the Public Utility Commission to establish quality standards for incarcerated persons calling services.

[21] https://www.prisonpolicy.org/blog/2021/12/21/family_contact/
[22] https://www.cdcr.ca.gov/family-resources/gtl-tablets/

The prices charged to the incarcerated population for various services is listed in the table below[23]:

Communications Service	Rates
Telephone calls (nationwide)	Free
Telephone calls (international)	Free
Video calls	$0.20 per minute
E-messages (inbound/outbound)	$0.05
Video Message (inbound only)	$0.05
E-Card (inbound only)	$0.05
Photos (inbound only)	$0.05
E-Books	Free
Games	Free
Music Pass	$5.49/month
Premium movies	$1.99/month
CDCR approved podcasts	Free
Streaming news and sports	$0.75/month

Contract Rates. In March 2021, CDCR renegotiated the phone contract with ViaPath to reduce rates to 2.5 cents per minute for domestic calls, 7 cents per minute for international calls, and 5 cents per item or 2,000 characters of electronic correspondence. That contract is valid for six years, but CDCR was able to amend the contract with ViaPath after the passage of SB 1008 (Becker), Chapter 827, Statutes of 2022. CDCR will now pay ViaPath directly via a tiered pricing structure, and the rates will be the same for both domestic and international calls (see table below).

The new pricing structure is as follows:

Number of Minutes	Price	Price with taxes
0 – 45 million	2.5 cents/minute	2.9 cents/min
45 million to 75 million	2.2 cents/minute	2.5 cents/min
Over 75 million	1.9 cents/minute	2.2 cents/min
Plus monthly $75,000 credit for 30 min of free calling per month		

In 2023, CDCR was required by the Sacramento County Superior Court and the California Supreme Court to vacate the contract with Viapath. CDCR entered into an emergency interim contract with ViaPath to keep all existing communication services fully operational until CDCR completes the bid process for a permanent contract for these services.

Minutes Used and Budget Resources. Based on calling data from January through March of 2023, CDCR estimated that about 93 million minutes would be used per month in 2023-24. However, there was some uncertainty in this estimate, as the number of minutes used fluctuates from month to month, and was impacted by the introduction of the tablets and the changes stemming from SB 1008.

[23] https://www.cdcr.ca.gov/family-resources/tablets/

Based on this estimate, the 2023 budget included $28.5 million General Fund in 2023-24 to pay for voice calls. This funding was authorized on an ongoing basis with the understanding that CDCR would adjust the level of funding for calling charges through the department's biannual adjustment process. In addition, the budget act included provisional language allowing the Department of Finance to augment or reduce this funding amount based on actual or estimated expenditure data.

In October 2023, the incarcerated population used 123 million minutes of calling system wide. As of mid-November 2023, the department had spent $12.2 million of the $28.5 million budgeted for phone calling in 2023-24. CDCR reports that the prison population used about 119 million voice calling minutes in July 2023 and 125 million minutes in August.

Based on the assumption that the August minute usage level will hold flat throughout the remainder of 2023-24 and 2024-25, CDCR estimates it will need an additional $7.4 million in the current year and $8.2 million in the budget year. CDCR plans to update these estimates at the May Revision based on additional months of actual calling usage data. To address any current-year shortfall, the administration intends to use the authority provided by the provisional language (which is retained in the proposed budget) in the 2023-24 budget to augment the amount available for voice calls.

LAO Comments.

Funding Adjustment Methodology Does Not Account for Population Decline. The prison population is projected to continue to decline. Specifically, on August 16, 2023, the population was about 95,700 and CDCR currently projects the average daily population in 2024-25 to be about 91,700—a 4,000 (4 percent) person decline. By not accounting for this population decline, the Governor's budget likely overestimates the number of calling minutes and associated funding that will be used in 2024-25.

LAO Recommendations.

Withhold Action and Direct CDCR to Update Methodology to Account for Population Changes. The administration plans to update its estimate of the 2024-25 funding need at the May Revision based on additional months of actual calling usage. Accordingly, the LAO recommends the Legislature withhold action on the proposal until that time. Additionally, the LAO recommends that the Legislature direct CDCR to incorporate the effects of projected changes in the population into its methodology at the May Revision and in future biannual adjustments for voice calling costs. This methodology change would (1) help promote more accurate budgeting and (2) likely reduce the overall cost of the proposal in the budget year, freeing up General Fund resources that could be used to address the fiscal difficulties facing the state.

Staff Comment.

Concerns with the vendor and contract. Concerns have been raised about the contract structure, which has CDCR paying by the minute for millions of minutes. In addition, the vendor, ViaPath, has been the subject of numerous settled lawsuits, including cases related to recording privileged conversations, illegal robocalling, overcharging, improper seizure of funds from accounts, and racketeering and bribery[24]. Finally, concerns have been raised about the quality of calls provided by ViaPath, including dropped calls, crosstalk between different calls, and service outages (particularly on holidays).

Staff Recommendation. Hold Open.

[24] https://www.prisonpolicy.org/blog/2022/09/07/gtlsettlement/;
https://www.prisonlegalnews.org/news/2016/aug/2/new-jersey-prison-phone-class-action-suit-against-global-tellink-continues/;
https://www.prisonlegalnews.org/news/2018/apr/2/global-tellink-settles-mississippi-prison-bribery-case-25-million/;
https://www.prisonlegalnews.org/news/2017/jun/9/global-tellink-agrees-pay-88-million-class-action-settlement/;
https://www.themainemonitor.org/breach-of-attorney-client-privilege-in-somerset-county-sparks-outrage-in-maine-legal-community/;
https://www.ocregister.com/2018/08/23/phone-carrier-that-improperly-recorded-orange-county-jail-calls-did-the-same-thing-in-florida/

Issue 35: Rehabilitative Programming and Education Panel

Panelists

- Professor Nigel Boyle, Pitzer College BA Pathways Program
- Romarilyn Ralston, Senior Director, Education Center for the Claremont Colleges
- Jason Bell and Aaron Greene, Project Rebound
- Christina Brown-Mendoza, Acting Executive Director, The Place4Grace

Background. CDCR partners with a number of nonprofit organizations and colleges to provide rehabilitative programming and higher educational opportunities for incarcerated individuals. The panel will feature perspectives on programming from the following three organizations.

The Place4Grace is a non-profit organization founded in 2009 with the mission to restore families and advocate for children impacted by incarceration. This program serves families and children of incarcerated men and women, focusing on family connection through literacy, art, music and restorative justice principles such as accountability, insight and empathy.

Pitzer College's Inside-Out program provides a pathway for incarcerated ("inside") students at the California Rehabilitation Center in Norco, CA, to receive a bachelor's of arts degree from Pitzer College through a series of classes that includes classes with "Outside" students enrolled at Pitzer College or one of the other four Claremont Colleges. This program provides benefits to currently and formerly incarcerated individuals to rebuild their lives as they see new possibilities for their futures.

Project Rebound empowers formerly incarcerated students and those who are impacted by the criminal justice system by advocating for access to higher education and offering support services promoting academic success, holistic development, increased graduation rates, and continued success beyond the classroom. This program provides a safe and inclusive space with guidance and mentorship in which they hold students to a high standard of academic excellence and community engagement. By participating in this program, formerly incarcerated and system impacted students will set the example as a beacon of hope to create systemic change for those following in their footsteps.

Staff Recommendation. This item is informational, and no action is needed.

Senate Budget and Fiscal Review—Scott Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, May 30, 2024
9:30 a.m. or upon adjournment of Session - State Capitol, Room 112

Consultant: Christopher Francis, Ph.D.

Part B- Labor, Workforce Development, Public Employment, and Public Retirement
Vote-Only Calendar

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Public Comment

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.

Vote-Only Calendar

VARIOUS DEPARTMENTS

Issue 1-5: Various Crosscutting Proposals

Issue #	Origin	Subject	Staff Recommendation
1.	January Governor's Budget	**Telework Stipend Savings.** The Governor's budget summary states the intent to negotiate with each bargaining unit for the elimination of the telework stipend first offered to state employees in 2021-22. The budget proposes estimated savings of $51.2 million ($25.6 million General Fund), assuming the stipend is eliminated beginning with the July 2024 pay period.	Approve associated savings and reject trailer bill language
2.	May Revision	**Vacant Positions Permanent Reduction.** The April 2024 early action agreement AB 106 (Gabriel), Chapter 9, Statutes of 2024 included the Governor's January Budget proposal to reduce departmental budgets by $1.5 billion ($762.5 million General Fund) for savings associated with vacant positions. The May Revision proposes making the one-time reduce permanent and the Department of Finance indicates that it will work with agencies and departments in the Fall on appropriate reductions starting in 2024-25.	Approve May Revision scored reductions and adopt provisional budget bill language
3.	May Revision	**Ongoing Reductions to State Operations.** The May Revision includes an across-the-board reduction to state operations by approximately 7.95 percent beginning in 2024-25 to nearly all department budgets. This reduction includes personnel, operating costs, and contracting. The Department of Finance indicates that it will work with agencies and departments in the Fall on these reductions.	Approve May Revision scored reductions and adopt provisional budget bill language

4.	May Revision	**Relocation to New Labor Agency Building.** The May Revision includes $5.66 million (all various special funds) and $491,000 reimbursement authority in 2024-25, and $1.06 million (all various special funds) and $148,000 reimbursement authority in 2025-26 split amongst multiple entities within the Labor and Workforce Development Agency to provide limited-term resources for the initial information technology set-up and configuration for the New Labor Agency Building.	Approve May Revision
5.	Legislature	**New Employee Orientation.** Until June 31, 2025, the law requires that an exclusive representative be entitled to schedule an in-person meeting at the worksite during employment hours, if a public employer has not conducted an in-person new employee orientation within 30 days, as specified, amongst other provisions. This was part of budget trailer bill legislation SB 191 (Committee on Budget and Fiscal Review), Chapter 67, Statutes of 2022. The Legislature's proposes trailer bill language to remove the sunset date for these provisions.	Adopt placeholder trailer bill language

7900 California Public Employees' Retirement System (CalPERS)
7920 California State Teachers' Retirement System (CalSTRS)

Issue 6-10: Employee Compensation, Pensions, and Retirement Proposals

Issue #	**Origin**	**Subject**	**Staff Recommendation**
6.	May Revision	**State Employees' Retirement Contributions**. The May Revise proposes $6.86 billion ($3.48 billion General Fund) as the statutorily required annual state contribution to California Public Employees' Retirement System (CalPERS) for state pension costs in 2024-25. This is $1.7 billion ($1.3 billion General Fund) lower than the Budget Act of 2023 due to the application of prior Proposition 2 debt repayment funding paid to CalPERS as adopted in the April 2024 early action agreement. Included in these costs are $608.5 million General Fund for California State University retirement costs.	Approve May Revision

7.	May Revision	**Teachers' Retirement Contributions**. The May Revise proposes $4.26 billion General Fund as the statutorily required annual state contribution to California State Teachers' Retirement System (CalSTRS) in 2024-25. The roughly $320 million increase from the 2023 Budget Act is due to higher-than-anticipated growth in creditable compensation from 2021-22 to 2022-23.	Approve May Revision
8.	May Revision	**Proposition 2 Debt Payments**. Under the Administration's May Revise revenue forecast, the state has a roughly $1.6 billion Proposition 2 debt payment requirement in 2024-25. Of this total, the Governor proposes the state allocate: $360 million to prefunding retiree health benefits, $836 million to repay the CalPERS borrowing plan, and $420 million to pay down CalPERS' unfunded liabilities. In 2024-25, and similarly to 2022-23 and 2023-24, the Administration does not propose to direct any Proposition 2 debt payment funding to CalSTRS.	Approve May Revision and proposed trailer bill language
9.	May Revision	**Employee Compensation (Item 9800)**. Compared to the Governor's Budget, the May Revision includes a net decrease of $92.8 million ongoing ($42.8 million General Fund) for augmentation of employee compensation to reflect updated expenditures for collectively bargained pay increases and health and dental premiums. In total, May Revise proposes $1.23 billion ($639 million General Fund). Additionally, while these figures include estimated health premium rates, the Administration notes that final health rates are not expected to be adopted by the CalPERS Board of Administration until Summer 2024.	Approve May Revision
10.	May Revision	**Control Section 3.61**. The May Revision proposes amending Control Section 3.61 to authorize the Department of Finance to transfer Proposition 2 debt repayment funding to the California Employers' Retiree Benefit Trust Fund in the current or prior fiscal year to satisfy the Proposition 2 debt repayment allocation for the relevant fiscal year.	Approve May Revision

0559 Labor And Workforce Development Agency (LWDA)

Issue 11: Operational Support Realignment

Issue #	**Origin**	**Subject**	**Staff Recommendation**
11.	January Governor's Budget	**Operational Support Realignment.** The Governor's budget included three positions and $612,000 reimbursement authority in 2024-2025 and ongoing to manage new and existing workloads. This request will make 3.0 limited-term positions permanent. The 2021-22 Budget provided 3.0 limited term staff for three years: a Deputy Secretary, a Staff Services Manager II (Specialist), and a Staff Services Analyst (Communications Analyst). These positions have been vital to supporting workforce development programs and strategies for economic recovery and equity.	Approve as budgeted

7100 Employment Development Department (EDD)

Issue 12-18: Various Proposals

Issue #	**Origin**	**Subject**	**Staff Recommendation**
12.	January Governor's Budget	**EDDNext.** The Governor's budget includes $326.8 million one-time in 2024-25 ($163.4 million General Fund) to continue the planning and development of EDDNext, for the third year of a five-year plan to modernize EDD. The effort includes enhancements to EDD's benefits system, improving call centers, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and training.	Approve as budgeted
13.	May Revision	**2024-25 Unemployment Insurance (UI) Interest Revised Estimate.** The January budget initially proposed a total one-time payment of $331 million ($231 million General Fund and $100 million Employment Training Fund) to support the state's UI loan interest payment. The May Revision increased this estimated payment by $153 million General Fund one-time. This update increases the total proposed Unemployment Insurance loan interest payment to $484 million ($384 million General Fund and $100 million Employment Training Fund).	Approve May Revision

14.	May Revision	**2025-26 Unemployment Insurance (UI) Interest Payment.** The May Revision proposes a one-time $50 million Employment Training Fund payment to support the state's UI loan interest payment. The 2024 early action agreement between the Governor, Assembly, and Governor included the Governor's January proposal to support the state's Unemployment Insurance loan interest payment with $100 million Employment Training Fund in 2024-25.	Approve May Revision
15.	May Revision	**California Jobs First.** The California Jobs First program is an inter-agency partnership to create regionally governed investments focused on job creation adapted to climate change. The 2021 Budget Act included $600 million for workforce investments in 13 regions across California. The April 2024 early action agreement delayed $275 million from 2021-22 and instead included $91.7 million for each year between 2024-25 and 2026-27. The May Revision reduces funding for the program by $150 million over three years ($50 million General Fund reduction in each of 2024-25, 2025-26, and 2026-27) and reverts $25 million appropriated in the 2021 Budget Act. These actions would leave $50 million in each of 2024-25, 2025-26, and 2026-27 for the program.	Approve the following: • Approve May Revision proposed savings • Transfer $25 million of the remaining $150 million from California Jobs First to the CA Workforce Development Board to fund existing grantees to create new, expand, scale, or replicate high road training partnerships as used in subdivision (s) in UIC Section 14005.

16.	May Revision	**Trailer Bill: California Jobs First.** To provide more time for the implementation phase of the California Jobs First program, the Administration requests trailer bill language to push back various timelines for expenditure and obligation of funds. The proposed trailer bill would instead require the majority of funds to be used to provide economic development grants through June 30, 2028. The trailer bill would require grant recipe recipients to demonstrate a plan to fully spend or obligate all funds received by June 30, 2028, and require all obligations to be paid by June 30, 2030.	Adopt placeholder trailer bill language
17.	May Revision	**Adjustments** o ***Unemployment Insurance Program Benefit.*** The May Revision requests that that budget bill Item 7100-101-0871, Budget Act of 2023, pursuant to Provision 3, is increased by $197,558,000 in 2023-24 to align with an estimated increase in unemployment insurance claims. This item is a local assistance item for the Unemployment Insurance Program, payable from the Unemployment Fund—Federal. o ***Disability Insurance Program Benefits.*** The May Revision requests that budget bill Item 7100-101-0588 be increased by $461,192,000 ongoing to align with updated State Disability Insurance program benefit payment estimates. Additionally, Item 7100-101-0588, Budget Act of 2023, pursuant to Provision 2, is increased by $935,332,000 in 2023-24 to align with an estimated increase in disability insurance claim payments. This item is a local assistance item for the Disability Insurance Program, payable from the Unemployment Compensation Disability Fund. o ***Revised Employee Compensation Costs***—The May Revision proposes that Item 7100-001-0184 be increased by $117,000; Item 7100-001-0185 be increased by $491,000; Item 7100-001-0514 be increased by $67,000; Item 7100-011-0588 be increased by $566,000; and Item 7100-001-0908 be increased by $10,000 ongoing to reflect revised employee compensation costs.	Adopt May Revision

18.	May Revision	**Workforce Innovation and Opportunity Act (WIOA) Allocations.** The Administration requests that Items 7100-001-0869 and 7100-021-0890 be increased by $28,642,000 one-time and Items 7120-101-0869 and 7100-101-0890 be increased by $28,972,000 one-time to align Workforce Innovation and Opportunity Act funding authority with estimated federal allocations.	Adopt May Revision

7120 California Workforce Development Board (CWDB)

Issues 19-22: Various Proposals

Issue #	Origin	Subject	Staff Recommendation
19.	January Governor's Budget	**Low Carbon Economy Program.** The budget proposes a $15 million General Fund reduction and maintaining $30 million ($15 million General Fund and $15 million Greenhouse Gas Reduction Fund) over two years for the program.	Approve as budgeted
20.	January Governor's Budget	**High Road Training Partnerships in Health and Human Services.** The budget proposes to reduce this funding by $45 million in 2023-24 and maintain $90 million over two years for the program.	Reject this proposal
21.	May Revision	**California Youth Leadership Corps.** The 2022 Budget Act included $20 million General Fund in 2022-23 and $20 million General Fund in each of 2023-24 and 2024-25 as advance payment and support to the Emerald Cities Collaborative for the California Youth Leadership Corps for community change learn-and-earn career pathway programs at 20 selected community colleges over four-year period. The May Revision reduces funding for this program by $20 million in 2024-25.	Reject this proposal

22.	May Revision	**Reappropriation of Federal Funds.** The May Revision includes budget bill language to added to extend the encumbrance and expenditure period for $9 million in Item 7120-001-0890, Budget Act of 2023 to allow the California Workforce Development Board to fund appropriate staff costs throughout the life of federal grants. This item is related to the implementation and operation of the Workforce Innovation and Opportunity Act program. This budget bill language would extend the encumbrance and expenditure period from June 30, 2024, to June 30, 2028.	Approve as budgeted

7300 Agricultural Labor Relations Board (ALRB)
7350 Department of Industrial Relations (DIR)

Issues 23-38: Various Proposals

Issue #	Origin	Subject	Staff Recommendation
23.	Legislature	**Vacancies and Hiring Issues at DIR.** The state has enacted many laws to improve conditions for workers but staffing for enforcement, education, and compliance has not kept pace with the growth of the state. As a result, the time to resolve worker claims regarding wage theft and retaliation have taken longer than intended—especially to the disadvantage of low-income California workers. A central focus of the delays has been staffing issues at DIR. These issues were covered in 2022 and 2023 Subcommittee No. 5 hearings. The Legislature's plan includes trailer bill language to address hiring issues at the Labor Commissioner's Office and Cal/OSHA.	Adopt placeholder trailer bill language
24.	Legislature	**California Workplace Outreach Project (CWOP).** The Legislature proposes a one-time $30 million Labor and Workforce Development Fund appropriation for CWOP in 2024-25. The Budget Act of 2022 included $50 million General Fund over two years ($25 million in each 2022-23 and 2023-24) to DIR to partner with organizations to perform	Approve this proposal

		COVID-19 outreach and education to workers and employers in high-risk industries. The Budget Act of 2023 shifted the fund source to Labor and Workforce Development Fund for 2023-24 and renamed the program to the California Workplace Outreach Program to assist with worker outreach and education across different sectors and to promote awareness of and compliance with labor protections that affect California workers in a post-pandemic workplace environment.	
25.	May Revision	**California Youth Apprenticeship Program.** The Governor's January budget proposed to delay $25 million for the program to 2025-26. The May Revision proposes to turn this delay into a reduction of $25 million General Fund.	Reject this proposal
26.	May Revision	**Women in Construction Unit Elimination.** The Governor's January budget proposed to reduce funding for the unit by $5 million General Fund in 2024-25 and ongoing and maintain the program at $10 million General Fund ongoing. The May Revision eliminates the program by reducing funding for the Unit at DIR by $15 million on an ongoing basis.	Reject this proposal
27.	May Revision	**Apprenticeship Innovation Fund.** The 2024 early action agreement between the Governor, Assembly, and Governor included the Governor's January proposal to delay $40 million General Fund in 2024-25 and spread this funding over 2025-26 and 2026-27 fiscal years. The May Revision proposes to turn this delay into a reduction of $40 million General Fund.	Adopt May Revision

28.	January Governor's Budget	**Rural Strategic Engagement Program.** The budget includes $4.4 million Labor and Workforce Development Fund (LWDF) in 2024-25, 2025-26 and 2026-27 for the Agricultural Labor Relations Board and $3.4 million LWDF in 2024-25, $4.0 million in 2025-26, and $4.3 million in 2026-27 for DIR to educate workers in rural and semi-rural areas on workplace rights, increase access to state services for workers in those areas, and improve state labor enforcement programs.	Approve funding and adopt provisional budget bill language
29.	January Governor's Budget	**Workers' Compensation Appeals Board.** The budget proposes $2.8 million Workers' Compensation Administration Revolving Fund and 13 positions over three years to reduce the backlog at the appeals board.	Approve as budgeted
30.	January Governor's Budget	**Trailer Bill: Workers' Compensation Appeals Board Timeline Clarification Trailer Bill.** As outlined previously, the Workers' Compensation Appeals Board has been facing challenges with a growing backlog of cases. To further address the issue, the Department is additionally requesting trailer bill language to adjust the timelines by which the appeals board must act on a petition. Under existing law, individuals have the right to petition the WCAB for a reconsideration of any decisions, orders, or awards related to workers' compensation that are considered final. The law further states that such a petition for reconsideration is automatically considered denied if the WCAB does not to take action within 60 days from the date the petition was filed. The proposed trailer bill seeks to modify this procedure by starting the 60-day countdown from the moment the WCAB receives the petition, instead of when it is filed. The Department indicates that this change is necessary because the initial process of filing the petition itself consumes a portion of the 60-day period due to the various administrative	Reject this proposal

		steps involved. By adjusting the timeline to begin when the petition is actually received, the WCAB believes it would have more time to act within the allocated 60-day window.	
31.	January Governor's Budget	**Cal/OSHA Data Modernization Project.** The budget proposes $25.2 million Labor and Workforce Development Fund in 2024-25 to develop a system that will meet federal and state-mandated requirements, consolidate information into a central database/repository, interface to other DIR systems, and automate manual processes across its units.	Approve as budgeted
32.	January Governor's Budget	**Electronic Adjudication Management System Modernization.** The budget proposes $22.1 million Workers Compensation Administration Revolving Fund in 2024-25 for DIR to support the replacement of the Division of Workers' Compensation's electronic case management and document storage system.	Approve as budgeted
33.	January Governor's Budget	**Public Works Information Technology System.** The budget proposes $10.6 million Labor and Workforce Development Fund in 2024-25 for DIR to complete enhancements to the Public Works Information Technology System.	Approve as budgeted
34.	January Governor's Budget	**Public Records Act Oversight Unit.** The budget proposes 12 permanent positions and $2 million in 2024- 25, 10 permanent positions and $3.3 million in 2025-26, and $3.2 million in 2026-27 and ongoing funded through various special funds to enable DIR and its divisions to timely respond to requests for public records under the California Public Records Act.	Approve as budgeted
35.	January Governor's Budget	**Trailer Bill: Public Works Clean Up.** The Budget Act of 2023 included a trailer bill that clarified registration requirements for all contractors and subcontractors on a development project pursuant to AB 2011 (Wicks) Chapter 647, Statutes of 2022 and SB 6 (Caballero), Chapter 659, Statutes of 2022 and provided DIR with the authority to establish and adjust annual registration and renewal fees.	Approve as proposed

		Specifically, DIR was provided the authority to establish and adjust annual registration and renewal fees of up to $800 by publishing the fees on the department's internet website, but would subject the establishment or adjustment of registration and renewal fees in excess of $800 to the rulemaking provisions of the Administrative Procedure Act (APA). SB 4 (Wiener), Chapter 771, Statutes of 2023 enacted additional changes related to housing development projects that impacted contractor registration requirements. The Administration is requesting trailer bill language to conform changes made by SB 4, and conform the Department's ability to establish and adjust annual registration and renewal fees of up to $800 by publishing fees on its website, and subject the establishment and renewal of any fees in excess of $800 to the APA—consistent with the 2023 trailer bill.	
36.	January Governor's Budget	**OSHA 23(g) Federal Funding Increase.** The budget proposes an increase of $1.37 million Federal Trust Fund authority in 2024-25 and ongoing associated with the Occupational Safety and Health Administration (OSHA) 23(g) State Plan Program Federal Grant base increase.	Approve as budgeted

37.	January Governor's Budget	**General Counsel Management Upgrades.** The Agriculture Labor Relations Board (ALRB) requests $89,000 General Fund in 2024-25, and ongoing, to convert two Associate General Counsel, Unfair Labor Practices, Agricultural Labor Relations Board (Regional Director) positions and the Attorney IV (Deputy General Counsel) position to higher level Classifications. Recruitment and retention of ALRB's two Associate General Counsel, Unfair Labor Practices, Labor Relations Board (Regional Director) positions and the Attorney IV (Deputy General Counsel) has been a significant challenge due to salary compaction and limited candidate pools. The Regional Director classification is specific to ALRB and was not included in CalHR's recent attorney class consolidation. As a result, the salary for that classification is far below comparable positions at other state entities.	Approve as budgeted

38.	May Revision	**DIR Chaptered Legislation Proposals.** The May Revision includes various requests for resources from various special funds to implement statutory requirements associated with legislation chaptered in 2023 and 2024. The requests are as follows: 1. \$300,000 Workers Compensation Administration Revolving Fund in each of 2024-25 and 2025-26 to implement Workers' Compensation: Post-Traumatic Stress Disorder— SB 623 (Laird) Chapter 621, Statutes of 2023. 2. \$5.188 million special fund in 2024-25, \$4.883 million special fund in 2025-26 and ongoing, and 21.5 permanent positions to implement Fast Food Council— AB 1228 (Holden) Chapter 262, Statutes of 2023 and AB 610 (Holden) Chapter 4, Statutes of 2024. 3. \$1.555 million Occupational Safety and Health Fund in 2024-25 and \$1.465 million Occupational Safety and Health Fund in 2025-26 and ongoing and 6 permanent positions to implement Workplace Violence Prevention— SB 553 (Cortese), Chapter 289, Statutes of 2023 4. \$1.854 million State Public Works Enforcement Fund in 2024-25 and \$1.702 million State Public Works Enforcement Fund in 2025-26 and ongoing and 10 permanent positions to implement Affordable Housing on Faith and Higher Education Lands Act of 2023— SB 4, (Wiener) Chapter 771, Statutes of 2023. 5. \$706,000 State Public Works Enforcement Fund in 2024-25 and \$190,000 State Public Works Enforcement Fund in 2025-26 and ongoing and one permanent position to implement Public Works: Ineligibility List— AB 1121 (Haney), Chapter 465, Statutes of 2023. 6. \$605,000 Labor Enforcement and Compliance Fund in 2024-25 and \$560,000 Labor Enforcement and Compliance Fund in 2025-26 and ongoing and three permanent positions to implement Paid Sick Days Accrual and Use— SB 616 (Gonzalez), Chapter 309, Statutes of 2023 7. \$648,000 Labor Enforcement and Compliance Fund in 2024-25 and \$609,000 Labor Enforcement and Compliance Fund in 2025-26 and ongoing and 2.5 permanent positions to implement Grocery Workers— AB 647 (Holden), Chapter 452, Statutes of 2023	Approve May Revision

		8. $205,000 Labor Enforcement and Compliance Fund in 2024-25 and $189,000 Labor Enforcement and Compliance Fund in 2025-26 and ongoing and one permanent position to implement Food Safety: Food Handlers— SB 476 (Limón), Chapter 610, Statutes of 2023 9. $833,000 Labor Enforcement and Compliance Fund in 2024-25 and $773,000 Labor Enforcement and Compliance Fund in 2025-26 and ongoing and four permanent positions to implement Labor Code Alternative Enforcement— AB 594 (Maienschein), Chapter 659, Statutes of 2023	

7501 California Department of Human Resources (CalHR)

Issues 39-41: Various Proposals

Issue #	Origin	Subject	Staff Recommendation
39.	January Governor's Budget	**Trailer Bill: California State Payroll System Bi-Weekly Pay.** In 2016, the state began to assess industry standards and information technology solutions to implement a new payroll system for California state employees. The initiative is named the California State Payroll system (CSPS) project, and aims to modernize core human resources functionalities, such as payroll, position control, benefits and personnel administration, and time management. One of the most significant operational changes under the CSPS Project will be the state's transition from a monthly payroll cycle to a biweekly payroll – a pay schedule that is more in line with current industry standards. As CSPS is being implemented, CalHR is responsible for updating human resources laws, rules, policies, and bargaining agreements that specify how the state will operate under a biweekly payroll model. To that end, CalHR is requesting trailer bill language that would revise various statutory provisions to accommodate the implementation of a uniform payroll cycle that is not monthly. Additional non-substantive technical cleanups are included in the requested trailer bill.	Approve as proposed
40.	January Governor's Budget	**Technology Modernization and Security.** The budget includes $350,000 in 2024-25 and ongoing, ($290,000 General Fund) to improve cybersecurity operations at the Department. Specifically, the resources will be used to implement two-factor authentication on the various CalHR online platforms (CalCareers and ECOS). Two-factor authentication is the process by which two different forms of verification are required to be submitted before granting access to a system or portal. Resources will also be used to implement a Security Incident and Event Management System (SIEM). SIEM is used by the California Department of Technology (CDT) to track and archive security event logs. CDT has informed all departments that the costs	Approve as budgeted

		associated with the services will no longer be funded by CDT. This request will fund CalHR's SIEM.	
41.	January Governor's Budget	**Department Workload for Psychological Screening Program.** The budget includes two positions and $433,000 reimbursement authority for fiscal year 2024-25 and ongoing. These resources are to address staffing issues in the Psychological Screening Program (PSP). PSP is the only entity authorized to conduct pre-employment psychological assessments for law enforcement candidates for state agencies. Demand for pre-employment psychological assessments for law enforcement candidates has increased for several reasons and now exceeds PSP's capacity. PSP requests authorization to transition two limited term Psychologist positions to permanent. Approving this request would enable PSP to continue providing timely and comprehensive pre-employment psychological assessments for law enforcement candidates in California civil service.	Approve as budgeted

Senate Budget and Fiscal Review—Scott Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, May 30, 2024
State Capitol – Room 112
9:30 a.m. or upon adjournment of session

Consultant: Eunice Roh
Part C- Transportation
Vote-Only Calendar

Item **Department** **Page**

Public Comment

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Vote-Only Calendar

0521 CALIFORNIA STATE TRANSPORTATION AGENCY
2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION
2740 DEPARTMENT OF MOTOR VEHICLES

Issue 1: Transportation Budget Solutions

Issue #	Origin	Subject	Staff Recommendation

1.	January Governor's Budget and May Revision	**Transportation Budget Solutions.** The Governor's Budget and May Revision includes several modifications to transportation programs. More specifically, the Governor proposes the following:
		
		• **Active Transportation Program (ATP).**
		  o A reduction of $200 million General Fund (GF) from 2021-22, $300 million in 2025-26, and $99 million in 2026-27.
		• **Competitive Transit and Intercity Rail Capital Program (TIRCP).**
		  o A delay of $2.1 billion from 2021-22 to $512 million in 2024-25, $564 million in 2025-26, $438 million in 2026-27, and $611 million in 2027-28.
		  o A shift of $507.2 million from the General Fund to the Greenhouse Gas Reduction Fund (GGRF) across 2023-24, 2024-25, 2025-26, and 2026-27.
		  o A cut of $148 million GF from 2021-22.
		• **Formula TIRCP.**
		  o A delay of $1 billion GF from 2024-25 to 2025-26. This was approved in Early Action.
		  o A shift of $839 million from the General Fund to the GGRF across 2023-24, 2024-25, and 2025-26.
			• **ATP:** Reject the proposed reduction and shift $600 million to State Highway Account (SHA). Approve placeholder trailer bill.
			• **Competitive TIRCP:** Approve the proposed delay and shift but reject the proposed cut.

		• **Zero Emission Transit Capital Program (ZETCP).** o A delay of $220 million GGRF from 2023-24 to 2024-25, $230 million from 2024-25 to 2027-28, $230 million from 2025-26 to 2027-28. • **Grade Separations.** o A reduction of $350 million GF in 2021-22. • **Highways to Boulevards.** o A cut of $150 million GF from 2021-22. o A shift of $75 million to the GGRF in 2025-26 and 2026-27. • **Port and Freight Infrastructure Program. (Approved in Early Action.)** o A delay of $100 million GF from 2024-25 to 2026-27. • **Port of Oakland. (Approved in Early Action.)** o A reduction of $96 million GF from 2021-22. • **Commercial Drive Test Centers** o A reduction of $30.6 million GF across 2023-24, 2024-25, and 2025-26. In addition, the administration proposes trailer bill language to reflect these delays and reductions, as well as minor technical changes—particularly for the Ports and Freight Infrastructure Program, Formula TIRCP, and Highways to Boulevards.	• **Formula TIRCP:** Approve as budgeted. Delay $500 million from 2025-26 to 2026-27. • **ZETCP:** Approve as budgeted. • **Grade Separations:** Approve as budgeted. Approve placeholder trailer bill language that requires Caltrans and CalSTA to prioritize awarded projects in existing funding programs and provides Department of Finance authority to

			fund awarded projects with General Fund and/or SHA. • **Highways to Boulevards:** Approve the General Fund reduction and reduce the GGRF fund shift to $50 million. • **Commercial Drive Test Centers:** Approve as budgeted.

0521 California State Transportation Agency

Issue 2: California Office of Traffic Safety Federal Fund Workload

Issue #	Origin	Subject	Staff Recommendation
2.	May Revision	**California Office of Traffic Safety Federal Fund Workload.** The May Revision includes $452,000 ($444,300 in Federal Fund and $7,700 in various State Funds) and three permanent positions for 24-25 and ongoing to support federal workload increase. The National Highway Traffic Safety Administration (NHTSA), which makes federal funding available to the Office of Traffic Safety (OTS) and state highway safety offices, promulgated a rulemaking that requires state highway safety programs to result from meaningful public participation and engagement (PP&E). In addition, NHTSA now requires the Office of Traffic Safety (OTS) to implement new processes to track the eligible use of funds and report for each claim recipients submit for payment. To address these federal requirements, the OTS requests two Staff Services Manager I (Specialist), who will organize meetings, host town halls and other community events to have conversations with communities most impacted by traffic safety, and one Associate Government Program Analyst (AGPA) to assign and track the new required identification codes required by NHTSA for all federal grant claim items processed by OTS.	Approve as budgeted.

2600 California Transportation Commission

Issue 3-4: Various Proposals

Issue #	**Origin**	**Subject**	**Staff Recommendation**
3.	May Revision	**Sustainable Data Procurement (AB 744).** The May Revision includes $190,000 ($89,000 State Highway Account, $101,000 Public Transportation Account) to implement the provisions of AB 744 (Carrillo, Chapter 541, Statutes of 2023). AB 744 requires the Commission to convene relevant state agencies to assess the procurement and implementation of analytic software tools to support the state's sustainable transportation, housing, land use, economic, and climate change strategies and goals, and to develop a proposal to procure those types of data tools and to develop a process to either grant access or make funding for this purpose available to state and local agencies by July 1, 2025. The Commission requests one limited-term Staff Services Manager II for 1) convening the relevant state agencies and leading the assessment efforts, 2) developing the procurement proposal and implementation for data tools, 3) managing that program, and 4) preparing the required report to the Legislature regarding the implementation of this bill.	Approve as budgeted.
4.	May Revision	**Vehicle Weight Safety Study (AB 251).** The May Revision includes $734,000 ($345,000 State Highway Account, $ 389,000 Public Transportation Account) to implement the provisions of AB 251 (Ward Chapter 320, Statutes of 2023). AB 251 requires the Commission to convene a task force to study the relationship between vehicle weight and injuries to vulnerable road users and degradation to roads, and to study the costs and benefits of imposing a passenger vehicle weight fee to include consideration of vehicle weight. The bill requires Commission to submit a report to the Legislature by January 1, 2026. The limited-term Supervising Transportation Planner would be responsible for convening the task force, managing the task force's meetings and activities, developing the consultant contract, and overseeing the technical work of the consultant in implementing the provisions of the bill. The one-time consultant services resources would support the task force's meetings and activities, review and synthesize any existing research, perform and conduct any new research and analysis required to complete the study.	Approve as budgeted.

2660 California Department of Transportation

Issues 5-13: Various Proposals

Issue #	Origin	Subject	Staff Recommendation
5.	January Governor's Budget	**Fleet Replacement.** The Governor's Budget includes $279,050,00 from the State Highway Account for two years to continue replacing its aging fleet and installing zero emission vehicle (ZEV) infrastructure. Of this amount, $250,000,000 is to replace the equipment, $22,500,000 is for contractors to install ZEV infrastructure, and $6,550,000 is for 50 positions to support these efforts.	Approve as budgeted with placeholder trailer bill language that requires Caltrans to report on its fleet replacement activities.
6.	January Governor's Budget	**Institutionalizing the California Integrated Travel Project (Cal-ITP) and Building a Data & Digital Services Division.** The Budget includes $26,298,000 ongoing from the Public Transportation Account for the California Integrated Mobility Program and to build a Data & Digital Services Division. Caltrans requests funding to continue this work by establishing the California Integrated Mobility (CIM) Program and developing a Data & Digital Services (DDS) Division. The CIM Program would provide the scheduling software and technical assistance with GTFS as well as work on providing discounts to older adult customers paying directly with a bank card, to streamline discounts and incentives in contactless payments. CIM would do such work by building or buying software, hardware, and/or time/error-saving services for local transit agencies. Caltrans proposes to fund CIM at $6.9 million annually, which includes 37 positions.	Approve $6.9 million and 37 positions for the Integrated Mobility Program on a three-year limited-term basis.

		Under this request, Caltrans proposes to fund a Data and Digital Services Division, which will work on various projects, such as consolidating grant applications and simplifying grant application processes, collecting and structuring the Office of Civil Rights' DBE data for regular access via dashboards; training Caltrans District staff to work with mobility data and modern data tools; automating annual National Transit Database reporting. Caltrans proposes to fund this division at roughly $6 million annually, which includes 31 positions.	
7.	January Governor's Budget	**Transportation Infrastructure Workforce Development Program.** The Governor's budget includes $50,000,000 in authority over four fiscal years starting in 2024-25 to invest in workforce development education and training in collaboration with the California Workforce Development Board (CWDB) and other partners. SB150 (Chapter 61, Statutes of 2023), was approved by the legislature and signed by the Governor in July 2023, and the bill would require the Department of Transportation to work in partnership with the CWDB to support California's high road construction careers program. The bill would require the department to reserve a minimum aggregate total of $50,000,000 of federal funds from the federal IIJA to be allocated over 4 years to support the program.	Approve as budgeted.
8.	May Revision	**Renewable Energy Program Evaluation (Senate Bill 49).** The May Revision includes $1,287,000 ongoing for seven positions to complete the program evaluation for renewable energy created by Chapter 379, Statutes of 2023 (SB 49). SB 49 as enacted requires Caltrans, by December 31, 2025, in coordination with the California Energy Commission (Commission), the California Public Utilities Commission (CPUC), and the California Independent Systems Operator (CA ISO) to evaluate the suitability and identify the developable amount of renewable energy and energy storage capacity of the various types of Caltrans-owned rights-of-way (properties). Caltrans requests seven positions to complete this evaluation and establish a new leasing program for renewable energy generation and storage development in Caltrans-owned properties: one Staff Services Manager I, one Senior Transportation Surveyor, One Supervising Right of Way Agent, and four Senior Right of Way Agents.	Approve as budgeted.

9.	May Revision	**Southern California Native American Freeway (SR 210) Partner Coordination (Assembly Bill 776).** The May Revision includes $474,000 ongoing for two positions and consultant services for coordinated efforts to recognize historical and cultural importance of California tribes along State Route 210, as stipulated by Chapter 543, Statutes of 2023 (AB 776). Caltrans will work with the Native American Heritage Commission, the California Advisory Committee on Geographic Names, the Counties of Los Angeles and San Bernardino, and California tribes local to, or historically located along, State Route 210. The two positions and consultant services will serve as a neutral mediator to help the California Native American Tribes reach agreement on a name for the freeway and what to recognize along the route.	Approve as budgeted.
10.	May Revision	**Department of Transportation Chief Advisor on Bicycling and Active Transportation (SB 538).** The May Revision includes $211,000 ongoing for one position to act as the Chief Advisor on Bicycling and Active Transportation that shall serve as the department's primary advisor on all issues related to bicycle transportation, safety, and infrastructure, as required by Chapter 617, Statutes of 2023 (SB 538). Caltrans is requesting $211,000 for one CEA (Career Executive Assignment) Range-A position to serve as the Chief Advisor on Bicycling and Active Transportation to serve as this point-on-contact to external partners on topics related to walking biking safety, infrastructure and similar, as well as coordinate internally with executive management in key Districts and Divisions throughout the department that do work related to active transportation and complete streets.	Approve as budgeted.
11.	May Revision	**Asset Management State Highway System Data and Information (SB 695).** The May Revision includes $442,000 and two positions from the State Highway Account (SHA) to provide State Highway System project data and information on Caltrans' public website, as required by Chapter 629, Statutes of 2023 (SB 695). To implement the new reporting requirements in SB 695, Caltrans requests two positions: one senior engineering position and one research data specialist III position to implement new business processes; provide policy guidance; develop data structure, processes, and management practices; provide new tools; and, provide training to implement performance management in funding programs. In addition, Caltrans requests $30,000 for permanent ongoing additional operating expenses (OE) (in addition to standard OE compliment). The costs for software and training are the tools needed to develop and continue ongoing reporting requirements.	Approve as budgeted.

12.	May Revision	**Intercity Passenger Rail Program.** The May Revision includes a three-year increase of $66,055,000 in 2024-25, $72,119,000 in 2025-26, and 72,508,000 in 2026-27 in Operating Expenses from the Public Transportation Account for the operation of the Intercity Passenger Rail Program. Caltrans currently receives $130,867,000 annually for operation of the state supported intercity rail service. Through the annual business plan approval process, Caltrans allocates the entire amount of the $130,867,000 to the Capitol Corridor Joint Powers Authority (CCJPA), San Joaquin Joint Powers Authority (SJJPA) and Los Angeles – San Diego – San Luis Obispo Rail Corridor (LOSSAN Corridor) Agency to administer and operate their respective services. However, the California State-Supported Intercity Passenger Rail Program is facing an operating shortfall in FY 2024-25 due to COVID-induced declines in ridership and increasing costs to operate the service. Caltrans requests limited-term funding to improve service levels across CCJPA, SJJPA, and LOSSAN to help to draw back riders (and revenue) at a faster pace.	Approve as budgeted.
13.	May Revision	**Technical Adjustments.** The May Revision includes the following technical adjustments to various budget items: Reappropriations • Office Space Related Costs — Reappropriate up to $1,800,000 of the encumbered balance of Item 2660-001-0042, Budget Act of 2021. This will allow Caltrans to continue paying remaining invoices that will come in after June 30, 2024. Caltrans has adopted a hybrid work environment for which these funds are essential to complete workspace modifications that are of vital importance to the department. This reappropriation is requested for the completion of workspace reconfigurations and staff box moves as Caltrans continues operating within a hybrid telework model and makes efficient use of available office building space.	Approve as budgeted.

		• Road Charge Pilots Program — Reappropriate $3,000,000 in authority for expenditure of Federal Grant funding and $200,000 of the unencumbered balance of Item 2660-001- 0042, Budget Act of 2023. • Bureau of Land Management Grant — Reappropriate up to $200,000 in authority for expenditure of Bureau of Land Management Federal Grant funding. Budget Act Changes • 2660-101-0042-Add provisional language to increase the encumbrance and liquidation period for the Equipment Service Program. • 2660-001-0042- Add provisional language to allow adjustments for insurance costs for the Department of General Services Office of Risk and Insurance Management self-insurance program for Caltrans mobile fleet equipment. The Department of General Services adjusts the premiums annually. Budget Authority • An increase of $3,815,000 in funding from the State Highway Account to fund the increase in insurance costs for the Department of General Services Office of Risk and Insurance Management self-insurance program for Caltrans mobile fleet equipment. The Department of General Services adjusts the premiums annually and Caltrans cannot absorb the increased 2024-25 rate. • An increase of $2,200,000 in authority for two years for expenditure of Federal Grant funding for State and Federal Mass Transit Program for the Southern California Mobility Wallet Project. The grant was awarded to Caltrans in partnership with LA Metro. • An increase of $2,000,000 in Federal authority for two years to allow usage of the remaining "Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation" (PROTECT) 2% Planning Set-Aside formula funding to solicit adaptation planning studies (feasibility studies). • An increase of $2,350,000 in federal authority for two years for maximum utilization of allowable amounts for administration of FTA 5310 and 5311 grants. 5310 grants aim to enhance mobility of seniors and individuals with disabilities. 5311 grants are for Rural Transit and Intercity Bus improvements.	

		• A one-time increase of $2,800,000 in reimbursement authority for Caltrans to administer the Port and Freight Infrastructure Program. • An increase of $125,000 annually for four years in federal authority for the Transportation Infrastructure Workforce Development Program Budget Change Proposal (2660-065- BCP-2024-GB) to align with the intended amount of $50,000,000 that was included in the January 10, 2024, Governor's Budget. • An increase of $5,000,000 in reimbursement authority from the State Highway Account for the Administration Program to address an increase in administrative cost recoveries associated with increased departmental reimbursement work being performed to support locally and state funded projects delivered on the state highway system. Net Zero Program Transfers • Net Zero Transfer of positions and $2,143,000 expenditure authority from the Administration Program to the Statewide Planning Program.	

2667 HIGH-SPEED RAIL AUTHORITY, OFFICE OF INSPECTOR GENERAL

Issues 14: Establishing the Office of Inspector General, High Speed Rail

Issue #	**Origin**	**Subject**	**Staff Recommendation**
14.	January Governor's Budget	**Establishing the Office of Inspector General, High Speed Rail.** The Governor's budget proposes $2 million from the Public Transportation Account in new funding from transportation special funds (including $1.4 million on an ongoing basis) to support ten ongoing and four limited-term positions to launch the High-Speed Rail Authority (HSRA) Office of the Inspector General (OIG).	Approve $2,039,000 in 2024-25 and ongoing from the Public Transportation Account to support 14 permanent positions. Approve placeholder trailer bill language that provides technical cleanup of statutes concerning the Office of Inspector General, High Speed Rail.

2670 Board of Pilot Commissioners

Issues 15: Board of Pilot Commissioners' Business Modernization

Issue #	Origin	Subject	Staff Recommendation
15.	May Revision	**Board of Pilot Commissioners' Business Modernization.** The May Revision includes $139,000 in 2024-25 and $288,000 in 2025-26 from the Board of Pilot Commissioners' Special Fund to complete evaluation and planning efforts for business modernization to support program operation. The BOPC received approval for a BCP for 2023-24, providing expenditure authority over a two year period to modernize business processes. Since that time the California Department of Technology (CDT) raised its costs for providing information technology oversite. In addition, due to staff turnover at the BOPC and at the California Department of Highway Patrol (CHP), which provides administrative support to the BOPC, the procurement of a project approval lifecycle (PAL) project manager for the modernization project was delayed, extending the project to 2025-26. The BOPC requests a budget augmentation of $139,000 in 2024-25, and $288,000 in 2025-26 from the BOPC's Special Fund to complete evaluation and planning efforts for business modernization to support program operations.	Approve as budgeted.

2740 DEPARTMENT OF MOTOR VEHICLES

Issues 16-20: Various Proposals

Issue #	Origin	Subject	Staff Recommendation
16.	May Revision	**Budget Augmentation for California Department of Technology Fee Increases.** The May Revision includes $17.3 million from the Motor Vehicle Account (MVA) in 2024-25 and ongoing for CDT rate increases for services pertaining to technology project oversight, planning, procurement, and data center. In the last year, CDT has issued increased rates, including $7.8 million in 2023 and $8.6 million in 2024. In addition, CDT requires DMV to upgrade hardware and software, which costs $930,000 to comply. In total, DMV requests $17.3 million ongoing from the MVA to address these rate increases and requirements from CDT.	Approve as budgeted.
17.	May Revision	**Chapter 314, Statutes of 2021 (AB 796) – Voter Registration: California New Motor Voter Program.** The May Revision includes $4.5 million from the General Fund in 2024-25, for one-time costs of $4.3 million, and an ongoing amount of $198K for one permanent position and legal workload related to AB 796. AB 796 (Berman, Chapter 314, Statutes of 2021) amends the California New Motor Voter Program, separating voter applications from DMV transactions by requiring that voter registration information is captured in certain incomplete DMV transactions and transmitted to Secretary of State. This request focuses on both the program and technology resources required for the implementation of the provisions with an effective date of July 1, 2025, or upon the completion of the Department's enterprise modernization effort, whichever is earlier.	Approve as budgeted.

18.	May Revision	**Commercial Driver's License Information System (CDLIS) Compliance.** The May Revision includes $2.4 million from the Motor Vehicle Account in 2024-25, for eleven temporary IT positions to support the planning, development, and implementation activities for updates to the CDLIS program. CDLIS is a national commercial driver program that will both send data to and receive information through the American Association of Motor Vehicle Administrators (AAMVA) to share information amongst states with the goal of increasing public safety on roads. The federal government is requiring DMV to share data regarding driving convictions by August 22, 2024, data regarding drug and alcohol convictions by November 18, 2024, and medical examinations by June 23, 2025, for commercial driver license holders. These new federally mandated changes are required for all commercial drivers and are enhancements and refinements to the current CDLIS programming in DMV's systems. The department requests IT staffing—specifically, one IT Specialist to help support the transition and modification to the CDLIS program to meet these federal requirements.	Approve as budgeted.
19.	May Revision	**Digital eXperience Platform (DXP) Project.** The May Revision includes 90 temporary positions and $60.3 million in 2024-25 form the Motor Vehicle Account to complete the design, development, and implementation of the vehicle registration phase and to continue the driver licensing phase of the Digital eXperience Platform (DXP) Project. The DXP Project is a multi-year comprehensive replacement of all DMV legacy systems to modernize business processes and service delivery. DXP will provide the platform and technology for Vehicle Registration (VR), Occupational Licensing (OL), and Control Cashiering/Inventory Management (CC/IM), in addition to Driver's License (DL) and Identification (ID) card services and programs. The new technology will provide the flexibility to adapt business and technology processes to comply with changing legislations and new mandates in a timely manner. DMV received a multi-year appropriation totaling $193.5 million over a three-year period to implement the OL and VR components of the DXP Project. To continue and modernize its VR and DL systems, DMV requests $15.8 million for 90 positions in 2024-25, $39.8 million for supporting contracts, and $4.7 million for other operating expenses and equipment.	Approve as budgeted.

20.	May Revision	**San Francisco: Field Office Replacement – Revert Existing and Authorize Build-to-Suit Lease.** The May Revision includes a reversion of existing design-build authority of $41,654,000 from the Public Buildings Construction Fund and trailer bill language to shift the San Francisco Field Office Replacement from a capital outlay project to a build-to-suit lease project. Authority for this project was initially provided in the 2021 Budget Act. Shifting this project to a build-to-suit lease model will allow for a mixed-use facility at the site of the existing field office providing affordable housing and DMV services. In future years, this project will require approximately $3 million one-time (General Fund or Motor Vehicle Account) funding for lease overhead costs, relocation costs, and an average $6 million annually (General Fund or Motor Vehicle Account) over the 20-year lease for rent. Upon completion of the lease, the state will own the DMV field office.	Approve as budgeted.

Senate Budget and Fiscal Review—Scott Wiener, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Aisha Wahab, Chair
Senator María Elena Durazo
Senator Josh Newman
Senator Kelly Seyarto

Thursday, May 30, 2024
State Capitol – Room 112
9:30 a.m. or Upon Adjournment of Session

Consultant: Nora Brackbill

Part A - Public Safety

Vote-Only Calendar

Public Comment

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Vote-Only Calendar

0250 Judicial Branch

Issue	Source	Proposal	Description	Staff Recommendation
1	Governor's Budget	Court of Appeal: New Sixth Appellate District Courthouse	$89.5 million Lease Revenue Bond authority for the Design-Build phase of the New Sixth Appellate District Courthouse in Santa Clara County.	Approve as Budgeted
2	Governor's Budget	Remote Hearings for Civil and Criminal Proceedings	Statutory changes to remove the sunsets on certain currently allowed remote court proceedings.	Adopt placeholder trailer bill
3	Governor's Budget	Trial Court Emergency Fund	Statutory changes to allow the transfer of $5 million one-time from this account, which was approved in Early Action, and to update the reporting requirements.	Approve as Budgeted and adopt placeholder trailer bill
4	Governor's Budget	Trial Court Trust Fund Reserve Cap	Statutory changes to allow trial courts to maintain a reserve of up to 5 percent of the previous year's operating budget or $100,000 for small courts. The current statutory limit is 3 percent.	Reject
5	Governor's Budget	Trial Courts Facility Operations and Maintenance	$3.57 million for maintenance of the Stanislaus–New Modesto Courthouse opening in 2024–25.	Approve as Budgeted
6	Governor's Budget and May Revision Update	CARE Act: implementation savings, ongoing adjustments, and provisional language	Reversion of $17.5 million in 2023-24 due to savings from CARE Act implementation, and adjustment of the ongoing funding for implementation of the program, resulting in savings of $59.1 million, and provisional language updating the number of counties eligible to receive grants for legal representation in CARE Act proceedings and to allow for the State Bar to contract for public defender services in a county that does not have a public defender office.	Approve as budgeted at May Revision and adopt provisional budget bill language.
7	Governor's Budget and May Revision Update	Court Firearm Relinquishment Grant Reduction	Reduction of $18.6 million for court-based firearm relinquishment, bring the total from $40 million to $21.4 million one-time.	Approve reduction of $9.4 million only and direct Judicial Council to award $9.2 million in grants.
8	Governor's Budget and May Revision Update	Ongoing Funding for Court-Based Self Help Centers	$19.1 million General Fund ongoing for court-based self-help centers. This would maintain the current level of funding for self-help centers at $30 million ongoing, a result of limited-term funding that would otherwise expire this year.	Approve May Revision proposal for three years only and adopt provisional budget bill language with reporting.

Issue	Source	Proposal	Description	Staff Recommendation
9	Governor's Budget and May Revision Update	State Court Facilities Construction Fund Backfill	$40 million in 2024-25 and $89 million ongoing General Fund backfill for the State Court Facilities Construction Fund.	Approve as Budgeted at May Revision
10	Governor's Budget and May Revision Update	Trial Court Trust Fund Backfill Adjustment	$37.3 million ongoing General Fund backfill for the Trial Court Trust Fund.	Approve as Budgeted at May Revision
11	May Revision	Allocation for Employee Compensation and Staff Benefits	$15 million General Fund in 2023-24 and 2024-25 to reflect the revised employee compensation adjustment for judges and justices.	Approve as Budgeted at May Revision
12	May Revision	Court Interpreter Grant Reduction	Revert remainder of one-time funding for court interpreter grants, for savings of $20.4 million.	Maintain $6.8 million to implement the Workforce Pilot Program approved in the 2023 Budget Act, sweep remainder of funding. Adopt provisional budget bill language.
13	May Revision	Court Reporters in Civil and Family Law Reduction	Reversion of $16 million in 2023-24 and reduction of $10 million in 2024-25 and ongoing funding provided to expand the number of court reporters in civil and family law cases.	Reject ongoing reduction but return unspent savings from 2023-24
14	May Revision	Extension of Liquidation for Deferred Maintenance Projects	Budget bill language to extend the liquidation period of $1.6 million General Fund provided in the 2018 budget, and $6.6 million General Fund provided in the 2019 budget, to June 30, 2025, for the Hayward Hall of Justice and Foltz Criminal Justice Center, due to unforeseen challenges during construction, scope revisions, and extended delays in required inspections by the State Fire Marshal.	Approve as Budgeted at May Revision
15	May Revision	Implementation of Piqui's Law: Keeping Children Safe from Family Violence Act (SB 331)	4.0 positions and $1.1 million General Fund and $150,000 Family Law Trust Fund in 2024-25, $1.1 million General Fund and $210,000 Family Law Trust Fund in 2025-26, and $1.1 million General Fund in 2026-27 and ongoing to implement the requirements of Piqui’s Law: Keeping Children Safe from Family Violence Act (SB 331 [Rubio], Chapter 865, Statutes of 2023).	Approve as Budgeted at May Revision
16	May Revision	Judicial Council Operational Savings	Reduction of $5 million in 2023-24 reflecting savings from Judicial Council operations.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
17	May Revision	Ongoing Reduction to Trial Court Operations	Reduction of $97 million ongoing for trial court operations, consistent with the 7.95 percent statewide reduction to state operations.	Approve as Budgeted at May Revision
18	May Revision	Reappropriation: Remote Access to Court Proceedings (AB 716)	Reappropriation of $5.1 million from 2023-24 to 2024-25 to implement AB 716 (Bennett), Chapter 526, Statutes of 2021.	Approve as Budgeted at May Revision
19	May Revision	Sonoma County: New Santa Rosa Criminal Courthouse Supplemental Appropriation	$11.5 million one-time additional lease revenue bond authority for the construction phase of a new criminal courthouse in Santa Rosa. The funding is needed to address costs due to construction delays and design issues. The total project cost is $226.9 million, and the courthouse is expected to be completed by March 2025.	Approve as Budgeted at May Revision
20	May Revision	Trial Court Employee Benefit Adjustment	$20.1 million ongoing to reflect the updated health benefit and retirement rate changes for trial court employees.	Approve as Budgeted at May Revision
21	May Revision	Trial Court Trust Fund Unrestricted Fund Balance	Transfer of $25 million from the Trial Court Trust Fund Unrestricted Fund Balance to the General Fund. A $75 million transfer from this account was approved in Early Action.	Approve as Budgeted at May Revision
22	Legislative Proposal	County Law Libraries Meeting Frequency	Statutory changes to allow county law libraries to meet quarterly, instead of monthly.	Adopt placeholder trailer bill.
23	Legislative Proposal	Habeas Corpus Resource Center (HCRC)	Statutory changes to allow the HCRC to represent people sentenced to life without parole in addition to people sentenced to death in habeas corpus proceedings. This allowance is consistent with the Office of the State Public Defender, and provides continuity of representation (e.g. if a death sentence is vacated and converted to life without parole) and to help train habeas corpus attorneys.	Adopt placeholder trailer bill.

0390 JUDGES RETIREMENT SYSTEM

Issue	Source	Proposal	Description	Staff Recommendation
24	May Revision	Increase in State Contributions to the Judges Retirement System II	Decrease of $38,000 ongoing as compared to Governor's Budget, which assumed a higher contribution rate.	Approve as Budgeted at May Revision

25	May Revision	Reappropriation of Mallano Judgement funding	Reappropriation of $65,000 General Fund to allow CalPERS to continue making payments for the post judgment award in Robert M. Mallano, Individually, and Behalf of a Class of Similarly Situated Persons v. John Chiang, Controller of the State of California (Superior Court of California, County of Los Angeles, Case No. BC-533770).	Approve as Budgeted at May Revision

0552 Office of the Inspector General

Issue	Source	Proposal	Description	Staff Recommendation
26	May Revision	Medical Inspection Unit Reduction	Reduction of $1.9 million General Fund in 2024-25 and $3.9 million in 2025-26 and ongoing for the Medical Inspection Unit. This funding was originally provided in the 2022-23 Budget Act to support medical inspections and inspection reports on a more frequent basis. The intent of the reduction is to decrease the frequency of medical inspections for delegated prisons, while maintaining a shortened period for non-delegated prisons. There are 10 prisons that have not been delegated back to the state.	Approve as Budgeted at May Revision

0690 Office of Emergency Services

Issue	Source	Proposal	Description	Staff Recommendation
27	Governor's Budget	Multifamily Seismic Retrofit Matching Funds	Elimination of $15 million one-time General Fund provided in 2023-24 to establish the Seismic Retrofitting Program for Soft Story Multifamily Housing.	Approve as Budgeted
28	Governor's Budget and May Revision Update	Flexible Cash Assistance for Survivors of Crime Reduction	Elimination of $47.5 million for the Flexible Assistance for Survivors Program. The Governor’s Budget had proposed to delay this funding until 2025-26.	Reject
29	Governor's Budget and May Revision Update	Public Safety Radio Modernization to Support Equal Access to 9-1-1 Services and Equipment Upgrades	$30.1 million in State Emergency Telephone Number Account (SETNA) Fund authority for four years, funded by an estimated increase of 5 cents to the 9-1-1 surcharge, to complete the California Radio Interoperable System (CRIS) build out, increase the coverage footprint, and expand the network capacity. Of this funding, $6.4 million will provide 13 limited-term positions and add 12 new positions, and $23.7 million will be used to purchase equipment.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
30	May Revision	Fire Fleet Vehicle Replacements: 2023-24 Unencumbered Balance	Reversion of up to $6.6 million from the 2022 Budget Act, which was appropriated for the purchase of fire engines and water tenders.	Approve as Budgeted at May Revision
31	May Revision	State Disaster Warehousing Operations: 2022-23 Unencumbered Balance	Reversion of the unencumbered balance of up to $640,000 for warehousing supplies and trailers authorized in the 2022 budget.	Approve as Budgeted at May Revision
32	May Revision	Biannual Strategy Implementation Report Technical Adjustment	Provisional language to change the Biannual Strategy Implementation Report date from February 1 to May 1 of each year, reflecting the timeline of data availability.	Approve as Budgeted at May Revision
33	May Revision	California Firefighter Cancer Prevention and Research Program (AB 700)	Two positions and $666,000 General Fund in fiscal year 2023-24, and two positions and $619,000 ongoing to support the California Firefighter Cancer Prevention and Research Program (AB 700 [Grayson], Chapter 268, Statutes of 2023).	Approve as Budgeted at May Revision
34	May Revision	California State Nonprofit Security Grant Program (AB 1185)	One position and $234,000 in General Fund for fiscal year 2024-25 and ongoing to implement the California State Nonprofit Security Grant Program as enacted by Chapter 566, Statutes of 2023 (AB 1185, Gabriel).	Approve as Budgeted at May Revision
35	May Revision	Listos California Emergency Preparedness Campaign Reduction	Reduction of $12.5 million ongoing General Fund for the Listos California Emergency Preparedness Campaign, reducing by half the $25 million annual funding authorized in the 2021 budget.	Approve as Budgeted at May Revision
36	May Revision	Prepare California Hazard Mitigation Assistance Program: Extension of Liquidation	Extension of liquidation from June 30, 2026, to June 30, 2033, for the Prepare California Hazard Mitigation assistance program, due to long federal timelines.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
37	May Revision	Relocation of Red Mountain Communications Site, Del Norte County - Supplemental Appropriation and Reversion	Net increase of $3.2 million to fund increased costs. The project is to construct three new communications facilities to replace the Red Mountain facility, at the following sites: Rattlesnake Peak, Alder Camp, and Big Lagoon. This additional funding will ensure the 199-foot radio towers are strong enough to withstand wind and precipitation maximums in Del Norte and Humboldt Counties.	Approve as Budgeted at May Revision
38	May Revision	State and Local Cybersecurity Grant Program Funding Authority	$15.8 million one-time federal reimbursement authority reflecting federal funding awarded for the State and Local Cybersecurity Grant Program.	Approve as Budgeted at May Revision with provisional budget bill language
39	May Revision	Warehousing Operations for Emergency Response Equipment and Supplies Reduction	Reduction of $9.5 million in 2024-25 through 2027-28 for warehousing and personal protective equipment procurement, storage, and replenishment costs.	Approve as Budgeted at May Revision
40	Legislative Proposal	Federal Victims of Crime Act Backfill	$103 million ongoing to augment federal funding for victim services provided through the Victims of Crime Act.	Approve Legislative Proposal
41	Legislative Proposal	Nonprofit Security Grant	$80 million ongoing for the Nonprofit Security Grant.	Approve Legislative Proposal

0820 Department of Justice

Issue	Source	Proposal	Description	Staff Recommendation
42	Governor's Budget	Controlled Substance Utilization Review and Evaluation System (CURES) Fee Increase	Statutory changes to increase the CURES fee from $9 to $15 beginning April 1, 2025 to cover the costs of administering the program.	Adopt placeholder trailer bill
43	Governor's Budget	Small Client Legal Workload	$4 million General Fund in 2024-25 through 2026-27 to support workload on behalf of small client departments. This retains baseline funding that was authorized for three years in the 2021 budget.	Reject
44	May Revision	Climate Nuisance Litigation	$4.7 million Unfair Competition Law Fund in 2024-25 through 2026-27 to support the prosecution of an unprecedented civil action on behalf of the People of the State of California against several major oil companies.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
45	May Revision	Division of Medi-Cal Fraud and Elder Abuse	$7.8 million and 85 positions in 2024-25 and ongoing ($1.9 million False Claims Act Fund and $5.9 million Federal Trust Fund) to expand investigations, enforcement activities, and prosecutions using increased yearly federal grant funding.	Approve as Budgeted at May Revision
46	May Revision	Firearms Information Technology Systems Modernization (FITSM) Project	$3.9 million General Fund and 8 positions in 2024-25 and $1.2 million in 2025-26 and ongoing to continue the project approval lifecycle process and address ongoing workload pertaining to the FITSM Project, which replaces 17 firearms and ammunition databases and systems with a unified system. This funding is for the completion of Stages 3 (solutions analysis) and 4 (project readiness and approval) of the state's Project Approval Lifecycle Process.	Approve as Budgeted at May Revision
47	May Revision	Legal Resources and Federal Matching Fund Reductions	$3 million ongoing reduction, including $1 million reduction to the Division of Legal Services for activities related to federal lawsuits, and a $2 million fund shift from the General Fund to the False Claims Act Fund for federal matching funds for the Division of Medi-Cal Fraud and Elder Abuse.	Approve as Budgeted at May Revision
48	May Revision	Legal Services Rate Increase and Departmental Services Reallocation	$10.83 million ($8.53 million General Fund and $2.3 million Fingerprint Fees Account) in 2024-25 and ongoing to allow DOJ to update its departmental services allocation model. DOJ will also update its legal rates to $228 for attorney services, $213 for paralegal services, and $202 for auditor and research analyst services.	Reject without prejudice in order to evaluate impact of rate increase and reorganization.
49	May Revision	License 2000 System Replacement Project	$3.1 million Indian Gaming Special Distribution Fund in 2024-25 to continue the License 2000 System Replacement Project.	Approve as Budgeted at May Revision
50	May Revision	Provisional Language for Settlement Payment	Provisional language to allow the Department of Finance to augment the Department’s budget to pay legal settlement costs.	Adopt provisional language
51	May Revision	Reduction to the Division of Law Enforcement and the Division of Legal Services	Ongoing reductions of $10 million for the Division of Law Enforcement and $5 million for the Division of Legal Services.	Approve reduction for the Division of Legal Services, and reject the reduction for the Division of Law Enforcement.
52	May Revision	Remote Caller Bingo Interest Loan Repayment	$299,000 one-time General Fund in 2024-25 and provisional language for the payment of unpaid interest related to the repealed Remote Caller Bingo Program.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
53	May Revision	Trailer Bill: Amendments to Chapter 444, Statutes of 2023 (AB 567, Ting) - Criminal Records Relief	Statutory changes clarifying how DOJ should confirm a requestor's identify related to criminal records relief.	Adopt placeholder trailer bill.
54	May Revision	Trailer Bill: Technical Changes to Chapter 457, Statutes of 2023 (AB 853, Maienschein)	Statutory changes to correct the associated fee level from 0.00045 percent to 0.045 percent.	Adopt placeholder trailer bill
55	May Revision	Tribal Key Employee Licensing Workload May Revision Adjustment	Increase of $68,000 in 2024-25 and decrease of $3,000 in 2025-26 and ongoing Indian Gaming Special Distribution Fund to reflect a technical correction as compared to Governor's Budget.	Approve as Budgeted at May Revision
56	May Revision	Unfair Competition Law Fund Loan	$30 million additional loan from the Unfair Competition Law Fund to the General Fund, to be repaid in 2026-27. This brings the total loan to $130 million.	Approve as Budgeted at May Revision with provisional budget bill language
57	May Revision	Various Proposals to Implement Chaptered Legislation: Chapters 406, 444, 457, 513, 524, 638, 828, Statutes of 2023, Chapter 753, Statutes of 2019, and Various Firearm-Related Legislation	$17.5 million ($16.0 million General Fund) in 2024-25, $20.1 million ($18.7 million General Fund) in 2025-26, $16.9 million ($12.8 million General Fund) in 2026-27, and $15.6 million ($10.2 million General Fund) in 2027-28 and ongoing to implement chaptered legislation.	Shift $840,000 in 2024-25 and $814,000 in 2025-26 and 2026-27 for the implementation of AB 1076 to the Unfair Competition Law Fund. Approve remainder of request as budgeted at May Revision.

5225 Department of Corrections and Rehabilitation

Issue	Source	Proposal	Description	Staff Recommendation
58	Governor's Budget	Additional Correctional Officers	$8.6 million ongoing General Fund and 49 correctional officer positions to escort condemned people who are being transferred from death row housing to general population settings at various prisons.	Reject

Issue	Source	Proposal	Description	Staff Recommendation
59	Governor's Budget	Administrative Reduction for Prison Closures	Reduction of $9.6 million and 57 positions General Fund in 2024-25 and $11.1 million and 65 positions in 2025-26 and ongoing to reflect administrative headquarters reductions associated with workload decreases due to prison closures.	Approve as budgeted
60	Governor's Budget	California Health Care Facility, Stockton: Potable Water Treatment System	$959,000 General Fund for a potable water treatment system project at the California Health Care Facility in Stockton.	Approve as Budgeted
61	Governor's Budget	Employee Health Program Reduction	Reduction of 38.0 positions and $7.1 million General Fund in 2024-25 and ongoing for the Employee Health Program.	Fully eliminate the program, for additional savings of $8 million.
62	Governor's Budget	Increased Attorney Fees for Board of Parole Hearings	$2.1 million General Fund in 2024-25 and ongoing to maintain updated funding for fees paid to attorneys who represent incarcerated persons at parole hearings.	Approve as Budgeted
63	Governor's Budget	Medical Program Shortfall	$40 million one-time General Fund to address increased personnel and operational costs within the medical budget.	Reject
64	Governor's Budget	Parolee Community Reentry Programs	$2.3 million General Fund in 2024-25, growing to $3.4 million in 2028-29 for parole reentry contracts that recently expired or will expire in 2024-25.	Approve as Budgeted
65	Governor's Budget	Reduction of TransMetro Bus Contract	Elimination of $2 million in funding for bus transportation to prison visits. This funding was added in the 2021-22 budget, when the third day of in-person visitation was added. The Administration noted that the bus service was underutilized.	Approve as Budgeted
66	Governor's Budget	Voice Calling	$7.4 million one-time in 2023- 24 and $8.2 million ongoing, resulting in a total of $32.6 million in 2023-24 and $36.7 million ongoing General Fund to implement SB 1008 (Becker), Chapter 827, Statutes of 2022 and provide free voice calling to incarcerated individuals.	Approve as Budgeted
67	Governor's Budget and May Revision Update	Adult Population Adjustment	The May Revision reflects an estimated average daily adult incarcerated population of 90,860 in 2024-25, which is 825 fewer than projected in the Governor’s Budget. The projected parolee average daily population is 41,287 in 2024- 25, which is a decrease of 935 compared to the Governor’s Budget projection. This results in a net decrease of $21,209,000 and an increase of 69.4 positions in 2024-25, with varying amounts in the subsequent years, resulting in a decrease of $13,523,000 and an increase of 49.8 positions ongoing, comprised of a decrease of $13,327,000 General Fund and $196,000 Inmate Welfare Fund ongoing.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
68	Governor's Budget and May Revision Update	Closure of Chuckawalla Valley State Prison	Reduction of $77.6 million ($77.2 million General Fund) and 436.1 positions in 2024-25 and $132.3 million (131.6 million General Fund) and 743.2 positions in 2025-26 and ongoing reflecting the closure of Chuckawalla Valley State Prison in November 2024.	Approve as Budgeted at May Revision
69	Governor's Budget and May Revision Update	Contract Medical Costs	$38.5 million ongoing General Fund and a change in methodology to address a structural deficit in funding for contract medical services.	Reject
70	Governor's Budget and May Revision Update	COVID-19 Mitigation Efforts, Testing Protocol Changes, Current Year Savings, and Provisional Language	$28 million ongoing for COVID-19 mitigation, and a reversion of $24.3 million from 2023-24 related to lower than anticipated costs.	Reappropriate $24.3 million from 2023-24 and reject new funding.
71	Governor's Budget and May Revision Update	Statewide Correctional Video Surveillance Delay and May Technical Update	Delay the installation of five fixed camera projects costing $27.2 million General Fund from 2023-24 to 2025-26 and 2026-27. Maintains $50.4 million General Fund in 2023-24 and associated ongoing resources to implement five other projects.	Approve as Budgeted at May Revision
72	Governor's Budget and May Revision Update	Utilities Costs	$23 million General Fund in 2024-25 and $46 million ongoing to address the increased costs of utilities.	Reject
73	May Revision	California Advancing and Innovating (CalAIM) Justice-Involved Initiative--Medi-Cal Billing System	7.0 permanent information technology positions and reimbursement authority of $16.5 million from Providing Access and Transforming Health one-time funds in 2024-25 to create an information technology-based billing system (Medi-Cal Reimbursement System) to support implementation of the California Advancing and Innovating Medi-Cal Justice-Involved Initiative, and budget bill language is to adjust this amount.	Approve funding authority and adopt provision language directing CDCR to use PATH funding for planning for community handoffs pre-release, in addition to building out its own billing system.
74	May Revision	Cancel Managed Access System Expansion	Reversions of $8.5 million in 2022-23 and $15.3 million in 2023-24 to cancel the Managed Assess System Expansion due to inefficiency of the intervention and potential for high ongoing costs due to evolving technology.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
75	May Revision	CDCR Headquarters Lease Reduction	Reduction of $8.5 million in 2025-26 and ongoing related to CDCR's headquarters lease. CDCR plans to discontinue its lease on 1515 L Street and consolidate offices in various other locations.	Approve as Budgeted at May Revision
76	May Revision	Data Collection Analysis and Outcomes Funding Reduction	Reversion of $6 million one-time that was added in the 2022 Budget Act to analyze parole data.	Approve as Budgeted at May Revision
77	May Revision	Department of Technology and Department of General Services Rate Increase	$5.8 million General Fund in 2024-25 and ongoing to address fee increases issued by the California Department of Technology and vehicle insurance assessment increases issued by the Department of General Services, consistent with increases for other departments statewide.	Reject
78	May Revision	Employee Compensation and Workers' Compensation May Revision Adjustments	Net decrease of $76.7 million ongoing related to employee compensation and $5.7 million ongoing related to workers' compensation, both as compared to Governor's Budget.	Approve as Budgeted at May Revision
79	May Revision	Hope and Redemption Program Continuation	$4 million in 2024-25 and $4 million in 2025-26 to support the continuation of the Hope and Redemption Team Program in 2024-25 and 2025-26.	Approve as Budgeted at May Revision
80	May Revision	Housing Unit Deactivations	$80.6 million General Fund reflecting the deactivation of 46 housing units across 13 prisons, totaling approximately 4,600 beds.	Deactivate an equivalent capacity of yards, rather than individual housing units, to save a minimum of $80.6 million ongoing or more.
81	May Revision	Level IV Visiting Reduction	Elimination of the third day of visitation at Level IV institutions, resulting in savings of $4.1 million.	Reject
82	May Revision	Los Angeles Fire County Fire Camp Contract	Reduction of $2.4 million in 2024-25 and $4.8 million in 2025-26 and ongoing reflecting a proposed cancellation of the fire suppression services contract with Los Angeles County.	Reject
83	May Revision	May Revision Technical Adjustments	Reduction of $882,000 ongoing and 5 positions for the Statewide Correctional Video Surveillance proposal, reversion of $700,000 from the 2023 Budget Act for the TransMetro bus contract, and various technical adjustments resulting in a net increase of $273,000 ongoing as compared to Governor's Budget.	Approve as Budgeted at May Revision

Issue	Source	Proposal	Description	Staff Recommendation
84	May Revision	Modifications to Pre-Release Reentry Funding	Realignment of $102.8 million in reentry expansion funding, originally provided in the 2022 Budget Act, from a separate budget item to the main budget item for reentry center. These adjustments make this consolidated funding available to support projected costs associated with both existing and expansion reentry beds, based on projections of when those new facilities will become operational.	Approve as Budgeted at May Revision
85	May Revision	Peace Officer Training Reduction (Block Training and Northern California Women's Facility)	Reduction of $8.5 million in 2023-24, $13.8 million in 2024-25, and $22.6 million ongoing reflecting a reduction in annual training hours for correctional officers from 48 hours to 40 hours, and a discontinuation of the California Reality Based Training Center.	Approve as Budgeted at May Revision. Reject Reappropriation of California Reality Based Training Center Funding Governor's Budget proposal.
86	May Revision	Reappropriation of San Quentin Rehabilitation Center Capital Outlay Funding	Reappropriation $12 million from 2023-24 for various capital outlay projects at San Quentin.	Reject
87	May Revision	Reappropriation of Fleet Asset Funding	Reappropriation of $1.1 million from the 2021 Budget Act and $147,000 from the 2022 Budget Act for fleet assets.	Reject
88	May Revision	Remove References to Closed Prisons	Statutory changes to delete obsolete references to closed prisons and make other conforming changes.	Adopt placeholder trailer bill
89	May Revision	Sex Offender Management Program Contract Services	$26 million ongoing for renegotiated contracts with various sex offender rehabilitation service providers. These contract services are provided to paroled sex offenders who participate in such programs for at least one year upon their release.	Approve funding on a four-year limited term basis.
90	May Revision	Staff Misconduct Expansion, Year 3	33 positions and $7.5 million General Fund in 2024-25, growing to 63 positions and $14.4 million in 2025-26 and ongoing, to support the Department’s staff misconduct investigation processes.	Approve resources related to limited term positions converted to ongoing positions; redirect resources proposed for new positions to the Office of the Inspector General for oversight of the staff misconduct process and auditing functions, and adopt provisional budget bill language.

Issue	Source	Proposal	Description	Staff Recommendation
91	May Revision	Workers' Compensation Death Benefits (AB 621)	$1,542,000 in 2024-25, $1,828,000 in 2025-26, $2,304,000 in 2026-27, $2,780,000 in 2027-28, and $3,256,000 ongoing to fund additional workers' compensation death benefits for the families of deceased peace officers.	Approve as Budgeted at May Revision
92	Legislative Proposal	Baseline Reduction: May Revision Adjustment and Additional Reduction	Technical adjustments associated with the $15 million previously approved reduction, and an additional baseline reduction of $500 million, consistent with the statewide operations reductions, and provisional language exempting the Division of Rehabilitative Programs, reentry programs, and maintaining existing visiting and communications service levels.	Approve legislative proposal requiring a minimum of $500 million ongoing baseline reduction to CDCR, beginning in 2024-25, including assuming at least a $330 million state operations reduction and an additional $170 million baseline reduction and adopt provisional budget bill language specifying exemptions and requiring CDCR to develop a plan for the out-year reductions.
93	Legislative Proposal	CalPIA Supervisor Positions	Reduction of supervisor positions in the CalPIA Health Facilities Maintenance Program for savings of $6 million.	Approve Legislative Proposal
94	Legislative Proposal	Class Action Lawsuit Reporting Language	Provisional language requiring ongoing reporting by CDCR on legal costs associated with their class action lawsuits.	Approve Legislative Proposal
95	Legislative Proposal	Eliminate Joint Commission Accreditation	Eliminate 19.0 positions and $3.8 million General Fund in 2024-25, 26.0 positions and $4.3 million General Fund in 2025-26, 31.0 positions and $5.1 million General Fund in 2026-27, and 38.0 positions and $6.1 million General Fund in 2027-28 and ongoing related to pursuing The Joint Commission accreditation for all prisons.	Approve Legislative Proposal
96	Legislative Proposal	Pharmaceuticals	Reduction of $15.4 million (General Fund) annually for three years for pharmaceutical expenses related to a new pharmaceutical rebate contract. This would bring the total pharmaceutical budget to $235.5 million, and budget bill language allowing the Department of Finance to reduce this budget based on actual funding received through rebates, subject to legislative notification.	Reduce the pharmaceutical budget by $31 million instead of $15.4 million, and direct CDCR to request additional resources through the unanticipated cost or supplemental appropriation process if it cannot absorb the difference between expected and actual savings.

Issue	Source	Proposal	Description	Staff Recommendation
97	Legislative Proposal	San Quentin Lease Revenue Bond Authority	Reduce bond authority in 2023-24 from $360.6 million to $240.6 million to reflect the project cost.	Approve Legislative Proposal
98	Legislative Proposal	Scale back maintenance of deactivated prisons	Reduction of $7 million ongoing for maintenance of deactivated prisons, and provisional language directing CDCR to develop a plan to dispose of closed facilities.	Approve Legislative Proposal
99	Legislative Proposal	Sexual Assault Behind Bars Working Group	$100,000 for CDCR and $400,000 for the Sister Warriors Freedom Coalition General Fund in 2024- 25 to continue to support the Sexual Assault Response and Prevention working group and ambassador program.	Approve Legislative Proposal
100	Legislative Proposal	Specialized Treatment for Optimized Programming (STOP) Medi-Cal billing	Reduction of $15 million ongoing and require Specialized Treatment for Optimized Programming (STOP) providers to bill Medi-Cal for outpatient services, and language directing CDCR to develop a plan for all STOP providers to become Medi-Cal entities.	Approve legislative proposal and placeholder trailer bill
101	Legislative Proposal	Toxicology Screening	Reduce augmentation of toxicology screening for Integrated Substance Use Disorder Treatment Program by $6 million ongoing.	Approve Legislative Proposal
102	Legislative Proposal	Transfer Surplus PIA funds	Transfer $4 million from the Prison Industries Revolving Fund to the General Fund.	Approve Legislative Proposal
103	Legislative Proposal	Vehicle Fleet Replacement Base Funding Reduction	Elimination of $8 million base funding for vehicle fleet replacement for three years.	Approve Legislative Proposal
104	Legislative Proposal	SB 678 County Probation Grant Program	Language establishing a working group to review the formula for the SB 678 County Probation Grant Program, and ensure its meeting its goals of incentivizing performance, reducing the return to prison rate, creating state savings, and improving public safety.	Adopt placeholder trailer bill.

5227 Board of State and Community Corrections

Issue	Source	Proposal	Description	Staff Recommendation
105	Governor's Budget	Juvenile Justice Block Grant 2024-25 formula	Statutory changes to delay the formula update by one year.	Adopt placeholder trailer bill consistent with the Administration's proposal. Conforming action in Sub 3.

Issue	Source	Proposal	Description	Staff Recommendation
106	Governor's Budget	Proud Parenting Grant Reduction	Reduction of $835,000 for the Proud Parenting Grant Program. The program has been administered by BSCC since 2005 and provides funding to community-based organizations, county offices of education, county probation departments, and tribes to provide services to young parents who are or were involved in the juvenile justice system or are considered crossover youth with the child welfare system.	Approve as Budgeted
107	Governor's Budget	Public Defense Pilot Reduction	Reduction of $40 million in 2023-24 for the third year of funding for the Public Defender Pilot Program.	Reject
108	Governor's Budget and May Revision Update	Adult Reentry Grant Reduction	Reduction of $111.1 million for the Adult Reentry Grant, including reverting $54.1 million in 2023-24 and converting the delay proposed in the Governor's Budget to a reduction. There is no impact on current grantees.	Reject
109	Governor's Budget and May Revision Update	California Violence Intervention and Prevention Grant (CalVIP) Program Reduction	Reduction of $9 million ongoing for CalVIP. Moving forward, the CalVIP Grant Program will be funded through a newly established Gun Violence Prevention and School Safety fund starting in 2024-25, pursuant to Chapter 231, Statutes of 2023 (AB 28, Gabriel).	Approve as Budgeted at May Revision
110	Governor's Budget and May Revision Update	Post Release Community Supervision Funding	Reduction of $4.4 million one-time funding proposed in the Governor's Budget for county probation departments for the temporary increase in the number of offenders released from prison pursuant to Proposition 57.	Approve as Budgeted at May Revision
111	Governor's Budget and May Revision Update	Reversion of Medication-Assisted Treatment Funding and Trailer Bill	Reversion of $10.5 million in 2023-24 that was intended for competitive grants to counties to use for substance use disorder treatment.	Approve reversion of the funding and reject the reappropriation and the trailer bill.
112	Governor's Budget and May Revision Update	Transfer of Juvenile Justice Programs to Office of Youth and Community Restoration	Statutory changes to transfer administration of juvenile justice grants from the Board of State and Community Corrections (BSCC) to the Office of Youth and Community Restoration (OYCR).	Modify and adopt placeholder trailer bill. Reject removal of audit authority for OYCR. Reject removal of provisions that make Juvenile Reentry Grant contingent on reporting of data. Reject amendment to WIC 2200(h). Conforming action in Sub 3.

Issue	Source	Proposal	Description	Staff Recommendation
113	May Revision	Additional Cannabis Tax Fund Loan	$75 million loan from the Allocation 3 Cannabis Tax Fund Special Fund Loan to the General Fund, bringing the total loan to $175 million. This loan would be repaid in 2025-26.	Approve as Budgeted at May Revision
114	May Revision	In Custody Death Review (SB 519)	$3.3 million one-time General Fund and 15.0 positions in 2024-25, and $7.7 million General Fund and 35.0 positions ongoing beginning in 2025-26, to establish an In-Custody Death Review Program to implement the new state-mandated local program created by Chapter 306, Statutes of 2023 (SB 519, Atkins).	Approve as Budgeted at May Revision
115	May Revision	Reduction of Vertical Prosecution Grant Funding	Reduction of $3.6 million in 2024-25 that was not applied for.	Approve as Budgeted at May Revision
116	May Revision	SCAAP Baseline Adjustment	Net zero shift of $12.7 million federal fund to the General Fund to reflect the anticipated receipt of funding from the federal program associated with the SCAAP, administered by the Federal Department of Justice, Bureau of Justice Assistance.	Approve as Budgeted at May Revision
117	Legislative Proposal	Secure Youth Treatment Facility (SYTF) Data Reporting	Statutory changes to make permanent and expand required SYTF data reporting. Conforming action in Sub 5.	Approve legislative proposal and placeholder trailer bill. Conforming action in Sub 3.

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Issue	Source	Proposal	Description	Staff Recommendation
118	May Revision	Attorney General Costs for Erroneous Convictions	$350,000 General Fund in 2024-2025 and ongoing for costs incurred due to increased utilization of the Attorney General’s Office for erroneous conviction cases.	Approve as Budgeted at May Revision
119	May Revision	Erroneous Convictions Claims Program (SB 78)	$1.5 million General Fund in 2024-25 and $1.4 million General Fund in 2025-26 and ongoing to meet the anticipated workload of Chapter 702, Statutes of 2023 (SB 78, Glazer) and to have adequate resources to pay approved erroneous conviction claims.	Approve funding for three years in order for the Victims Compensation Board to monitor workload and resources needed.