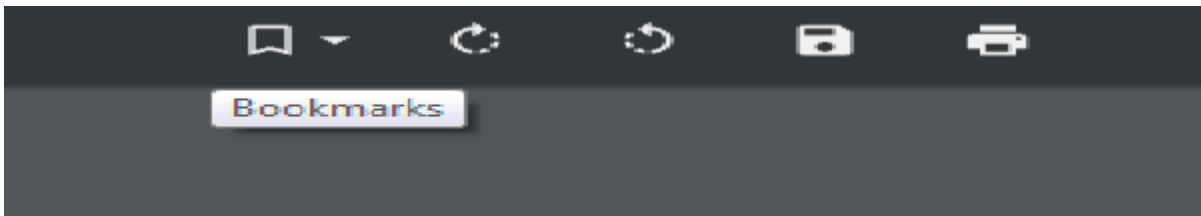


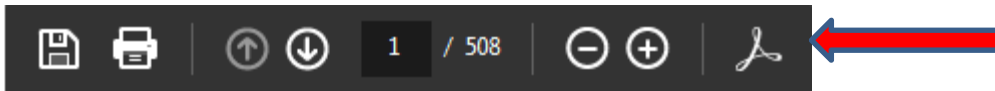
Senate Budget and Fiscal Review

The 2022 Agendas for Subcommittee No. 5 on Corrections, Public Safety, and the Judiciary are archived below. To access an agenda or outcomes by a specific date, please refer to “Bookmarks” icon on the screen. Depending on your web browser the bookmarks menu will look different. Below are instructions to help you find the “Bookmarks” icon in Internet Explorer 11, Mozilla Firefox, or Chrome.

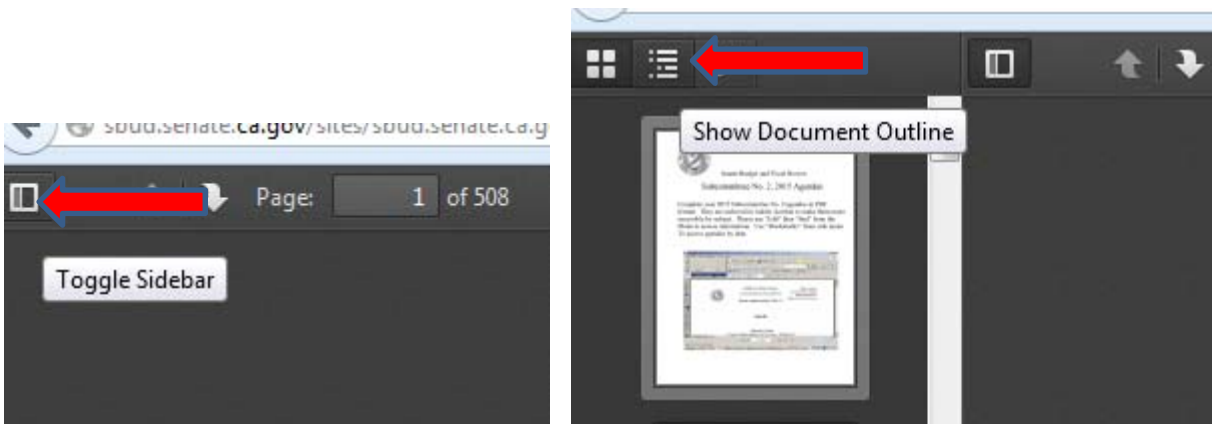
Chrome has access to Acrobat bookmark located in the upper right hand corner



Internet Explorer 11 selects Acrobat from box



Mozilla Firefox on upper left, click toggle sidebar, and then document outline.



SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, February 1, 2022
9:00 a.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS.....	2
Issue 1: Juvenile Justice Realignment.....	2
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)	6
Issue 2: Population Projections	6
Issue 3: COVID-19 Direct Response Expenditures	8
Issue 4: Visitation and Remote Communication Opportunities.....	12
Issue 5: Tattoo Removal Program.....	14
Issue 6: Rehabilitative Programming Support	15
Issue 7: Bachelor's Degree Program Expansion	17
Issue 8: Cellular Interdiction Program	20
Issue 9: Statewide Correctional Video Surveillance Continuation	21
Issue 10: Various Legal and Information Technology (IT) Proposals.....	25
Issue 11: Additional Staff for Victim Restitution Collection Services	30

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: Juvenile Justice Realignment

Governor's Budget. The proposed budget includes \$100 million one-time General Fund for the Board of State and Community Corrections (BSCC) to administer the County Operated Juvenile Facility Grant Program. The funding would help counties improve their juvenile facilities in anticipation of the closure of the Division of Juvenile Justice (DJJ).

Background.

The 2019-20 Budget Act included a plan to realign the juvenile justice system to the county level and close DJJ at the California Department of Corrections and Rehabilitation (CDCR). Prior to realignment, most juvenile offenders were already housed or supervised by counties. However, counties could choose to send juveniles who had committed violent, serious, or sex offenses to state facilities operated by DJJ. Prior to realignment, DJJ facilities housed around 650 youth.

However, 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 system¹. First, the location of DJJ facilities means that many youth offenders are 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 rates². Overall, the facilities operated more like adult prisons than as spaces where young offenders 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 are operating under capacity, so there is opportunity for consolidation.

Realignment is intended to move juvenile justice in California toward a rehabilitative, trauma-informed, and developmentally appropriate system. The plans for 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. Per the realignment timeline, DJJ stopped accepting most transfers from counties on July 1, 2021, and will completely shut down by June 30, 2023. As a result, counties will be responsible for caring for youth with more serious needs and who have committed more serious offenses. To support counties in this transition, the realignment plan included the creation of the Office of Youth and Community Restoration (OYCR) to provide statewide assistance, coordination, and oversight. This new office is under the Health and Human Services Agency (HHS) rather than under CDCR or BSCC, reflecting the shift away from corrections towards services and treatment. The plan also outlined a process for counties to establish Secure Youth Treatment Facilities (SYTFs) for high-level offenders who would have previously been housed at DJJ.

¹http://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>

However, counties are concerned about their ability to care for the youth who would have gone to DJJ. While there is plenty of capacity at the county level, the facilities are not necessarily well-suited to provide the types of programming envisioned in the realignment.

Previously Allocated Resources. 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 will amount to \$209 million statewide per year after full realignment. This funding is currently administered by BSCC.

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 Re-entry 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.

Proposed County Operated Juvenile Facility Grant Program. The Administration is proposing a grant program, administered by BSCC, to provide \$100 million one-time General Fund to 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. Youth facilities are defined to include juvenile halls (WIC 850 and 870), secure youth treatment facilities (WIC 875), and juvenile ranches or camps (WIC 880). The funding cannot be used to increase the capacity of county youth facilities. Up to 5 percent of the funds would be available for BSCC for administrative costs.

Funding would be prioritized for counties that:

- (1) Have not previously received funding through the Local Youthful Offender Rehabilitative Facility Construction Grants (WIC 1971 and 1973).
- (2) Modernize units and sleeping rooms to meet or exceed the applicable Title 24 building standards, which became effective January 1, 2020.

DJJ Population Projections. Compared to the 2021 Budget Act projections, the Governor's Budget estimates an average daily population of 657 youth in 2021-22 and 544 youth in 2022-23, which represents an increase of 44 youth in 2021-22 and a decrease of 69 youth in 2022-23,

respectively. Accordingly, the Budget reflects an increase of \$1.8 million General Fund in 2021-22 and a decrease of \$10.1 million General Fund in 2022-23. The temporary increase in 2021-22 is the result of DJJ processing a backlog of youth committed prior to July 1, 2021, due to pausing intake in response to COVID-19. According to these projections, DJJ would still have 493 youth in custody as of June 2023.

LAO Comments.

Proposal Not Based on Thorough Assessment of County Facility Needs. While the administration conducted a survey to determine whether counties would be interested in receiving additional facility funding, no assessment has been carried out to detail the extent to which existing county facilities are currently in need of repair or not adequate to provide rehabilitative programs or other services for realigned youths. Moreover, the administration has not provided detailed cost estimates for addressing any identified deficiencies— making it difficult for the Legislature to evaluate the appropriateness of the proposed \$100 million.

Newly Constructed Beds Should Be Accounted for. Due to the facility grant funds that the state has provided to counties in recent years, a significant number of newly constructed beds have become or will become available. Specifically, 614 new beds have been constructed since 2013 and 318 new beds are expected to become available over the next several years, for a total of 932 new beds— somewhat more than the number of youths expected to be realigned to counties in 2024-25. In assessing whether existing county facilities are adequate, it is important to consider the availability of the new beds, as they could be more conducive to programming and in better condition than a county's existing beds.

Counties With Facility Needs Can Contract for Needed Facilities. We also note that while it is possible that some counties—particularly smaller counties—may have some facility needs, such counties can contract with other counties to house realigned youths. A survey conducted by BSCC following the passage of SB 823 found that several counties would be willing to take realigned youths from other counties.

Staff Comments.

Role of OYCR. SB 823 specified that no juvenile grants shall be awarded by BSCC without the concurrence of OYCR. It also specified that all juvenile justice grant administration functions should move from BSCC to OYCR by January 1, 2025. For this proposal, the Administration has confirmed that OYCR would be involved, but their role is not clear from the budget proposal or budget bill language. OYCR is also in the process of reviewing each county's plans for juvenile justice, as required by SB 823, which is supposed to include an outline of facilities. It would be useful for the Legislature to have more information about the facilities elements contained in the county plans to assess the need for this funding.

Lack of detail. The Administration has not provided any details on the grants themselves, including the size of the grants or number of awards, and an outline of the selection process, including how grants would be ranked and who would be on the selection committee. The proposal does not specify how much funding would go towards different types of facilities, such as SYTFs, or how

the Administration will ensure that the facilities are aligned with the new vision for juvenile justice. For example, some counties may use this funding to upgrade their juvenile halls, which may not result in the desired types of space. The proposal also doesn't outline reporting requirements. The Legislature should consider defining more of these parameters in language.

DJJ Transfer Plan Missing. SB 92 required CDCR to provide a plan by January 1, 2022 for transferring the remaining youth in DJJ by the closure date. This plan has not yet been provided.

LAO Recommendation. Because the administration did not provide adequate justification for the level of facility funding requested and it is not clear why additional funding is necessary, we recommend that the Legislature reject the Governor's proposed County Operated Juvenile Facility Grant Program. To the extent the administration is able to provide a detailed assessment of county juvenile facility needs that account for newly constructed beds in the future, the Legislature could consider providing facility grants to counties at that time.

Staff Recommendation. Hold Open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

CDCR manages the state's prison system, with an emphasis on rehabilitation and preparing individuals to successfully reintegrate into their communities upon release. CDCR employs over 60,000 staff, accounting for roughly 25 percent of California state employees (excluding public universities). The Governor's budget proposes total funding of \$14.2 billion (\$13.8 billion General Fund and \$364.4 million other funds) for CDCR in 2022-23.

CDCR is organized into six divisions:

- Division of Adult Institutions (DAI)
- Division of Adult Parole Operations (DAPO)
- Division of Health Care Services (DHCS)
- Facility Planning, Construction and Management (FPCM)
- Division of Juvenile Justice (DJJ)
- Division of Rehabilitative Programs (DRP)

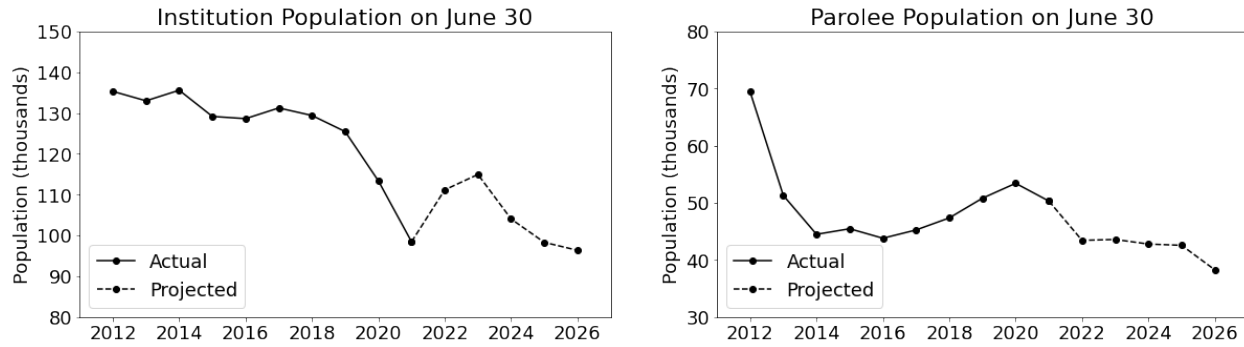
CDCR also contains other offices and programs, including the Board of Parole Hearings (BPH) and the Prison Industry Authority (PIA).

Issue 2: Population Projections

Adult Incarcerated Population. Compared to the 2021 Budget Act projections, the adult incarcerated average daily population is projected to decrease by 1,705 in 2021-22, and increase by 6,605 in 2022-23, to a total of 104,554 and 112,864, respectively. The 2021-22 decline is primarily due to actions taken to reduce the prison population in response to COVID-19 and the 2022-23 increase is largely due to the resumed intake of individuals sentenced to prison but held in county jails pending transfer to state prison. However, the population is trending downward in the long term, and is projected at 100,361 for 2024-25.

Adult Parolee Population. Compared to 2021 Budget Act projections, the average daily parolee population is projected to remain the same in 2021-22, with a slight increase of 9, followed by a decrease by 4,716 parolees in 2022-23, totaling 54,244 and 49,499, respectively. The decline in 2022-23 is related to an overall decrease in the incarcerated population and shorter parole terms.

When compared to the projected average daily population at the 2021 Budget Act, these changes result in a decrease of \$56.9 million General Fund in 2021-22, and a decrease of \$19.4 million General Fund in 2022-23. A handout has been provided by CDCR to accompany this item.



Data from CDCR

LAO Comment. The Governor's budget proposes \$92.3 million (mostly from the General Fund) to accommodate a 6,605 increase (from 106,259 to 112,864) in the projected average daily inmate population in 2022-23 relative to what was assumed in the enacted 2021-22 budget. The administration indicates that this increase is largely due to the intake of a backlog of people who were sentenced to prison but housed in county jails while prison admissions were halted in response to the COVID-19 pandemic.

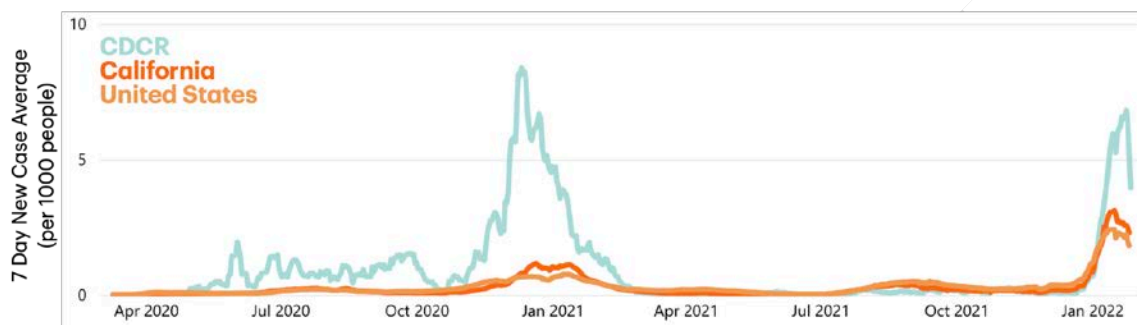
As of January 12, 2022, the inmate population was 99,110 and the administration indicated that the backlog in jails had largely been eliminated. Accordingly, it seems implausible that the average daily inmate population will reach 112,864 in 2022-23 as assumed in the Governor's budget. This suggests that the proposed budget overestimates the projected inmate population in the budget year, potentially by several thousand. Based on our discussions with the administration, this is likely for two reasons. First, it appears that this overestimate was largely driven by an assumption that admissions to prison would be higher between July and December 2021 than they actually were. Second, the administration's projections do not account for Chapter 728 of 2021 (SB 843, Allen), which requires resentencing of individuals to lesser terms to reflect the elimination of certain sentencing enhancements. The administration indicates that its spring 2022 population projections and associated budget adjustments at the May Revision will reflect both the lower than expected admissions and the estimated impact of Chapter 728. Accordingly, we withhold recommendation on the administration's adult population funding request until the May Revision.

Staff Recommendation. Hold open.

Issue 3: COVID-19 Direct Response Expenditures

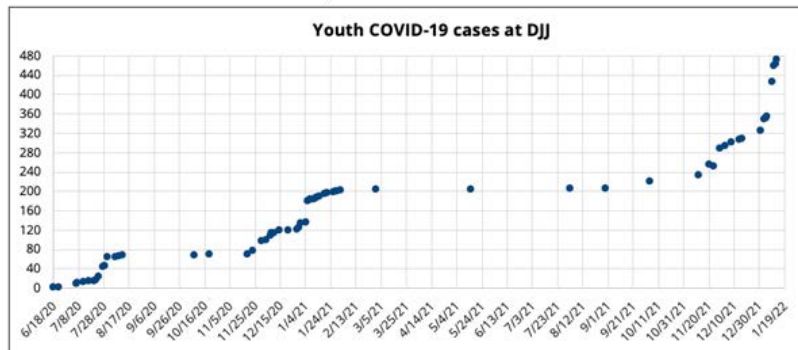
Governor's Budget. The proposed budget includes \$424.7 million one-time General Fund in 2022-23 for CDCR's response to the COVID-19 pandemic. There has been a recent surge of cases within the prison system, leading CDCR to suspend visitation and intake from county jails and limit programming and transfers.

Background. As of January 28, 2022, the incarcerated population has had a total of 64,900 cases and 246 deaths since the beginning of the pandemic, including 6,098 active cases³. In addition, as of January 27, 2022, there have been a total of 38,845 cases and 50 deaths among CDCR staff, including 4,412 active cases⁴. Rates of COVID-19 within the incarcerated population have outpaced state and national averages throughout much of the pandemic (see below).



Source: CDCR

DJJ has had a total of 571 cases, and has 41 active cases as of January 26, 2022⁵. COVID-19 cases at DJJ have also risen dramatically recently, and at least one youth was admitted to the hospital after experiencing serious symptoms⁶. The data available for DJJ is more limited due to medical privacy laws for minors. Juvenile offenders also did not have the same early release opportunities as the adult population (although the density of juvenile facilities was also lower to begin with). There also have been reports of staff not wearing masks or other protective equipment⁷.



Cumulative COVID-19 cases at DJJ. Source: CJCJ⁸

³ <https://www.cdcr.ca.gov/covid19/population-status-tracking/>

⁴ <https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-19-status/>

⁵ <https://www.cdcr.ca.gov/juvenile-justice/pandemic-response/>

⁶ <https://calmatters.org/justice/criminal-justice/2022/01/covid-juvenile-prisons/>

⁷ <https://www.theguardian.com/world/2021/jan/08/coronavirus-california-detention-custody>

⁸ <http://www.cjcj.org/news/13205>

Population Reduction. In response to the pandemic, and in acknowledgement that the prison environment is particularly conducive to the transmission COVID-19, CDCR took steps to reduce its inmate population.

In April 2020, CDCR expedited the release of almost 3,500 incarcerated persons serving a sentence for non-violent offenses, who do not have to register as a sex offender, and who had 60 days or less to serve.

In July 2020, CDCR implemented a community supervision program. Inmates were eligible if they are within 180 days of release; were not serving a current term for domestic violence, a violent crime, or were required to register as a sex offender; and did not have a risk assessment score that indicates a high risk for violence. About two-thirds of these incarcerated people were released to Post Release Community Supervision (county probation) and one-third were released to state parole. The last list of potentially eligible people was created on July 29, 2021 and is being processed. No new eligibility will be extended.

CDCR also reviewed and released people deemed at high risk medically for COVID-19 on a case-by-case basis. Additionally, on July 9, 2020, CDCR applied a one-time 12-week positive programming credit to all eligible inmates to recognize the impact the COVID-19 Pandemic has had on inmates' access to programs and credit earnings.

Suspension of Intake from Counties. On March 24, 2020, the Governor issued Executive Order N-36-20, to mitigate the spread of COVID-19 in the state's adult institutions by stopping intake for 30 days, which was subsequently extended to 60 days. Since then, COVID-19 outbreaks have led to intermittent suspensions of intake from county jails at both adult and juvenile facilities. Currently, intake is suspended at DJJ, Wasco State Prison, and North Kern State Prison, but is open at Central California Women's Facility.

Impact on visitation and programming. COVID-19 severely impacted CDCR's ability to provide in-person visitation and programming. Currently, in-person visitation is suspended at DJJ and at adult facilities. At DJJ, all volunteer programs have been suspended since March 18, 2020, but the California Education Authority is continuing high school classes. There have been recent reports of highly restricted programming at youth facilities among outbreaks⁹. Visitation and programming are also discussed in more detail in later discussion items.

Vaccinations and testing. Vaccinations are currently required for employees and incarcerated workers in health care settings. In other settings, employees do not have to be vaccinated but are required to test twice a week. As of January 28, 2022, 81 percent of the incarcerated population and 71 percent of CDCR employees were fully vaccinated. However, vaccination rates vary widely across facilities and settings. For example, three institutions (Pelican Bay State Prison, High Desert State Prison, and the California Correctional Center) have staff vaccination rates at or below 50 percent. The highest staff vaccination rates are at the medical facilities, including the California Health Care Facility and the California Medical Facility, where vaccines are mandated for employees.

⁹ http://www.cjcj.org/uploads/cjcj/documents/DJJ_on_the_brink_2021.pdf

Plata v Newsom. On September 27, 2021, as part of ongoing oversight related to the *Plata* case, CDCR was ordered to mandate vaccinations for employees entering CDCR institutions and incarcerated persons who work outside of an institution or accept in-person visitation, to protect the health and rights of the incarcerated population. The *Plata* case is a class action lawsuit where prisoners alleged that CDCR inflicted cruel and unusual punishment by being deliberately indifferent to serious medical needs. A settlement agreement was reached in 2002, but a lack of progress led a federal judge to place California's prison medical care system under the control of a court-appointed Receiver¹⁰. The vaccine mandate was the Receiver's recommendation¹¹. However, the Administration appealed the mandate, and a stay was granted on November 26, 2021. The Administration has argued that the mandate would lead to staffing shortages¹².

San Quentin Outbreak and Lawsuit. In May 2020, CDCR transferred 121 people from the California Institute for Men, the state prison with the highest COVID-19 rate at the time, to San Quentin without adequate testing and isolation. This transfer initiated an outbreak at San Quentin, in which over 2,600 staff and incarcerated people tested positive (representing 75 percent of the prison population) and 28 incarcerated people and 1 correctional officer died. In addition, a months-long lockdown was initiated. Hundreds of petitions were filed alleging unlawful incarceration under the Eighth Amendment's prohibition against cruel and unusual punishment. In November 2021, a judge ruled for the petitioners, agreeing that CDCR acted with deliberate indifference and inflicted cruel and unusual punishment. However, no remedy was ordered¹³.

Previously Allocated Resources. CDCR has spent a total of \$1.1 billion on COVID prevention, mitigation, and response activities in 2019-20 and 2020-21 (see below table). In addition, the 2021 Budget Act included \$407.9 million one-time General Fund for COVID-19 response.

COVID-19 Direct Response Costs

Cost Category	2019-20 Actual Costs	2020-21 Actual Costs	Total Actual Costs
Corrections and Rehabilitation			
Temporary Suspension of Prison Intake	\$31,215,000	\$176,827,000	\$208,042,000
Reentry Housing	\$0	\$15,183,000	\$15,183,000
Project Hope (CDCR)	\$0	\$478,000	\$478,000
Personal Protective Equipment	\$23,330,000	\$18,837,000	\$42,167,000
Medical Surge/Tents	\$1,198,000	\$154,600,000	\$155,798,000
Testing (Employee)	\$2,518,000	\$270,738,000	\$273,256,000
Testing (Inmate)	\$6,101,000	\$128,909,000	\$135,010,000
Cleaning	\$20,740,000	\$27,624,000	\$48,364,000
Other Staffing and Operational Costs	\$63,804,000	\$168,568,000	\$232,372,000
Totals	\$148,906,000	\$961,764,000	\$1,110,670,000

¹⁰ https://prisonlaw.com/post_case/plata-v-brown/

¹¹ <https://prisonlaw.com/wp-content/uploads/2021/09/21.09.27-Doc-3684-Order-re-mandatory-vaccinations.pdf>

¹² <https://www.latimes.com/california/story/2021-11-04/newsom-guards-challenge-vaccine-mandates-at-prisons>

¹³ <https://sfpublicdefender.org/news/2021/11/judge-rules-cdcr-inflicted-cruel-unusual-punishment-on-incarcerated-people-at-san-quentin-during-covid-19-pandemic/>

Source: Department of Finance

The proposed funding includes \$392.5 million for California Correctional Health Care Services (CCHCS) and \$32.2 million for CDCR. Proposed uses of the funding include testing and vaccination for incarcerated persons and staff, medical staffing registry and overtime, medical treatment, purchasing personal protective equipment and air filters, overtime, and medical surge tents and equipment rental contracts in the case of an outbreak. A breakdown of the funding request is provided in the table below. The Administration has indicated that this is an estimate of potential needs over the next fiscal year.

COVID-19 Direct Response Budgeted and Proposed Costs

COVID-19 Direct Response Activities	2021 Budget Act	2021-22 Proposed Funding Over 2021 Budget Act	2022-23 Proposed Funding
California Department of Corrections and Rehabilitation	\$410,486,000	\$205,547,000	\$424,669,000
Hospital and Medical Surge	\$29,245,000	\$0	\$10,905,000
State Response Operations	\$82,767,000	\$0	\$32,154,000
Statewide Testing	\$198,440,000	\$205,547,000	\$380,109,000
Vaccine Distribution and Administration ^{1/}	\$2,500,000	\$0	\$1,501,000
Temporary Suspension of Prison Intake	\$97,534,000	\$0	\$0
^{1/} The 2021 Budget Act did not specifically identify an amount for vaccine distribution and administration for the California Department of Corrections and Rehabilitation (CDCR). Estimated costs for vaccine-related activities were reflected in the broader state response operations assumptions. CDCR currently estimates it will expend \$2.5 million for this purpose in 2021-22, which will be absorbed within existing resources.			

Control Section Language. As with prior COVID-19 expenditures, the Administration is requesting control language allowing additional flexibility in how the funding is used. The 2021-22 budget included control section language allowing the administration to shift resources budgeted for COVID-19 response between and within nine departments over the course of the fiscal year, subject to 10-day notification to the Joint Legislative Budget Committee (JLBC). The administration is proposing to modify this section to also allow the amount budgeted for COVID-19 response in three departments—including CDCR—to be increased subject to 10-day JLBC notification.

LAO Comments. At this time, the administration has not provided sufficient information to allow the Legislature to evaluate these proposals. It is unclear whether the proposed level of funding is appropriate as the department has not yet provided adequate justification, such as projections of the number of inmates and employees requiring tests or personal protective equipment. Accordingly, we recommend that the Legislature require the department to provide the information necessary to justify the proposal.

Staff Recommendation: Hold Open.

Issue 4: Visitation and Remote Communication Opportunities

Background. Numerous studies have demonstrated the benefits of contact between incarcerated people and their loved ones¹⁴. 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. Therefore, increasing opportunities for in-person visitation and remote communications is both humane and promotes public safety for the community.

Visitation. In 1975, the Legislature laid out a list of rights for the incarcerated population, such as the right to correspond confidentially with a lawyer (PEN 2601). This section originally included the right “To have personal visits; provided that the department may provide such restrictions as are necessary for the reasonable security of the institution.” However, this clause was repealed in 1996 (SB 1221, Statutes of 1996, Chapter 132), to allow for visitation to be used as a reward (or lack of visitation as a punishment). During this time, visitation days and hours were also severely curtailed. As of January 2020, institutions only offered two days of in-person visitation per week. According to the Coalition for Family Unity, only 34 percent of incarcerated people in California receive one or more visit a year.

The enacted 2021-22 budget included a third day of in-person visitation on Fridays at all institutions. In addition, provides visitors with free transportation on select days throughout the year to all prisons via chartered busses. The budget appropriated \$20.3 million ongoing General Fund to support this change.

COVID-19 and Visitation. In March 2020, due to the COVID-19 pandemic, CDCR stopped in-person visiting to curtail the spread of the virus into the prison. CDCR resumed in-person visitation on April 10, 2021, but it was suspended again on January 8, 2022 due to a surge in cases. Visitation is also suspended at DJJ.

CDCR created a phased approach to in-person visiting. Depending on the current number of new COVID-19 cases, an institution is classified via one of three phases:

- Phase 1 – three or more positive COVID-19 incarcerated persons related cases. Video visits only for one hour.
- Phase 2 – no new outbreak of COVID-19 cases for at least 14 days. In-person visitation with one approved visitor per incarcerated person for a maximum of two hours. Video visits are also available for one hour.
- Phase 3 – no new outbreak of COVID-19 cases for at least 28 days. In-person visitation with up to three approved visitors per incarcerated person for two hours. Video visits are also available for one hour.

As of January 27, 2022, all CDCR institutions were in Phase 1.

¹⁴ https://www.prisonpolicy.org/blog/2021/12/21/family_contact/

Remote Communication Options. Several measures were implemented to increase remote communications during the pandemic. These include increasing the number of free phone calls, offering one-hour video visits (beginning December 2020), and expanding a tablet program that will allow for text messaging and emails.

Most of these services are provided by ViaPath Technology (formerly known as Global Tel Link or GTL)¹⁵. ViaPath also is taking over the tablet program, which was piloted by JPay¹⁶. Through this program, ViaPath will provide tablets to the entire incarcerated population, which they can use for video calling, text messaging, and other functions. Incarcerated persons receive some free services, including limited phone calls and messaging, and access to certain books and reading materials. They can also pay for additional services, including music, videos, audiobooks and additional communications. These contracts are no cost to the state, and ViaPath provides the equipment, including the tablets. In May 2021, CDCR renegotiated the phone contract 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.

The enacted 2021-22 budget included \$12 million General Fund one-time for CDCR to add an additional 60 minutes of free telephone calls to each incarcerated person every two weeks, bringing the total amount of free calling to 75 minutes every two weeks. This funding was also intended to cover 60 free electronically transmitted outgoing written messages, equivalent to an email or instant message, per month.

Visiting Scheduling Application (VSA). Through a separate contract, ViaPath also operates the application through which people sign up for in-person and video visits. This process was migrated earlier this year from a different application called Vpass. However, significant issues with VSA have been reported, exacerbated by extremely high demand for still limited appointment availability. This include technical issues such as freezing and crashing due to high traffic when appointments are released. In addition, due to limited availability, appointments are often immediately booked. This has led to considerable frustration, as family members wake up early (many appointments are released at 6am) and spend a long time trying to get into and through the system only to find that all the appointments are gone already.

This is an informational item to receive an update from the Administration on the status of visitation and communication options at CDCR, including the implementation of the referenced items from the 2021-22 Budget and, with acknowledgement of the necessary pandemic restrictions, what additional steps could be taken to improve the visitation process for incarcerated persons and their loved ones.

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

¹⁵ <https://www.cdcr.ca.gov/family-resources/gtl-tablets/>

¹⁶ <https://prisonjournalismproject.org/2021/03/26/when-california-prisons-switch-tablet-vendors/>

Issue 5: Tattoo Removal Program

Governor's Budget. The proposed budget includes \$567,000 General Fund in 2022-23 and \$1.1 million General Fund through 2025-26 to implement a tattoo removal program.

Background. CDCR estimates that 12 percent of the current incarcerated population have highly visible tattoos, such as on the face or hands. Any tattoos, but especially offensive tattoos, tattoos related to gangs, or highly visible tattoos, can be a barrier to employment. In addition, participants trying to leave gangs may find it difficult if they have visible gang-related tattoos.

CDCR implemented a pilot tattoo removal program at Folsom Women's Facility and the Sacramento-based Custody to Community Transition Reentry Program Facility. In this program, a van with the necessary tattoo removal equipment came to the facility, and participants were escorted to the van for short treatments. CDCR estimates that it takes six treatments on average to remove tattoos. This pilot program supported 372 participants over three years. Funding was included to expand the pilot in the 2019 Budget Act, but the funding was swept in 2020 due to the anticipated impacts of the COVID-19 pandemic.

This funding would be used to expand the tattoo removal program to all institutions, with priority going to individuals in the gang debriefing process and to individuals being released within two years with highly visible tattoos. CDCR estimates these groups to include 91 and 1,452 participants respectively, representing nearly all participants in the gang debriefing process and roughly 5 percent of people within two years of release. This is lower than the estimated 12 percent of people who would have highly visible tattoos, but CDCR does not expect everyone to participate. Captains at each institution will be responsible for verifying participants for the program.

CDCR estimates that tattoo removals would begin in January 2023 (which is why the budget year request is lower than future years). The funding will be used to pay for the contracted tattoo removal services, custody overtime to escort participants to treatments, and one administrative staff position to oversee the program. That staff will also be responsible for tracking program utilization, interest, and waitlists across institutions. In 2024-25, CDCR will review the program to assess the need for and level of ongoing resources needed.

Staff Comment. The demand for services is difficult to estimate, and it is not clear how CDCR will prioritize participants if the program is oversubscribed. For example, according to CDCR's estimates of the prevalence of highly visible tattoos and the number of people within two years of release, there will be over 3,300 eligible participants. CDCR estimates less than half of those will elect for tattoo removal. In the 2019 proposal, the Administration estimated roughly double the participants (although the incarcerated population has significantly changed over the course of the pandemic). The Legislature may want to request program updates prior to the proposed 2024-25 evaluation to ensure the program is funded at the appropriate level.

Staff Recommendation. Hold Open.

Issue 6: Rehabilitative Programming Support

Governor’s Budget. The proposed budget includes \$3.9 million General Fund and 62.5 positions in 2022-23 and \$4.6 million General Fund and 72.5 positions in 2023-24 and ongoing for support for rehabilitative programming services for CDCR and CCHCS, including 43 Management Service Technician (MST) positions for Inmate Activity Groups (IAGs) and 19.5 Office Technician (OT) positions in 2022-23 for Nursing Led Therapeutic Groups (NLTGs); increasing to 29.5 OTs in 2023-24 and ongoing for NLTGs.

Background.

Proposition 57. In 2016, voters approved Proposition 57, which authorizes CDCR to “award sentence credits for rehabilitation, good behavior, or educational achievements.” (Cal. Const., art. I, § 32). These credits are used to accelerate release dates or parole consideration hearings as applicable. Incarcerated persons can get credits in five categories: (1) Good Conduct Credit, (2) Milestone Completion Credit, (3) Rehabilitative Achievement Credit, (4) Education Merit Credit, and (5) Extraordinary Conduct Credit.

Rehabilitative Achievement Credit (RAC). Incarcerated people can earn RAC for participation in approved rehabilitative programs, including IAGs and NLTGs. The credit earning rate is 10 days per 52 participation hours, up to 40 days per year. All eligible activities, attendance, and credit awarding must be entered and tracked in the Strategic Offender Management System (SOMS).

IAGs. The implementation of Prop 57 has led to an expansion of IAGs, from 1,100 in 2016-17 to 4,650 in 2021-22. Examples of IAGs include Narcotics Anonymous, Substance Abuse Treatment, Life Skills, and Victim Awareness. To be eligible for RAC, IAGs must be sponsored by CDCR staff and approved by the Division of Adult Institutions (DAI). Typically, this oversight has been provided by Self-Help Sponsors (SHSs), a part-time, dual-appointment position that CDCR employees may choose to take on in addition to their primary role. In addition, the 2018 Budget Act provided CDCR with 13 MST positions at institutions with 30 hours or more per week of RAC programming during evening and weekend hours. At that time, CDCR expected that the number of IAG programs would grow to 3,000 by the end of 2018-19.

NLTGs. CCHCS and CDCR offer health education programs through NLTGs, which are also eligible for RAC. According to the Health Care Department Operation Manual, these programs are designed to “provide education on disease processes, positive health behaviors and health improvement, therapeutic interventions (clinical and self-directed), and are designed to improve the patient’s overall quality of life and health status.” CCHCS runs more than 300 NLTGs and is anticipating this to grow to more than 1,300 statewide by 2023-24.

Projected Outcomes - IAG

Workload Measure	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Current IAG programs ¹	4,650	4,743	4,838	4,935	5,034	5,135

¹ 4,650 IAGs with a 2% annual growth in 2022-23 and ongoing.

Projected Outcomes – NLTG

Workload Measure	2021-22	2022-23	2023-24	2024-25 ²	2025-26	2026-27
NLTG programs ¹	300	800	1,300	1,326	1,353	1,379

¹ 300 NLTGs with anticipated implementation at 12 institutions in FY 2022-23 and FY 2023-24, for a total of 24 institutions.

² Beginning in 2024-25 a 2% annual growth is applied to reflect the expected NLTG program growth.

Source: Department of Finance

COVID-19 Impact. The COVID-19 pandemic heavily disrupted programming at CDCR and prevented incarcerated persons from earning RAC. In response, on July 9, 2020, CDCR applied a one-time 12-week positive programming credit to all eligible inmates to recognize the impact the COVID-19 Pandemic has had on inmates' access to programs and credit earnings. Additionally, CDCR is in the process of implementing the Alternative RAC Earning IAG pilot program (in-cell RAC).

Proposed Funding. CDCR is asking for an additional 43 MSTs to provide RAC support. The total cost of this part of the request is \$3.7 million, but \$1.4 million would be diverted from the current funding for SHSs. CDCR is having trouble consistently filling those positions, particularly during the pandemic, and would shift that workload to the full-time MSTs. CCHCS is requesting 19.5 OTs in 2022-23, increasing to 29.5 OTs in 2023-24 and ongoing.

Staff Comment. Given the impact of the pandemic on programming, it is not clear whether these are the appropriate resources for this program at this time. The Administration indicated that the projections for programming demand were largely made prior to the pandemic. It is not clear when this programming will be fully functional again, or what the long-term form of the programming will look like. The Legislature may want to consider the timing of these resources.

Staff Recommendation. Hold Open.

Issue 7: Bachelor's Degree Program Expansion

Governor's Budget. The Governor's 2022-23 budget proposes \$5 million General Fund (decreasing to \$4.7 million annually beginning in 2024-25) and 15 positions to maintain and expand the number of prisons offering bachelor's degree programs in partnership with several different California State University (CSU) campuses. The resources would be used to maintain programs at four prisons whose existing funding is expiring and create new programs at three additional prisons. The funding would support administrative support positions and a customized database subscription for inmates to access scholarly journal articles. The proposal assumes federal funds would be accessible to most students and estimates that participants will be enrolled on a full-time basis at a cost of about \$10,000 per student.

Background. A recent study of a college-in-prison program in New York found that participation in the program reduced recidivism by 38 percent, and greater levels of participation correlated closely with even lower rates of recidivism¹⁷. California currently offers community college programs that lead to associate degrees at almost all facilities and offers bachelor's degree programs at a handful of institutions.

Existing Degree Programs. CDCR has implemented community college programs at 33 of the 34 CDCR institutions (California Health Care Facility in Stockton is the only exception). College programs have grown substantially since the passage of Chapter 695, Statutes of 2014 (SB 1391), which allows local community colleges to provide programming inside adult institutions in a closed classroom environment. Classes are restricted only to incarcerated individuals and colleges do not have to meet local residency requirements required on community-based campuses. In Spring 2021, 6,426 incarcerated people enrolled in community college courses. There are 1,499 incarcerated students who have already received associate degrees. At most institutions, students do not have the opportunity to continue to pursue a bachelor's degree. As a result, many students obtain multiple associate degrees.

CDCR currently provides one, fully operational, bachelor's degree program at California State Prison, Los Angeles County (LAC) through California State University, Los Angeles (CSULA). 37 people have graduated with bachelor's degrees in communications through this program. 45 students started the program, but some were transferred, and one died from COVID-19¹⁸. This program is set to expire June 30, 2024.

Additional pilot programs are operated at:

- Folsom State Prison (FSP) and Mule Creek State Prison (MCSP) through California State University, Sacramento (CSUS).
- Central California Women's Facility (CCWF) and Valley State Prison through California State University, Fresno.

¹⁷ <https://www.tandfonline.com/doi/full/10.1080/07418825.2021.2005122>, <https://www.eurekalert.org/news-releases/937161>

¹⁸ <https://www.latimes.com/california/story/2021-11-04/freed-prisoner-earns-college-degree-in-reentry-program>

These programs are set to expire June 30, 2022.

These are two-year programs for students who have already received an Associate degree. CDCR has one pilot program that partnered with a private college, but this proposed funding would be used exclusively for CSU partnerships. CDCR has indicated that the LAC program will be used as a model for the new programs. CDCR has not finalized what degrees will be offered (each institution will have one option) but indicated that they would likely be humanities or liberal arts focused, based on surveys of potential students.

Pell Grants. Incarcerated people in the United States were eligible to receive Pell Grants starting in 1965. However, the Violent Crime and Law Enforcement Act, passed in 1994, banned incarcerated students from receiving Pell Grants and prompted the shutdown of many college programs in prisons. In 2016, the Second Chance Pell Pilot Program expanded funding again to incarcerated students on a limited basis. Through Spring 2023, CDCR estimates that 50 percent of students will be covered by Pell grants.

In December 2020, Congress passed a COVID-19 stimulus package that included the resumption of federal financial aid for incarcerated individuals. This will provide access to federal Pell Grant funds for all qualified CDCR students by July 2023, paying up to \$6,495 per year for college tuition. In 2023-24 and ongoing, CDCR estimates that 90 percent of students will be covered by Pell grants, which will cover roughly 64 percent of the program costs.

Proposed Expansion. CDCR is requesting resources to continue the programs at LAC, FSP, MCSP, CCWF, and to create new programs at California Institute for Women, California Institute for Men, and Calipatria State Prison. These institutions were chosen based on the number of students having already earned an associate degree. CDCR is planning for two cohorts of 25-30 students per facility.

In addition to tuition and supplies, the requested resources (outlined in the table below) include:

- a subscription to access library materials, customized to the needs and restrictions of the incarcerated population.
- 8 Supervisors of Academic Instruction (SAI), including:
 - 7 field SAIs (one at each institution) responsible for identifying candidate students and coordinating with the colleges on implementation, operation, and evaluation of the programs.
 - 1 SAI at headquarters responsible for managing wait lists, responding to incarcerated individual appeals, coordinating academic counseling, approval of credit earnings, overseeing staff development, ensuring accreditation, responding to grievances, technology needs and integration, and other supervisory duties.
- 7 AGPAs (one at each institution) to provide administrative support.

Fiscal Year	Student Cost Total	EBSCO Subscription	Position Cost	Grant Funding	Total Requested
2022-23	\$3,060,000	\$495,000	\$2,375,000	\$ (974,000)	\$4,956,000
2023-24	\$3,978,000	\$495,000	\$2,344,000	\$(2,280,000)	\$4,537,000
2024-25	\$4,284,000	\$495,000	\$2,344,000	\$(2,455,000)	\$4,668,000

Source: Department of Finance

LAO Comment. Expanding higher education is promising because various studies show that education—including higher education—can reduce the number of offenders who recidivate (or reoffend) and that the resulting correctional savings can more than offset their costs. In addition, the proposal would increase the number of inmates who obtain sentencing credits for earning bachelor’s degrees, which could create further state savings from reduced sentences. However, we note that some key questions remain unanswered about the proposal that make it difficult for the Legislature to evaluate.

Specifically, the department has not provided information on:

- Which majors would be offered.
- Which inmates would be eligible for enrollment.
- What specific courses and services (such as tutoring, academic counseling, and career advising) would be offered to ensure inmates can successfully complete bachelor’s degrees.
- Which services CSU would be responsible to provide and which ones CDCR would provide.
- Whether all necessary stakeholders were involved in the planning, such as the Academic Senate, to ensure the program will be implemented properly.

Furthermore, the department did not yet provide information to assess whether the assumptions about program costs, full-time enrollment, number of positions necessary, and amount of funds eligible for reimbursement are justified. In addition, the department has not provided information on why it needs a General Fund augmentation to continue to operate some of the programs, since they were established and have since operated within the department’s existing budget. Accordingly, we recommend that the Legislature require the department to provide the information necessary to justify the proposal.

Staff Recommendation: Hold Open.

Issue 8: Cellular Interdiction Program

Governor's Budget. CDCR requests \$12.6 million General Fund and five positions in 2022-23; \$18.5 million in 2023-24, \$17.9 million in 2024-25, \$3.7 million in 2025-26; and \$2.4 million in 2026-27 and ongoing to upgrade and expand its cellular interdiction solution to all 33 operational, state-owned prisons.

Background. CDCR confiscated 11,852 cell phones in 2020. CDCR investigations have shown that these phones are used to coordinate to bring additional contraband into prisons, and have been used to coordinate murder, attempted murder, and conspiracy to commit murder against Peace Officers, incarcerated persons, and members of the public. According to CDCR, contraband cell phones have also been used to harass victims, threaten witnesses and officials, and commit fraud and identity theft.

CDCR currently operates Managed Access System (MAS) at 18 institutions. While CDCR attempts to prevent contraband cell phones from entering prisons in the first place, MAS adds another layer of protection by interrupting the functioning of any contraband phones. MAS currently does this by creating a local, private cellular network that only authorized devices can connect to. CDCR also adds detected unauthorized devices to the National Stolen Phone Database, which blocks their ability to connect to major carriers. CDCR received \$1.8 million General Fund in 2021-22 and ongoing to maintain MAS.

However, the hardware owned by CDCR only covers certain frequency bands, but commercial cell phone networks have expanded into new frequency bands. CDCR has been testing Evolved MAS (EMAS) at five institutions. EMAS acts as a roaming carrier, enabling greater control over the devices on the network. The funding requested here would enable CDCR to roll out EMAS at all institutions, and to upgrade the hardware to cover all commercial frequency bands. As cellular technology continues to evolve, EMAS will likely need software updates. However, the hardware update to cover all commercial frequency bands is a one-time investment.

LAO Recommendation. The 2021-22 budget package included supplemental reporting language directing CDCR to submit by January 10, 2022 a report identifying and prioritizing all special repair and deferred maintenance projects and capital outlay projects estimated to cost over \$5,000,000 that are likely to be needed within the next ten years. In identifying and prioritizing projects, the administration shall consider various factors, including the possibility of future prison closures. Accordingly, this report could provide information on the administration's long-term infrastructure plans that would affect the Legislature's view of these projects. For example, it doesn't seem prudent to pursue the proposed information technology projects at facilities that will be closed or significantly renovated. To date, the administration had not submitted this report to the Legislature. However, the administration has indicated that it expects to do so by the end of January 2022. Accordingly, the Legislature does not have sufficient information to fully assess proposals related to modifying CDCR infrastructure, such as these. Accordingly, we recommend that the Legislature withhold action until the department provides the report.

Staff Recommendation: Hold Open.

Issue 9: Statewide Correctional Video Surveillance Continuation

Governor’s Budget. The proposed budget includes \$80.3 million General Fund and 32.0 positions in 2022-23, and \$7.6 million General Fund in 2023-24 and ongoing to deploy fixed cameras at ten institutions, deploy body-worn cameras at four institutions, and manage and maintain video.

Background. CDCR has been expanding the use of video surveillance at state prisons to help monitor activities, provide evidence in disputes or allegations of misconduct, and track contraband. Much of the implementation has been at the recommendation of the Office of the Inspector General (OIG), or by recommendation or order of the courts or other oversight bodies related to the *Armstrong* and *Coleman* lawsuits.

In 2015, the OIG conducted a special review of High Desert State Prison (HDSP), and recommended CDCR “...immediately install cameras in all inmate areas, including, but not limited to, the exercise yards, rotundas, building dayrooms, patios, and program offices of HDSP.”

In 2016, CDCR installed an Audio-Video Surveillance System (AVSS) with 207 high-definition cameras in designated high-traffic and large congregation areas at HDSP. This served as a technical pilot, enabling CDCR to test the viability of operating this type of equipment on CDCR’s network. In 2017-18, CDCR received funding to complete the AVSS at HDSP and install the AVSS at Central California Women’s Facility (CCWF). These locations were determined to have an immediate need for AVSS based on criteria such as the number of violent incidents in 2015-16.

Also in 2016, a *Coleman* Special Master monitoring team recommended CDCR install video surveillance cameras to increase observation and provide transparency in areas where actions leading to allegations commonly occur. In 2018-19, CDCR received funding and installed 178 video surveillance cameras at SAC.

In September 2020, the United States District Court ordered CDCR in *Armstrong v. Newsom* (No. 4:94-cv-02307-CW N.D. Cal.) to install surveillance cameras in all areas of Richard J. Donovan Correctional Facility (RJD) to which incarcerated people have access, including, but not limited to, all exercise yards, housing units, sally ports, dining halls, program areas, and gymnasiums, within 90 days. CDCR was further ordered to retain footage of use of force and other triggering events indefinitely, and all other footage for a minimum of 90 days. The Court also ordered the use of body-worn cameras (BWCs) within 60 days for all correctional officers at RJD who may interact with protected class members.

Effective January 19, 2021, CDCR deployed BWCs in compliance with the court’s order at RJD. All correctional officers and sergeants who interact with the incarcerated population are required to wear a BWC. In addition, CDCR activated 966 high-definition cameras in designated high-traffic and large congregation areas on April 5, 2021, in accordance with the *Armstrong* court directive.

In March 2021, the United States District Court ordered CDCR in *Armstrong v. Newsom* (No. 4:94- cv-02307-CW N.D. Cal.) implement the same remedial measures that were required at RJD at five prisons—California State Prison, Los Angeles County (LAC), California State Prison,

Corcoran (COR), Substance Abuse Treatment Facility (SATF), California Institution for Women (CIW), and Kern Valley State Prison (KVSP). The 2021 Budget Act includes resources to enable CDCR to implement these measures.

The 2021 Budget Act also included resources for CDCR to implement AVSS at Salinas Valley State Prison (SVSP), California Correctional Institution (CCI), and Mule Creek State Prison (MCSP) and complete the AVSS installation at SAC.

Perimeter Monitoring. CDCR has also reported a significant increase in the number of incidents where intruders have gained access to institutional grounds to introduce illegal drugs and contraband into an institution by throwing contraband into the Minimum Support Facility (MSF) perimeter. AVSS installations use radar technology to cover vulnerable areas outside the MSF perimeter. This technology detects movement outside of the perimeter and alerts staff to potential security incidents and is integrated into the existing Video Management System (VMS) software. The VMS is programmed to send real time alerts or trigger an alarm when the system detects activity in the covered area. Modern cameras utilize infrared illumination to allow the camera to record at night without the need for traditional exterior lighting and will be used to monitor the perimeter, in conjunction with the radar technology, where necessary to see in low light situations.

Retention of Video. The video collected here would be stored for at least 90 days. In addition, the following events would require staff to preserve the recorded data until instructed otherwise, as potential evidence in investigations and in administrative, civil, or criminal proceedings:

- Any use of force incident
- Riots
- Suspected felonious criminal activity
- Any incident resulting in serious bodily injury, great bodily injury, and all deaths
- All PREA allegations
- Allegations of incarcerated individual misconduct (i.e., Serious Rules Violation Reports by staff)
- Allegations of staff misconduct by an incarcerated individual, employee, visitor, or other person
- Incidents that may potentially be referred to the District Attorney's Office
- An employee report to supervisor of on-the-job injury, or
- Incarcerated individual claims with the Department of General Services, Office of Risk and Insurance Management, and Government Claims Program

Additionally, the Office of Grievances may request to review audio and/or video recordings when conducting an inquiry as it relates to a submitted appeal.

Impact of video evidence. Since implementation at CCWF, HDSP, and RJD, these institutions have utilized their AVSS to identify suspects in investigations, including attempted homicides. The institutions have successfully utilized video from their respective systems to locate lost, misplaced, or stolen items eliminating the need for lengthy searches and potential lockdown situations leading to modified programming.

Institution	Rules Violation Reports (RVR)			Staff Complaints			Incident Reports		
	Video Available	Impact	No Impact	Video Available	Impact	No Impact	Video Available	Impact	No Impact
CCWF	1,927	1250	851	932	582	179	1219	630	560
HDSP	3,645	2,205	1,772	406	332	37	1301	999	308
Totals	5,572	3,455	2,623	1,338	914	216	2,520	1,629	868

The data in this table represents the number of times AVSS was available for Rule Violation Reports, Staff Complaints, and Incident Reports and if the video had an impact at CCWF and HDSP. A single video can be used in more than one Rule Violation Report. This data covers February 1, 2018 through May 31, 2020. Source: CDCR's Office of Research.

Proposed Resources. This proposal would include funding for ten additional facilities, not yet specified. It would also include funding for the implementation of BWCs at CCI, SAC, CCWF, and SVSP.

Depending on the institution size and design, each AVSS may consist of approximately 500 to 1,000 digital cameras installed inside and outside the buildings throughout an institution. Typical locations include, but are not limited to: exercise yards, housing units, program buildings, administration buildings, visiting rooms, gymnasiums, sally ports, and visitor processing areas. This level of camera coverage far exceeds the existing coverage at other institutions.

The proposal also includes a total of 32 positions to support the expansion of AVSS:

- 4 Information Technology Specialist Is – one for each institution receiving BWC
- 14 Correctional Officers - one for each institution receiving AVSS or BWC for monitoring and reviewing video downloaded from the system, including processing AVSS Evidence Request Forms and storing requested events and performing follow-up investigations related to criminal conduct captured on BWCs
- 4 AGPAs to act as liaisons between institutions and internal stakeholders, including tracking compliance with BWC policies, tracking damaged and inoperable equipment, and monitoring triggering events – one for each institution receiving BWCs.
- 4 AGPAs in the Division of Adult Institutions (DAI) to perform redaction services in response to PRA requests
- 3 Special Agent Investigators and 1 Senior Special Agent for the Forensic Analysis Support Team (FAST) at the Office of Internal Affairs (OIA) to serve as video surveillance and BWC liaisons.
- A technical correction to add 2.0 Special Agent positions that were inadvertently left out of the 2021-22 Statewide Correctional Video Surveillance BCP

The proposed implementation timeline is:

Task	Approximate Timeframe
Establish, recruit and fill positions	July 2022 - September 2022
Conduct site visits and design systems	August 2022 - October 2022
Procure equipment and services	September 2022 - November 2022
Install network equipment	December 2022 - March 2023
Install cabling and cameras	December 2022 - June 2023
Train users	June 2023
Test cameras and validate viewing objectives	June 2023 - July 2023
Solution validated and accepted	July 2023

LAO Comment. As noted in the previous item, LAO recommends that the Legislature wait on investments such as these until CDCR provides the required special repair, deferred maintenance, and capital outlay project report.

Staff Comments.

Retention Period. The Legislature should consider whether the 90-day retention period is sufficient. While many events trigger longer retention periods, it is not clear how those events are identified. For example, allegations of staff misconduct may not be identified or filed for months after the initial event, by which time all video evidence may be gone.

Tracking camera downtime. The Legislature may want to consider how incidents of camera downtime are tracked, as monitoring that information could prevent incidents where cameras are intentionally turned off.

Staff Recommendation: Hold Open.

Issue 10: Various Legal and Information Technology (IT) Proposals

Governor's Budget. The proposed budget includes the following legal and IT resources for CDCR:

- *Class Action Lawsuit Staff.* \$2.4 million General Fund and 14 positions in 2022-23 and \$2.3 million ongoing to handle the highly sensitive and complex legal work involved in class action lawsuits.
- *DOJ Legal Service Fees.* \$1.5 million ongoing General Fund for Department of Justice Legal Services fees, bringing the total allocation to \$69.4 million annually.
- *eDiscovery Platform, Redaction, and Delivery.* \$19.5 million General Fund and 10.0 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to develop an eDiscovery platform and increasing staffing for the centralized video storage and redaction unit.
- *Redaction Workload (SB 16).* \$1.1 million General Fund and 7.6 positions in 2022-23 and ongoing for compliance with Chapter 402, Statutes of 2021 (SB 16).
- *Privacy Office Augmentation.* 12.0 positions and \$2.1 million General Fund in fiscal year 2022-23 and ongoing for resources necessary to enhance CCHCS' ability to identify, prevent, manage, and mitigate privacy, information security, and cybersecurity risks and threats, and address key vulnerabilities consistent with recent Corrective Action Plans (CAPs).
- *Security Solutions and Laptop End User Security.* 9 positions and \$4.4 million General Fund in 2022-23 and \$5.2 million General Fund in 2023-24 and ongoing to address information security and cybersecurity vulnerability.
- *Microsoft End User Licensing Agreement.* \$11.5 million General Fund in 2022-23, \$16.1 million in General Fund 2023-24, and \$17.5 million General Fund in 2024-25 and ongoing to cover the increased cost of moving to a statewide contract for Microsoft End User Licensing Agreement.

Background. CDCR faces an increasing legal and IT workload due to multiple, ongoing, complex lawsuits, new oversight measures, the implementation of new technology systems (such as AVSS), increased cybersecurity threats, and increased handling of sensitive electronic information.

Lawsuits. CDCR faces numerous, long-standing, and still heavily litigated class action lawsuits. CDCR estimates that over the past six years, cases such as *Armstrong*, *Coleman*, *Clark*, *Plata*, *Prison Legal News*, *Three-Judge Panel*, and *Askher* have cost the state over \$115 million in litigation costs. The oldest of these cases is *Coleman*, filed in 1990. Typically, the Department of Justice (DOJ) assists in the initial litigation of these cases, and CDCR's Office of Legal Affairs (OLA) handles the ongoing workload associated with compliance.

These cases have also resulted in increasing oversight and scrutiny of CDCR by federal courts, plaintiff's teams, other appointed overseers, and external stakeholders. These cases still produce new recommendations and mandates for increased oversight, such as the implementation of video surveillance described in the previous item. To terminate these cases, CDCR needs to demonstrate long-term solutions to the issues raised by the courts, including sustainable implementation of various mandates and orders.

Class Action Team (CAT). The ongoing workload associated with these lawsuits is handled by CAT within CDCR's OLA. In 2015, the team handled 12 class action cases and 2 complex transgender cases; in 2021, the team handled 16 class action cases and 5 complex transgender cases. Between 2015 and 2021, despite successful efforts in terminating five class action cases, another nine new cases were filed. The team currently contains 18 attorneys, 6 of whom are being redirected from other OLA duties.

This team is currently understaffed, leading to long hours and retention issues. CDCR's legal team is significantly smaller than the plaintiff's teams, as outlined in the table below. As a result, the legal team is not able to take proactive steps to negotiate with plaintiffs and track CDCR's compliance with new orders. In addition, these lawsuits are closely monitored by courts, plaintiffs, and advocates, and the office needs additional administrative staff to help track requests and letters. CDCR is requesting additional attorneys and administrative staff to relieve the current workload and allow CAT to be more proactive, with the goal of helping CDCR end some of the longest running cases.

Plaintiffs' Counsel's Legal Staffing 2020								
	Armstrong		Ashker		Coleman		Plata	
	Staff	Hours	Staff	Hours	Staff	Hours	Staff	Hours
Attorney	36	12,928.1	9	3,765.2	29	9,966.9	12	4,629.8
Admin	31	12,292.3	6	420.9	23	8,709.6	10	1,047.5
TOTALS	67	25,220.4	15	4,186.1	52	18,676.5	22	5,677.3

Office of Legal Affairs' Legal Staffing 2020								
	Armstrong		Ashker		Coleman		Plata	
	Staff	Hours	Staff	Hours	Staff	Hours	Staff	Hours
Attorney*	3	5,328.0	2	3,552.0	3	5,328.0	2	3,552.0
Admin**	2	2,131.2	2	1,420.8	1	225.0	1	225.0
TOTALS	5	7,460.0	4	4,972.8	4	5,328.0	3	3,777.0

*Hourly totals are approximated based on 1,776 hours per year, per staff member. Time worked over 1,776 has not been included as attorneys do not track their time per case as plaintiffs' counsel does due to their billable hour requirement. Therefore, the hours spent on each case is an approximation.

**The 2 existing analysts provide assistance across all cases. Hours worked across cases is approximated.

Source: Department of Finance

DOJ Legal Services. The Office of the Attorney General provides legal representation for CDCR and its employees in state and federal courts. Since 2011-12, DOJ has directly billed CDCR for legal services. Over the last four years, DOJ has billed CDCR for over 300,000 hours of legal services annually. CDCR has an ongoing appropriation of \$67.8 million to cover this but has consistently exceeded this amount and has absorbed the extra cost in the general department budget.

Data management. CDCR has an increasing amount of digital data and evidence, but no uniform data management system. Currently, this task is handled separately across units. This makes responding to discovery and Public Records Act (PRA) requests increasingly difficult. CDCR receives an average of 726.6 requests annually, and regularly must ask for extensions on these requests. As CDCR moves towards digital video surveillance, this becomes an even bigger task.

The lack of a coherent system has made it difficult for CDCR to track and secure evidence, ensure nothing is deleted, corrupted, or tampered with, and has opened the department up to information security incidents. CDCR is requesting one-time funding for positions and software to develop and establish an eDiscovery system in collaboration with the California Department of Technology (CDT).

Redaction. In addition to an eDiscovery system, CDCR is requesting numerous resources for redaction of records requested through PRA or other means. As part of the eDiscovery system proposal, CDCR is requesting 10 permanent positions to expand the PRA Unit in the Department of Adult Institutions (DAI) to establish a centralized, specialized redaction team.

SB 16 Redaction. CDCR is also asking for separate redaction resources specific to the implementation of SB 16, which makes additional records related to peace officer and custodial officer investigation and personnel records available for PRA requests. However, prior to release, these records must be redacted to remove personal data or information like addresses and phone numbers, and the identity of the officer's family members or of victims and informants. Under SB 1421, which established other categories of peace officer records subject to PRA requests, CDCR received approximately 254 requests from 2019 to 2021. Based on OIA records, CDCR is anticipating an additional roughly 90 requests a year for SB 16. \$1.1 million General Fund and 7.6 positions in 2022-23 and ongoing for compliance.

Sensitive Health Care Information. The Administration is also requesting resources to assist California Correctional Health Care Services (CCHCS) in managing and protecting sensitive digital records. CCHCS is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), meaning they must take certain measures to protect patient privacy and secure records. Recent security audits, assessments, and compliance reviews have identified specific vulnerabilities and risk factors with regard to CCHCS' ability to adhere to HIPAA, state privacy, and Information Security Policy (ISP). In addition, CCHCS has recently experienced an increase in attacks on network infrastructure, endpoints, and email systems. Accordingly, CCHCS is requesting 12 positions and \$2.1 million for the Privacy Office to identify, prevent, manage, and mitigate privacy, information security, and cybersecurity risks and threats, and address key vulnerabilities consistent with recent Corrective Action Plans (CAPs).

Workload History						
Workload Measure	PY – 4	PY – 3	PY – 2	PY-1	PY	CY
Number of Information Security Incidents	52	64	89	102	113	124
Number Requiring Breach Notices	31	47	33	19	18	37
Number of Individuals Impacted	681	400,699*	1,955	2,705	6,474	10,687

*The theft of a state-issued CCHCS laptop required that the Department send out notifications to every single inmate-patient and their designated points of contacts.

Source: DOF

Security Solutions and Laptop End User Security. CDCR is requesting resources to address cybersecurity threats. In addition to the health information held by CCHCS discussed above,

CDCR maintains sensitive data about its workforce and about the incarcerated population. CDCR is also considered a covered entity in regards to HIPAA. In addition, the expansion of telework and the increased introduction of laptops and other technology into prisons is creating additional cybersecurity concerns at CDCR. CDCR has indicated that the resources requested here would be used for:

- Vulnerability management.
- Data management.
- Security and privacy awareness training.
- Privileged access management.
- The development of a business impact analysis, which together with a technology recovery plan, guides the department's response to unplanned incidents such as natural disasters and cyber attack.
- Security and operational visibility.

CDCR is requesting 9 positions and \$4.4 million General Fund in 2022-23 and \$5.2 million General Fund in 2023-24 and ongoing to address information security and cybersecurity vulnerability. Of this amount, \$1.8 million in 2022-23 and \$2.6 million ongoing will support endpoint protection software for the 37,000 thin-client laptops that will be deployed systemwide for use by incarcerated individuals in conjunction with educational programming consistent with the 2021-22 Technology for Inmates Participating in Academic Programs BCP.

Microsoft End User Licensing Agreement. CDT has negotiated a statewide contract with Microsoft to provide services to all departments. CDCR and CCHCS have migrated to this new contract, but are requesting \$11.5 million General Fund in 2022-23, \$16.1 million in General Fund 2023-24, and \$17.5 million General Fund in 2024-25 and ongoing to cover the increased cost.

LAO Comments.

Redaction Requests. The Governor requests a total of 21.6 new positions and \$2.8 million (General Fund) annually beginning in 2022-23 for CDCR to perform workload related to redacting records so that they can be released under various conditions. These resources are included in the following four proposals:

- ***SB 1421 and SB 16 Redaction Workload (\$1.1 Million).*** Proposes 7.6 new positions for redaction of records released pursuant to Chapter 988 of 2018 (SB 1421, Skinner) and Chapter 402 of 2021 (SB 16, Skinner), which expanded the types of records of peace officer misconduct that are subject to Public Records Act requests.
- ***eDiscovery Platform, Redaction, and Delivery (\$1.4 Million).*** Includes 10 new positions to provide CDCR with dedicated staffing to address existing redaction workload not driven by Chapters 988 and 402. The department indicates that this existing redaction workload is currently being done by redirected positions and is also not getting done on time. In addition, the department proposes to realign 5 existing positions that are no longer needed in CDCR's Contract Beds Unit to address this workload.

- ***Statewide Correctional Video Surveillance Continuation (\$300,000)***. Proposes 4 new positions and \$300,000 to address an anticipated increase in redaction workload due to expansion of fixed video surveillance cameras and body-worn cameras.

To date, the administration has not provided enough information to justify the above proposals. Accordingly, we recommend that the Legislature require the department to provide the information necessary to justify the proposal.

Staff Comment. As indicated by the LAO, some of the proposals have related funding. For example, the Security Solutions and Laptop End User Security proposal includes data management, which is also covered in the eDiscovery proposal. The Legislature should consider how these funding proposals interact to ensure new technologies are efficiently deployed and initiatives are not duplicated.

Staff Recommendation. Hold Open.

Issue 11: Additional Staff for Victim Restitution Collection Services

Governor's Budget. The proposed budget would authorize six extra positions for CDCR's Victim Collection Services. These would be funded in 2022-23 and 2023-24 with the remaining resources in the Restitution Administrative Fee Fund. Beginning in 2024-25, CDCR proposes to shift all expenditures supporting Victim Restitution Collection Services from the Restitution Administrative Fee Fund (RAFF) to the General Fund, resulting in \$3.1 million General Fund and 21 positions in 2024-25 and ongoing.

Background. There are two types of restitution that perpetrators of a crime may be ordered to pay:

- (1) *Restitution Fines.* Restitution fines are paid into the Victim Compensation Fund, which the California Victim Compensation Board (CalVCB) uses to pay out victim compensation claims for things like crime scene clean-up, funerals, relocation costs and other eligible expenses. Restitution fines are not earmarked for specific victims, and the amount ordered is not related to a specific crime or a victim's claim.
- (2) *Direct Orders.* In some cases, the perpetrator of a crime may be ordered to pay restitution directly to their victim(s) for specific expenses related to the crime, including stolen or damaged property, medical expenses, attorney's fees, and other eligible expenses.

CDCR collects restitution from the incarcerated population and parolees. The amount of restitution collected by CDCR has grown from \$19 million in 2010 to \$37.4 million in 2020-21, a 60 percent increase. CDCR also works with victims to deliver direct restitution. CDCR has two main programs related to restitution, with a total of 15 staff:

- *Office of Victim and Survivor Rights and Services (OVSRS).* OVSRS is responsible for collecting court-ordered restitution and helping victims. The 2021 Budget Act included ten additional positions to expand OVSRS and help improve outreach to victims. However, CDCR estimates that there are 88,000 victims whom OVSRS has collected restitution for but whose information is unknown, so CDCR will have to track them down.
- *Accounting Services Branch (ASB).* ASB handles restitution-related financial transactions, including maintaining trust accounts for the incarcerated population and restitution balances for all parolees. ASB manages the Trust Restitution Accounting and Canteen System (TRACS), a database of financial information about banking, restitution, and canteen services for all incarcerated persons.

CDCR used to charge a 10 percent administrative fee on all collected restitution. That money was deposited into the RAFF and used to fund OVSRS and ASB. However, this fee was eliminated as part of the effort to reduce fines and fees throughout the criminal justice system (AB 177, Chapter 257, Statutes of 2021). The Administration proposes to spend down RAFF over the next two fiscal years, and then shift any remaining resources and all expenditures related to these programs to the General Fund in 2024-25.

This proposal includes six additional positions for OVSRS Restitution Services Unit (RSU). These positions would be used to respond to a generally increasing workload, as well as address a one-time workload related to AB 177. Specifically, CDCR will have to adjust each of the 54,000 cases they have forwarded to the Franchise Tax Board for collection to ensure the 10 percent administrative fee is removed.

Staff Comment. The Legislature should consider how this program fits into the statewide network of victim services, including those at CalVCB and other agencies and departments.

Staff Recommendation. Hold open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, February 1, 2022
9:00 a.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS.....	2
Issue 1: Juvenile Justice Realignment.....	2
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)	6
Issue 2: Population Projections	6
Issue 3: COVID-19 Direct Response Expenditures	8
Issue 4: Visitation and Remote Communication Opportunities.....	12
Issue 5: Tattoo Removal Program.....	14
Issue 6: Rehabilitative Programming Support	15
Issue 7: Bachelor's Degree Program Expansion	17
Issue 8: Cellular Interdiction Program	20
Issue 9: Statewide Correctional Video Surveillance Continuation	21
Issue 10: Various Legal and Information Technology (IT) Proposals.....	25
Issue 11: Additional Staff for Victim Restitution Collection Services	30

Public Comment

ALL ITEMS HELD OPEN

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: Juvenile Justice Realignment

Governor's Budget. The proposed budget includes \$100 million one-time General Fund for the Board of State and Community Corrections (BSCC) to administer the County Operated Juvenile Facility Grant Program. The funding would help counties improve their juvenile facilities in anticipation of the closure of the Division of Juvenile Justice (DJJ).

Background.

The 2019-20 Budget Act included a plan to realign the juvenile justice system to the county level and close DJJ at the California Department of Corrections and Rehabilitation (CDCR). Prior to realignment, most juvenile offenders were already housed or supervised by counties. However, counties could choose to send juveniles who had committed violent, serious, or sex offenses to state facilities operated by DJJ. Prior to realignment, DJJ facilities housed around 650 youth.

However, 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 system¹. First, the location of DJJ facilities means that many youth offenders are 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 rates². Overall, the facilities operated more like adult prisons than as spaces where young offenders 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 are operating under capacity, so there is opportunity for consolidation.

Realignment is intended to move juvenile justice in California toward a rehabilitative, trauma-informed, and developmentally appropriate system. The plans for 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. Per the realignment timeline, DJJ stopped accepting most transfers from counties on July 1, 2021, and will completely shut down by June 30, 2023. As a result, counties will be responsible for caring for youth with more serious needs and who have committed more serious offenses. To support counties in this transition, the realignment plan included the creation of the Office of Youth and Community Restoration (OYCR) to provide statewide assistance, coordination, and oversight. This new office is under the Health and Human Services Agency (HHS) rather than under CDCR or BSCC, reflecting the shift away from corrections towards services and treatment. The plan also outlined a process for counties to establish Secure Youth Treatment Facilities (SYTFs) for high-level offenders who would have previously been housed at DJJ.

¹http://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>

However, counties are concerned about their ability to care for the youth who would have gone to DJJ. While there is plenty of capacity at the county level, the facilities are not necessarily well-suited to provide the types of programming envisioned in the realignment.

Previously Allocated Resources. 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 will amount to \$209 million statewide per year after full realignment. This funding is currently administered by BSCC.

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 Re-entry 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.

Proposed County Operated Juvenile Facility Grant Program. The Administration is proposing a grant program, administered by BSCC, to provide \$100 million one-time General Fund to 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. Youth facilities are defined to include juvenile halls (WIC 850 and 870), secure youth treatment facilities (WIC 875), and juvenile ranches or camps (WIC 880). The funding cannot be used to increase the capacity of county youth facilities. Up to 5 percent of the funds would be available for BSCC for administrative costs.

Funding would be prioritized for counties that:

- (1) Have not previously received funding through the Local Youthful Offender Rehabilitative Facility Construction Grants (WIC 1971 and 1973).
- (2) Modernize units and sleeping rooms to meet or exceed the applicable Title 24 building standards, which became effective January 1, 2020.

DJJ Population Projections. Compared to the 2021 Budget Act projections, the Governor's Budget estimates an average daily population of 657 youth in 2021-22 and 544 youth in 2022-23, which represents an increase of 44 youth in 2021-22 and a decrease of 69 youth in 2022-23,

respectively. Accordingly, the Budget reflects an increase of \$1.8 million General Fund in 2021-22 and a decrease of \$10.1 million General Fund in 2022-23. The temporary increase in 2021-22 is the result of DJJ processing a backlog of youth committed prior to July 1, 2021, due to pausing intake in response to COVID-19. According to these projections, DJJ would still have 493 youth in custody as of June 2023.

LAO Comments.

Proposal Not Based on Thorough Assessment of County Facility Needs. While the administration conducted a survey to determine whether counties would be interested in receiving additional facility funding, no assessment has been carried out to detail the extent to which existing county facilities are currently in need of repair or not adequate to provide rehabilitative programs or other services for realigned youths. Moreover, the administration has not provided detailed cost estimates for addressing any identified deficiencies— making it difficult for the Legislature to evaluate the appropriateness of the proposed \$100 million.

Newly Constructed Beds Should Be Accounted for. Due to the facility grant funds that the state has provided to counties in recent years, a significant number of newly constructed beds have become or will become available. Specifically, 614 new beds have been constructed since 2013 and 318 new beds are expected to become available over the next several years, for a total of 932 new beds— somewhat more than the number of youths expected to be realigned to counties in 2024-25. In assessing whether existing county facilities are adequate, it is important to consider the availability of the new beds, as they could be more conducive to programming and in better condition than a county's existing beds.

Counties With Facility Needs Can Contract for Needed Facilities. We also note that while it is possible that some counties—particularly smaller counties—may have some facility needs, such counties can contract with other counties to house realigned youths. A survey conducted by BSCC following the passage of SB 823 found that several counties would be willing to take realigned youths from other counties.

Staff Comments.

Role of OYCR. SB 823 specified that no juvenile grants shall be awarded by BSCC without the concurrence of OYCR. It also specified that all juvenile justice grant administration functions should move from BSCC to OYCR by January 1, 2025. For this proposal, the Administration has confirmed that OYCR would be involved, but their role is not clear from the budget proposal or budget bill language. OYCR is also in the process of reviewing each county's plans for juvenile justice, as required by SB 823, which is supposed to include an outline of facilities. It would be useful for the Legislature to have more information about the facilities elements contained in the county plans to assess the need for this funding.

Lack of detail. The Administration has not provided any details on the grants themselves, including the size of the grants or number of awards, and an outline of the selection process, including how grants would be ranked and who would be on the selection committee. The proposal does not specify how much funding would go towards different types of facilities, such as SYTFs, or how

the Administration will ensure that the facilities are aligned with the new vision for juvenile justice. For example, some counties may use this funding to upgrade their juvenile halls, which may not result in the desired types of space. The proposal also doesn't outline reporting requirements. The Legislature should consider defining more of these parameters in language.

DJJ Transfer Plan Missing. SB 92 required CDCR to provide a plan by January 1, 2022 for transferring the remaining youth in DJJ by the closure date. This plan has not yet been provided.

LAO Recommendation. Because the administration did not provide adequate justification for the level of facility funding requested and it is not clear why additional funding is necessary, we recommend that the Legislature reject the Governor's proposed County Operated Juvenile Facility Grant Program. To the extent the administration is able to provide a detailed assessment of county juvenile facility needs that account for newly constructed beds in the future, the Legislature could consider providing facility grants to counties at that time.

Staff Recommendation. Hold Open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

CDCR manages the state's prison system, with an emphasis on rehabilitation and preparing individuals to successfully reintegrate into their communities upon release. CDCR employs over 60,000 staff, accounting for roughly 25 percent of California state employees (excluding public universities). The Governor's budget proposes total funding of \$14.2 billion (\$13.8 billion General Fund and \$364.4 million other funds) for CDCR in 2022-23.

CDCR is organized into six divisions:

- Division of Adult Institutions (DAI)
- Division of Adult Parole Operations (DAPO)
- Division of Health Care Services (DHCS)
- Facility Planning, Construction and Management (FPCM)
- Division of Juvenile Justice (DJJ)
- Division of Rehabilitative Programs (DRP)

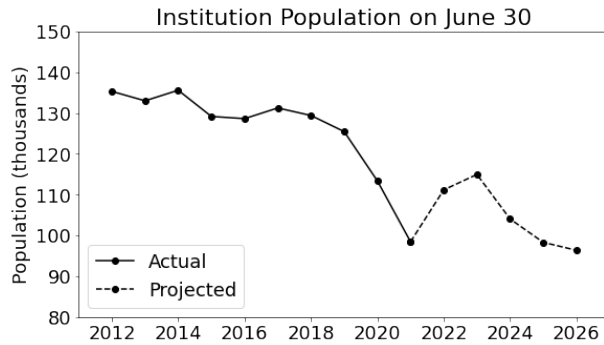
CDCR also contains other offices and programs, including the Board of Parole Hearings (BPH) and the Prison Industry Authority (PIA).

Issue 2: Population Projections

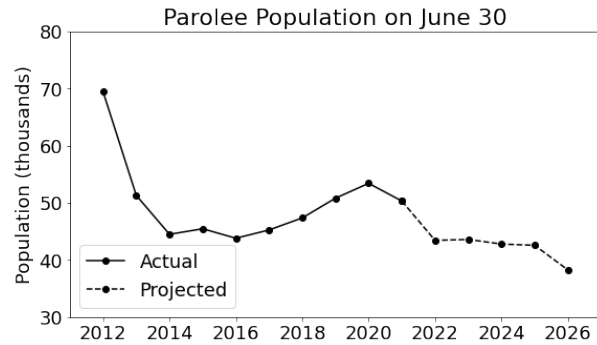
Adult Incarcerated Population. Compared to the 2021 Budget Act projections, the adult incarcerated average daily population is projected to decrease by 1,705 in 2021-22, and increase by 6,605 in 2022-23, to a total of 104,554 and 112,864, respectively. The 2021-22 decline is primarily due to actions taken to reduce the prison population in response to COVID-19 and the 2022-23 increase is largely due to the resumed intake of individuals sentenced to prison but held in county jails pending transfer to state prison. However, the population is trending downward in the long term, and is projected at 100,361 for 2024-25.

Adult Parolee Population. Compared to 2021 Budget Act projections, the average daily parolee population is projected to remain the same in 2021-22, with a slight increase of 9, followed by a decrease by 4,716 parolees in 2022-23, totaling 54,244 and 49,499, respectively. The decline in 2022-23 is related to an overall decrease in the incarcerated population and shorter parole terms.

When compared to the projected average daily population at the 2021 Budget Act, these changes result in a decrease of \$56.9 million General Fund in 2021-22, and a decrease of \$19.4 million General Fund in 2022-23. A handout has been provided by CDCR to accompany this item.



Data from CDCR



LAO Comment. The Governor's budget proposes \$92.3 million (mostly from the General Fund) to accommodate a 6,605 increase (from 106,259 to 112,864) in the projected average daily inmate population in 2022-23 relative to what was assumed in the enacted 2021-22 budget. The administration indicates that this increase is largely due to the intake of a backlog of people who were sentenced to prison but housed in county jails while prison admissions were halted in response to the COVID-19 pandemic.

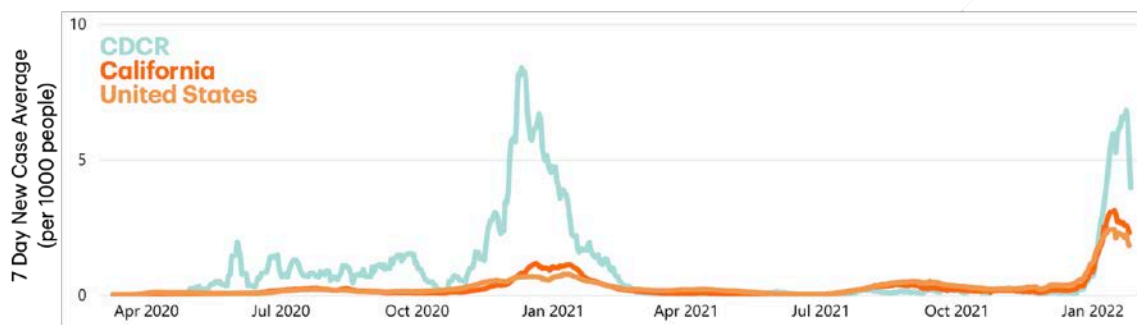
As of January 12, 2022, the inmate population was 99,110 and the administration indicated that the backlog in jails had largely been eliminated. Accordingly, it seems implausible that the average daily inmate population will reach 112,864 in 2022-23 as assumed in the Governor's budget. This suggests that the proposed budget overestimates the projected inmate population in the budget year, potentially by several thousand. Based on our discussions with the administration, this is likely for two reasons. First, it appears that this overestimate was largely driven by an assumption that admissions to prison would be higher between July and December 2021 than they actually were. Second, the administration's projections do not account for Chapter 728 of 2021 (SB 843, Allen), which requires resentencing of individuals to lesser terms to reflect the elimination of certain sentencing enhancements. The administration indicates that its spring 2022 population projections and associated budget adjustments at the May Revision will reflect both the lower than expected admissions and the estimated impact of Chapter 728. Accordingly, we withhold recommendation on the administration's adult population funding request until the May Revision.

Staff Recommendation. Hold open.

Issue 3: COVID-19 Direct Response Expenditures

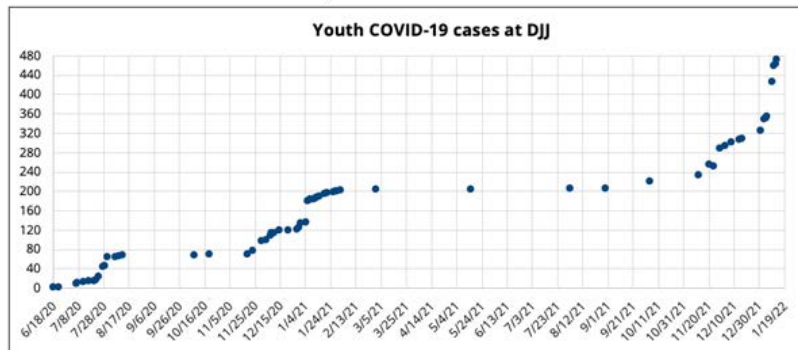
Governor's Budget. The proposed budget includes \$424.7 million one-time General Fund in 2022-23 for CDCR's response to the COVID-19 pandemic. There has been a recent surge of cases within the prison system, leading CDCR to suspend visitation and intake from county jails and limit programming and transfers.

Background. As of January 28, 2022, the incarcerated population has had a total of 64,900 cases and 246 deaths since the beginning of the pandemic, including 6,098 active cases³. In addition, as of January 27, 2022, there have been a total of 38,845 cases and 50 deaths among CDCR staff, including 4,412 active cases⁴. Rates of COVID-19 within the incarcerated population have outpaced state and national averages throughout much of the pandemic (see below).



Source: CDCR

DJJ has had a total of 571 cases, and has 41 active cases as of January 26, 2022⁵. COVID-19 cases at DJJ have also risen dramatically recently, and at least one youth was admitted to the hospital after experiencing serious symptoms⁶. The data available for DJJ is more limited due to medical privacy laws for minors. Juvenile offenders also did not have the same early release opportunities as the adult population (although the density of juvenile facilities was also lower to begin with). There also have been reports of staff not wearing masks or other protective equipment⁷.



Cumulative COVID-19 cases at DJJ. Source: CJCJ⁸

³ <https://www.cdcr.ca.gov/covid19/population-status-tracking/>

⁴ <https://www.cdcr.ca.gov/covid19/cdcr-cchcs-covid-19-status/>

⁵ <https://www.cdcr.ca.gov/juvenile-justice/pandemic-response/>

⁶ <https://calmatters.org/justice/criminal-justice/2022/01/covid-juvenile-prisons/>

⁷ <https://www.theguardian.com/world/2021/jan/08/coronavirus-california-detention-custody>

⁸ <http://www.cjcj.org/news/13205>

Population Reduction. In response to the pandemic, and in acknowledgement that the prison environment is particularly conducive to the transmission COVID-19, CDCR took steps to reduce its inmate population.

In April 2020, CDCR expedited the release of almost 3,500 incarcerated persons serving a sentence for non-violent offenses, who do not have to register as a sex offender, and who had 60 days or less to serve.

In July 2020, CDCR implemented a community supervision program. Inmates were eligible if they are within 180 days of release; were not serving a current term for domestic violence, a violent crime, or were required to register as a sex offender; and did not have a risk assessment score that indicates a high risk for violence. About two-thirds of these incarcerated people were released to Post Release Community Supervision (county probation) and one-third were released to state parole. The last list of potentially eligible people was created on July 29, 2021 and is being processed. No new eligibility will be extended.

CDCR also reviewed and released people deemed at high risk medically for COVID-19 on a case-by-case basis. Additionally, on July 9, 2020, CDCR applied a one-time 12-week positive programming credit to all eligible inmates to recognize the impact the COVID-19 Pandemic has had on inmates' access to programs and credit earnings.

Suspension of Intake from Counties. On March 24, 2020, the Governor issued Executive Order N-36-20, to mitigate the spread of COVID-19 in the state's adult institutions by stopping intake for 30 days, which was subsequently extended to 60 days. Since then, COVID-19 outbreaks have led to intermittent suspensions of intake from county jails at both adult and juvenile facilities. Currently, intake is suspended at DJJ, Wasco State Prison, and North Kern State Prison, but is open at Central California Women's Facility.

Impact on visitation and programming. COVID-19 severely impacted CDCR's ability to provide in-person visitation and programming. Currently, in-person visitation is suspended at DJJ and at adult facilities. At DJJ, all volunteer programs have been suspended since March 18, 2020, but the California Education Authority is continuing high school classes. There have been recent reports of highly restricted programming at youth facilities among outbreaks⁹. Visitation and programming are also discussed in more detail in later discussion items.

Vaccinations and testing. Vaccinations are currently required for employees and incarcerated workers in health care settings. In other settings, employees do not have to be vaccinated but are required to test twice a week. As of January 28, 2022, 81 percent of the incarcerated population and 71 percent of CDCR employees were fully vaccinated. However, vaccination rates vary widely across facilities and settings. For example, three institutions (Pelican Bay State Prison, High Desert State Prison, and the California Correctional Center) have staff vaccination rates at or below 50 percent. The highest staff vaccination rates are at the medical facilities, including the California Health Care Facility and the California Medical Facility, where vaccines are mandated for employees.

⁹ http://www.cjcj.org/uploads/cjcj/documents/DJJ_on_the_brink_2021.pdf

Plata v Newsom. On September 27, 2021, as part of ongoing oversight related to the *Plata* case, CDCR was ordered to mandate vaccinations for employees entering CDCR institutions and incarcerated persons who work outside of an institution or accept in-person visitation, to protect the health and rights of the incarcerated population. The *Plata* case is a class action lawsuit where prisoners alleged that CDCR inflicted cruel and unusual punishment by being deliberately indifferent to serious medical needs. A settlement agreement was reached in 2002, but a lack of progress led a federal judge to place California's prison medical care system under the control of a court-appointed Receiver¹⁰. The vaccine mandate was the Receiver's recommendation¹¹. However, the Administration appealed the mandate, and a stay was granted on November 26, 2021. The Administration has argued that the mandate would lead to staffing shortages¹².

San Quentin Outbreak and Lawsuit. In May 2020, CDCR transferred 121 people from the California Institute for Men, the state prison with the highest COVID-19 rate at the time, to San Quentin without adequate testing and isolation. This transfer initiated an outbreak at San Quentin, in which over 2,600 staff and incarcerated people tested positive (representing 75 percent of the prison population) and 28 incarcerated people and 1 correctional officer died. In addition, a months-long lockdown was initiated. Hundreds of petitions were filed alleging unlawful incarceration under the Eighth Amendment's prohibition against cruel and unusual punishment. In November 2021, a judge ruled for the petitioners, agreeing that CDCR acted with deliberate indifference and inflicted cruel and unusual punishment. However, no remedy was ordered¹³.

Previously Allocated Resources. CDCR has spent a total of \$1.1 billion on COVID prevention, mitigation, and response activities in 2019-20 and 2020-21 (see below table). In addition, the 2021 Budget Act included \$407.9 million one-time General Fund for COVID-19 response.

COVID-19 Direct Response Costs

Cost Category	2019-20 Actual Costs	2020-21 Actual Costs	Total Actual Costs
Corrections and Rehabilitation			
Temporary Suspension of Prison Intake	\$31,215,000	\$176,827,000	\$208,042,000
Reentry Housing	\$0	\$15,183,000	\$15,183,000
Project Hope (CDCR)	\$0	\$478,000	\$478,000
Personal Protective Equipment	\$23,330,000	\$18,837,000	\$42,167,000
Medical Surge/Tents	\$1,198,000	\$154,600,000	\$155,798,000
Testing (Employee)	\$2,518,000	\$270,738,000	\$273,256,000
Testing (Inmate)	\$6,101,000	\$128,909,000	\$135,010,000
Cleaning	\$20,740,000	\$27,624,000	\$48,364,000
Other Staffing and Operational Costs	\$63,804,000	\$168,568,000	\$232,372,000
Totals	\$148,906,000	\$961,764,000	\$1,110,670,000

¹⁰ https://prisonlaw.com/post_case/plata-v-brown/

¹¹ <https://prisonlaw.com/wp-content/uploads/2021/09/21.09.27-Doc-3684-Order-re-mandatory-vaccinations.pdf>

¹² <https://www.latimes.com/california/story/2021-11-04/newsom-guards-challenge-vaccine-mandates-at-prisons>

¹³ <https://sfpublicdefender.org/news/2021/11/judge-rules-cdcr-inflicted-cruel-unusual-punishment-on-incarcerated-people-at-san-quentin-during-covid-19-pandemic/>

Source: Department of Finance

The proposed funding includes \$392.5 million for California Correctional Health Care Services (CCHCS) and \$32.2 million for CDCR. Proposed uses of the funding include testing and vaccination for incarcerated persons and staff, medical staffing registry and overtime, medical treatment, purchasing personal protective equipment and air filters, overtime, and medical surge tents and equipment rental contracts in the case of an outbreak. A breakdown of the funding request is provided in the table below. The Administration has indicated that this is an estimate of potential needs over the next fiscal year.

COVID-19 Direct Response Budgeted and Proposed Costs

COVID-19 Direct Response Activities	2021 Budget Act	2021-22 Proposed Funding Over 2021 Budget Act	2022-23 Proposed Funding
California Department of Corrections and Rehabilitation	\$410,486,000	\$205,547,000	\$424,669,000
Hospital and Medical Surge	\$29,245,000	\$0	\$10,905,000
State Response Operations	\$82,767,000	\$0	\$32,154,000
Statewide Testing	\$198,440,000	\$205,547,000	\$380,109,000
Vaccine Distribution and Administration ^{1/}	\$2,500,000	\$0	\$1,501,000
Temporary Suspension of Prison Intake	\$97,534,000	\$0	\$0
^{1/} The 2021 Budget Act did not specifically identify an amount for vaccine distribution and administration for the California Department of Corrections and Rehabilitation (CDCR). Estimated costs for vaccine-related activities were reflected in the broader state response operations assumptions. CDCR currently estimates it will expend \$2.5 million for this purpose in 2021-22, which will be absorbed within existing resources.			

Control Section Language. As with prior COVID-19 expenditures, the Administration is requesting control language allowing additional flexibility in how the funding is used. The 2021-22 budget included control section language allowing the administration to shift resources budgeted for COVID-19 response between and within nine departments over the course of the fiscal year, subject to 10-day notification to the Joint Legislative Budget Committee (JLBC). The administration is proposing to modify this section to also allow the amount budgeted for COVID-19 response in three departments—including CDCR—to be increased subject to 10-day JLBC notification.

LAO Comments. At this time, the administration has not provided sufficient information to allow the Legislature to evaluate these proposals. It is unclear whether the proposed level of funding is appropriate as the department has not yet provided adequate justification, such as projections of the number of inmates and employees requiring tests or personal protective equipment. Accordingly, we recommend that the Legislature require the department to provide the information necessary to justify the proposal.

Staff Recommendation: Hold Open.

Issue 4: Visitation and Remote Communication Opportunities

Background. Numerous studies have demonstrated the benefits of contact between incarcerated people and their loved ones¹⁴. 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. Therefore, increasing opportunities for in-person visitation and remote communications is both humane and promotes public safety for the community.

Visitation. In 1975, the Legislature laid out a list of rights for the incarcerated population, such as the right to correspond confidentially with a lawyer (PEN 2601). This section originally included the right “To have personal visits; provided that the department may provide such restrictions as are necessary for the reasonable security of the institution.” However, this clause was repealed in 1996 (SB 1221, Statutes of 1996, Chapter 132), to allow for visitation to be used as a reward (or lack of visitation as a punishment). During this time, visitation days and hours were also severely curtailed. As of January 2020, institutions only offered two days of in-person visitation per week. According to the Coalition for Family Unity, only 34 percent of incarcerated people in California receive one or more visit a year.

The enacted 2021-22 budget included a third day of in-person visitation on Fridays at all institutions. In addition, provides visitors with free transportation on select days throughout the year to all prisons via chartered busses. The budget appropriated \$20.3 million ongoing General Fund to support this change.

COVID-19 and Visitation. In March 2020, due to the COVID-19 pandemic, CDCR stopped in-person visiting to curtail the spread of the virus into the prison. CDCR resumed in-person visitation on April 10, 2021, but it was suspended again on January 8, 2022 due to a surge in cases. Visitation is also suspended at DJJ.

CDCR created a phased approach to in-person visiting. Depending on the current number of new COVID-19 cases, an institution is classified via one of three phases:

- Phase 1 – three or more positive COVID-19 incarcerated persons related cases. Video visits only for one hour.
- Phase 2 – no new outbreak of COVID-19 cases for at least 14 days. In-person visitation with one approved visitor per incarcerated person for a maximum of two hours. Video visits are also available for one hour.
- Phase 3 – no new outbreak of COVID-19 cases for at least 28 days. In-person visitation with up to three approved visitors per incarcerated person for two hours. Video visits are also available for one hour.

As of January 27, 2022, all CDCR institutions were in Phase 1.

¹⁴ https://www.prisonpolicy.org/blog/2021/12/21/family_contact/

Remote Communication Options. Several measures were implemented to increase remote communications during the pandemic. These include increasing the number of free phone calls, offering one-hour video visits (beginning December 2020), and expanding a tablet program that will allow for text messaging and emails.

Most of these services are provided by ViaPath Technology (formerly known as Global Tel Link or GTL)¹⁵. ViaPath also is taking over the tablet program, which was piloted by JPay¹⁶. Through this program, ViaPath will provide tablets to the entire incarcerated population, which they can use for video calling, text messaging, and other functions. Incarcerated persons receive some free services, including limited phone calls and messaging, and access to certain books and reading materials. They can also pay for additional services, including music, videos, audiobooks and additional communications. These contracts are no cost to the state, and ViaPath provides the equipment, including the tablets. In May 2021, CDCR renegotiated the phone contract 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.

The enacted 2021-22 budget included \$12 million General Fund one-time for CDCR to add an additional 60 minutes of free telephone calls to each incarcerated person every two weeks, bringing the total amount of free calling to 75 minutes every two weeks. This funding was also intended to cover 60 free electronically transmitted outgoing written messages, equivalent to an email or instant message, per month.

Visiting Scheduling Application (VSA). Through a separate contract, ViaPath also operates the application through which people sign up for in-person and video visits. This process was migrated earlier this year from a different application called Vpass. However, significant issues with VSA have been reported, exacerbated by extremely high demand for still limited appointment availability. This include technical issues such as freezing and crashing due to high traffic when appointments are released. In addition, due to limited availability, appointments are often immediately booked. This has led to considerable frustration, as family members wake up early (many appointments are released at 6am) and spend a long time trying to get into and through the system only to find that all the appointments are gone already.

This is an informational item to receive an update from the Administration on the status of visitation and communication options at CDCR, including the implementation of the referenced items from the 2021-22 Budget and, with acknowledgement of the necessary pandemic restrictions, what additional steps could be taken to improve the visitation process for incarcerated persons and their loved ones.

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

¹⁵ <https://www.cdcr.ca.gov/family-resources/gtl-tablets/>

¹⁶ <https://prisonjournalismproject.org/2021/03/26/when-california-prisons-switch-tablet-vendors/>

Issue 5: Tattoo Removal Program

Governor's Budget. The proposed budget includes \$567,000 General Fund in 2022-23 and \$1.1 million General Fund through 2025-26 to implement a tattoo removal program.

Background. CDCR estimates that 12 percent of the current incarcerated population have highly visible tattoos, such as on the face or hands. Any tattoos, but especially offensive tattoos, tattoos related to gangs, or highly visible tattoos, can be a barrier to employment. In addition, participants trying to leave gangs may find it difficult if they have visible gang-related tattoos.

CDCR implemented a pilot tattoo removal program at Folsom Women's Facility and the Sacramento-based Custody to Community Transition Reentry Program Facility. In this program, a van with the necessary tattoo removal equipment came to the facility, and participants were escorted to the van for short treatments. CDCR estimates that it takes six treatments on average to remove tattoos. This pilot program supported 372 participants over three years. Funding was included to expand the pilot in the 2019 Budget Act, but the funding was swept in 2020 due to the anticipated impacts of the COVID-19 pandemic.

This funding would be used to expand the tattoo removal program to all institutions, with priority going to individuals in the gang debriefing process and to individuals being released within two years with highly visible tattoos. CDCR estimates these groups to include 91 and 1,452 participants respectively, representing nearly all participants in the gang debriefing process and roughly 5 percent of people within two years of release. This is lower than the estimated 12 percent of people who would have highly visible tattoos, but CDCR does not expect everyone to participate. Captains at each institution will be responsible for verifying participants for the program.

CDCR estimates that tattoo removals would begin in January 2023 (which is why the budget year request is lower than future years). The funding will be used to pay for the contracted tattoo removal services, custody overtime to escort participants to treatments, and one administrative staff position to oversee the program. That staff will also be responsible for tracking program utilization, interest, and waitlists across institutions. In 2024-25, CDCR will review the program to assess the need for and level of ongoing resources needed.

Staff Comment. The demand for services is difficult to estimate, and it is not clear how CDCR will prioritize participants if the program is oversubscribed. For example, according to CDCR's estimates of the prevalence of highly visible tattoos and the number of people within two years of release, there will be over 3,300 eligible participants. CDCR estimates less than half of those will elect for tattoo removal. In the 2019 proposal, the Administration estimated roughly double the participants (although the incarcerated population has significantly changed over the course of the pandemic). The Legislature may want to request program updates prior to the proposed 2024-25 evaluation to ensure the program is funded at the appropriate level.

Staff Recommendation. Hold Open.

Issue 6: Rehabilitative Programming Support

Governor’s Budget. The proposed budget includes \$3.9 million General Fund and 62.5 positions in 2022-23 and \$4.6 million General Fund and 72.5 positions in 2023-24 and ongoing for support for rehabilitative programming services for CDCR and CCHCS, including 43 Management Service Technician (MST) positions for Inmate Activity Groups (IAGs) and 19.5 Office Technician (OT) positions in 2022-23 for Nursing Led Therapeutic Groups (NLTGs); increasing to 29.5 OTs in 2023-24 and ongoing for NLTGs.

Background.

Proposition 57. In 2016, voters approved Proposition 57, which authorizes CDCR to “award sentence credits for rehabilitation, good behavior, or educational achievements.” (Cal. Const., art. I, § 32). These credits are used to accelerate release dates or parole consideration hearings as applicable. Incarcerated persons can get credits in five categories: (1) Good Conduct Credit, (2) Milestone Completion Credit, (3) Rehabilitative Achievement Credit, (4) Education Merit Credit, and (5) Extraordinary Conduct Credit.

Rehabilitative Achievement Credit (RAC). Incarcerated people can earn RAC for participation in approved rehabilitative programs, including IAGs and NLTGs. The credit earning rate is 10 days per 52 participation hours, up to 40 days per year. All eligible activities, attendance, and credit awarding must be entered and tracked in the Strategic Offender Management System (SOMS).

IAGs. The implementation of Prop 57 has led to an expansion of IAGs, from 1,100 in 2016-17 to 4,650 in 2021-22. Examples of IAGs include Narcotics Anonymous, Substance Abuse Treatment, Life Skills, and Victim Awareness. To be eligible for RAC, IAGs must be sponsored by CDCR staff and approved by the Division of Adult Institutions (DAI). Typically, this oversight has been provided by Self-Help Sponsors (SHSs), a part-time, dual-appointment position that CDCR employees may choose to take on in addition to their primary role. In addition, the 2018 Budget Act provided CDCR with 13 MST positions at institutions with 30 hours or more per week of RAC programming during evening and weekend hours. At that time, CDCR expected that the number of IAG programs would grow to 3,000 by the end of 2018-19.

NLTGs. CCHCS and CDCR offer health education programs through NLTGs, which are also eligible for RAC. According to the Health Care Department Operation Manual, these programs are designed to “provide education on disease processes, positive health behaviors and health improvement, therapeutic interventions (clinical and self-directed), and are designed to improve the patient’s overall quality of life and health status.” CCHCS runs more than 300 NLTGs and is anticipating this to grow to more than 1,300 statewide by 2023-24.

Projected Outcomes - IAG

Workload Measure	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Current IAG programs ¹	4,650	4,743	4,838	4,935	5,034	5,135

¹ 4,650 IAGs with a 2% annual growth in 2022-23 and ongoing.

Projected Outcomes – NLTG

Workload Measure	2021-22	2022-23	2023-24	2024-25 ²	2025-26	2026-27
NLTG programs ¹	300	800	1,300	1,326	1,353	1,379

¹ 300 NLTGs with anticipated implementation at 12 institutions in FY 2022-23 and FY 2023-24, for a total of 24 institutions.

² Beginning in 2024-25 a 2% annual growth is applied to reflect the expected NLTG program growth.

Source: Department of Finance

COVID-19 Impact. The COVID-19 pandemic heavily disrupted programming at CDCR and prevented incarcerated persons from earning RAC. In response, on July 9, 2020, CDCR applied a one-time 12-week positive programming credit to all eligible inmates to recognize the impact the COVID-19 Pandemic has had on inmates' access to programs and credit earnings. Additionally, CDCR is in the process of implementing the Alternative RAC Earning IAG pilot program (in-cell RAC).

Proposed Funding. CDCR is asking for an additional 43 MSTs to provide RAC support. The total cost of this part of the request is \$3.7 million, but \$1.4 million would be diverted from the current funding for SHSs. CDCR is having trouble consistently filling those positions, particularly during the pandemic, and would shift that workload to the full-time MSTs. CCHCS is requesting 19.5 OTs in 2022-23, increasing to 29.5 OTs in 2023-24 and ongoing.

Staff Comment. Given the impact of the pandemic on programming, it is not clear whether these are the appropriate resources for this program at this time. The Administration indicated that the projections for programming demand were largely made prior to the pandemic. It is not clear when this programming will be fully functional again, or what the long-term form of the programming will look like. The Legislature may want to consider the timing of these resources.

Staff Recommendation. Hold Open.

Issue 7: Bachelor's Degree Program Expansion

Governor's Budget. The Governor's 2022-23 budget proposes \$5 million General Fund (decreasing to \$4.7 million annually beginning in 2024-25) and 15 positions to maintain and expand the number of prisons offering bachelor's degree programs in partnership with several different California State University (CSU) campuses. The resources would be used to maintain programs at four prisons whose existing funding is expiring and create new programs at three additional prisons. The funding would support administrative support positions and a customized database subscription for inmates to access scholarly journal articles. The proposal assumes federal funds would be accessible to most students and estimates that participants will be enrolled on a full-time basis at a cost of about \$10,000 per student.

Background. A recent study of a college-in-prison program in New York found that participation in the program reduced recidivism by 38 percent, and greater levels of participation correlated closely with even lower rates of recidivism¹⁷. California currently offers community college programs that lead to associate degrees at almost all facilities and offers bachelor's degree programs at a handful of institutions.

Existing Degree Programs. CDCR has implemented community college programs at 33 of the 34 CDCR institutions (California Health Care Facility in Stockton is the only exception). College programs have grown substantially since the passage of Chapter 695, Statutes of 2014 (SB 1391), which allows local community colleges to provide programming inside adult institutions in a closed classroom environment. Classes are restricted only to incarcerated individuals and colleges do not have to meet local residency requirements required on community-based campuses. In Spring 2021, 6,426 incarcerated people enrolled in community college courses. There are 1,499 incarcerated students who have already received associate degrees. At most institutions, students do not have the opportunity to continue to pursue a bachelor's degree. As a result, many students obtain multiple associate degrees.

CDCR currently provides one, fully operational, bachelor's degree program at California State Prison, Los Angeles County (LAC) through California State University, Los Angeles (CSULA). 37 people have graduated with bachelor's degrees in communications through this program. 45 students started the program, but some were transferred, and one died from COVID-19¹⁸. This program is set to expire June 30, 2024.

Additional pilot programs are operated at:

- Folsom State Prison (FSP) and Mule Creek State Prison (MCSP) through California State University, Sacramento (CSUS).
- Central California Women's Facility (CCWF) and Valley State Prison through California State University, Fresno.

¹⁷ <https://www.tandfonline.com/doi/full/10.1080/07418825.2021.2005122>, <https://www.eurekalert.org/news-releases/937161>

¹⁸ <https://www.latimes.com/california/story/2021-11-04/freed-prisoner-earns-college-degree-in-reentry-program>

These programs are set to expire June 30, 2022.

These are two-year programs for students who have already received an Associate degree. CDCR has one pilot program that partnered with a private college, but this proposed funding would be used exclusively for CSU partnerships. CDCR has indicated that the LAC program will be used as a model for the new programs. CDCR has not finalized what degrees will be offered (each institution will have one option) but indicated that they would likely be humanities or liberal arts focused, based on surveys of potential students.

Pell Grants. Incarcerated people in the United States were eligible to receive Pell Grants starting in 1965. However, the Violent Crime and Law Enforcement Act, passed in 1994, banned incarcerated students from receiving Pell Grants and prompted the shutdown of many college programs in prisons. In 2016, the Second Chance Pell Pilot Program expanded funding again to incarcerated students on a limited basis. Through Spring 2023, CDCR estimates that 50 percent of students will be covered by Pell grants.

In December 2020, Congress passed a COVID-19 stimulus package that included the resumption of federal financial aid for incarcerated individuals. This will provide access to federal Pell Grant funds for all qualified CDCR students by July 2023, paying up to \$6,495 per year for college tuition. In 2023-24 and ongoing, CDCR estimates that 90 percent of students will be covered by Pell grants, which will cover roughly 64 percent of the program costs.

Proposed Expansion. CDCR is requesting resources to continue the programs at LAC, FSP, MCSP, CCWF, and to create new programs at California Institute for Women, California Institute for Men, and Calipatria State Prison. These institutions were chosen based on the number of students having already earned an associate degree. CDCR is planning for two cohorts of 25-30 students per facility.

In addition to tuition and supplies, the requested resources (outlined in the table below) include:

- a subscription to access library materials, customized to the needs and restrictions of the incarcerated population.
- 8 Supervisors of Academic Instruction (SAI), including:
 - 7 field SAIs (one at each institution) responsible for identifying candidate students and coordinating with the colleges on implementation, operation, and evaluation of the programs.
 - 1 SAI at headquarters responsible for managing wait lists, responding to incarcerated individual appeals, coordinating academic counseling, approval of credit earnings, overseeing staff development, ensuring accreditation, responding to grievances, technology needs and integration, and other supervisory duties.
- 7 AGPAs (one at each institution) to provide administrative support.

Fiscal Year	Student Cost Total	EBSCO Subscription	Position Cost	Grant Funding	Total Requested
2022-23	\$3,060,000	\$495,000	\$2,375,000	\$ (974,000)	\$4,956,000
2023-24	\$3,978,000	\$495,000	\$2,344,000	\$(2,280,000)	\$4,537,000
2024-25	\$4,284,000	\$495,000	\$2,344,000	\$(2,455,000)	\$4,668,000

Source: Department of Finance

LAO Comment. Expanding higher education is promising because various studies show that education—including higher education—can reduce the number of offenders who recidivate (or reoffend) and that the resulting correctional savings can more than offset their costs. In addition, the proposal would increase the number of inmates who obtain sentencing credits for earning bachelor’s degrees, which could create further state savings from reduced sentences. However, we note that some key questions remain unanswered about the proposal that make it difficult for the Legislature to evaluate.

Specifically, the department has not provided information on:

- Which majors would be offered.
- Which inmates would be eligible for enrollment.
- What specific courses and services (such as tutoring, academic counseling, and career advising) would be offered to ensure inmates can successfully complete bachelor’s degrees.
- Which services CSU would be responsible to provide and which ones CDCR would provide.
- Whether all necessary stakeholders were involved in the planning, such as the Academic Senate, to ensure the program will be implemented properly.

Furthermore, the department did not yet provide information to assess whether the assumptions about program costs, full-time enrollment, number of positions necessary, and amount of funds eligible for reimbursement are justified. In addition, the department has not provided information on why it needs a General Fund augmentation to continue to operate some of the programs, since they were established and have since operated within the department’s existing budget. Accordingly, we recommend that the Legislature require the department to provide the information necessary to justify the proposal.

Staff Recommendation: Hold Open.

Issue 8: Cellular Interdiction Program

Governor's Budget. CDCR requests \$12.6 million General Fund and five positions in 2022-23; \$18.5 million in 2023-24, \$17.9 million in 2024-25, \$3.7 million in 2025-26; and \$2.4 million in 2026-27 and ongoing to upgrade and expand its cellular interdiction solution to all 33 operational, state-owned prisons.

Background. CDCR confiscated 11,852 cell phones in 2020. CDCR investigations have shown that these phones are used to coordinate to bring additional contraband into prisons, and have been used to coordinate murder, attempted murder, and conspiracy to commit murder against Peace Officers, incarcerated persons, and members of the public. According to CDCR, contraband cell phones have also been used to harass victims, threaten witnesses and officials, and commit fraud and identity theft.

CDCR currently operates Managed Access System (MAS) at 18 institutions. While CDCR attempts to prevent contraband cell phones from entering prisons in the first place, MAS adds another layer of protection by interrupting the functioning of any contraband phones. MAS currently does this by creating a local, private cellular network that only authorized devices can connect to. CDCR also adds detected unauthorized devices to the National Stolen Phone Database, which blocks their ability to connect to major carriers. CDCR received \$1.8 million General Fund in 2021-22 and ongoing to maintain MAS.

However, the hardware owned by CDCR only covers certain frequency bands, but commercial cell phone networks have expanded into new frequency bands. CDCR has been testing Evolved MAS (EMAS) at five institutions. EMAS acts as a roaming carrier, enabling greater control over the devices on the network. The funding requested here would enable CDCR to roll out EMAS at all institutions, and to upgrade the hardware to cover all commercial frequency bands. As cellular technology continues to evolve, EMAS will likely need software updates. However, the hardware update to cover all commercial frequency bands is a one-time investment.

LAO Recommendation. The 2021-22 budget package included supplemental reporting language directing CDCR to submit by January 10, 2022 a report identifying and prioritizing all special repair and deferred maintenance projects and capital outlay projects estimated to cost over \$5,000,000 that are likely to be needed within the next ten years. In identifying and prioritizing projects, the administration shall consider various factors, including the possibility of future prison closures. Accordingly, this report could provide information on the administration's long-term infrastructure plans that would affect the Legislature's view of these projects. For example, it doesn't seem prudent to pursue the proposed information technology projects at facilities that will be closed or significantly renovated. To date, the administration had not submitted this report to the Legislature. However, the administration has indicated that it expects to do so by the end of January 2022. Accordingly, the Legislature does not have sufficient information to fully assess proposals related to modifying CDCR infrastructure, such as these. Accordingly, we recommend that the Legislature withhold action until the department provides the report.

Staff Recommendation: Hold Open.

Issue 9: Statewide Correctional Video Surveillance Continuation

Governor’s Budget. The proposed budget includes \$80.3 million General Fund and 32.0 positions in 2022-23, and \$7.6 million General Fund in 2023-24 and ongoing to deploy fixed cameras at ten institutions, deploy body-worn cameras at four institutions, and manage and maintain video.

Background. CDCR has been expanding the use of video surveillance at state prisons to help monitor activities, provide evidence in disputes or allegations of misconduct, and track contraband. Much of the implementation has been at the recommendation of the Office of the Inspector General (OIG), or by recommendation or order of the courts or other oversight bodies related to the *Armstrong* and *Coleman* lawsuits.

In 2015, the OIG conducted a special review of High Desert State Prison (HDSP), and recommended CDCR “...immediately install cameras in all inmate areas, including, but not limited to, the exercise yards, rotundas, building dayrooms, patios, and program offices of HDSP.”

In 2016, CDCR installed an Audio-Video Surveillance System (AVSS) with 207 high-definition cameras in designated high-traffic and large congregation areas at HDSP. This served as a technical pilot, enabling CDCR to test the viability of operating this type of equipment on CDCR’s network. In 2017-18, CDCR received funding to complete the AVSS at HDSP and install the AVSS at Central California Women’s Facility (CCWF). These locations were determined to have an immediate need for AVSS based on criteria such as the number of violent incidents in 2015-16.

Also in 2016, a *Coleman* Special Master monitoring team recommended CDCR install video surveillance cameras to increase observation and provide transparency in areas where actions leading to allegations commonly occur. In 2018-19, CDCR received funding and installed 178 video surveillance cameras at SAC.

In September 2020, the United States District Court ordered CDCR in *Armstrong v. Newsom* (No. 4:94-cv-02307-CW N.D. Cal.) to install surveillance cameras in all areas of Richard J. Donovan Correctional Facility (RJD) to which incarcerated people have access, including, but not limited to, all exercise yards, housing units, sally ports, dining halls, program areas, and gymnasiums, within 90 days. CDCR was further ordered to retain footage of use of force and other triggering events indefinitely, and all other footage for a minimum of 90 days. The Court also ordered the use of body-worn cameras (BWCs) within 60 days for all correctional officers at RJD who may interact with protected class members.

Effective January 19, 2021, CDCR deployed BWCs in compliance with the court’s order at RJD. All correctional officers and sergeants who interact with the incarcerated population are required to wear a BWC. In addition, CDCR activated 966 high-definition cameras in designated high-traffic and large congregation areas on April 5, 2021, in accordance with the *Armstrong* court directive.

In March 2021, the United States District Court ordered CDCR in *Armstrong v. Newsom* (No. 4:94- cv-02307-CW N.D. Cal.) implement the same remedial measures that were required at RJD at five prisons—California State Prison, Los Angeles County (LAC), California State Prison,

Corcoran (COR), Substance Abuse Treatment Facility (SATF), California Institution for Women (CIW), and Kern Valley State Prison (KVSP). The 2021 Budget Act includes resources to enable CDCR to implement these measures.

The 2021 Budget Act also included resources for CDCR to implement AVSS at Salinas Valley State Prison (SVSP), California Correctional Institution (CCI), and Mule Creek State Prison (MCSP) and complete the AVSS installation at SAC.

Perimeter Monitoring. CDCR has also reported a significant increase in the number of incidents where intruders have gained access to institutional grounds to introduce illegal drugs and contraband into an institution by throwing contraband into the Minimum Support Facility (MSF) perimeter. AVSS installations use radar technology to cover vulnerable areas outside the MSF perimeter. This technology detects movement outside of the perimeter and alerts staff to potential security incidents and is integrated into the existing Video Management System (VMS) software. The VMS is programmed to send real time alerts or trigger an alarm when the system detects activity in the covered area. Modern cameras utilize infrared illumination to allow the camera to record at night without the need for traditional exterior lighting and will be used to monitor the perimeter, in conjunction with the radar technology, where necessary to see in low light situations.

Retention of Video. The video collected here would be stored for at least 90 days. In addition, the following events would require staff to preserve the recorded data until instructed otherwise, as potential evidence in investigations and in administrative, civil, or criminal proceedings:

- Any use of force incident
- Riots
- Suspected felonious criminal activity
- Any incident resulting in serious bodily injury, great bodily injury, and all deaths
- All PREA allegations
- Allegations of incarcerated individual misconduct (i.e., Serious Rules Violation Reports by staff)
- Allegations of staff misconduct by an incarcerated individual, employee, visitor, or other person
- Incidents that may potentially be referred to the District Attorney's Office
- An employee report to supervisor of on-the-job injury, or
- Incarcerated individual claims with the Department of General Services, Office of Risk and Insurance Management, and Government Claims Program

Additionally, the Office of Grievances may request to review audio and/or video recordings when conducting an inquiry as it relates to a submitted appeal.

Impact of video evidence. Since implementation at CCWF, HDSP, and RJD, these institutions have utilized their AVSS to identify suspects in investigations, including attempted homicides. The institutions have successfully utilized video from their respective systems to locate lost, misplaced, or stolen items eliminating the need for lengthy searches and potential lockdown situations leading to modified programming.

Institution	Rules Violation Reports (RVR)			Staff Complaints			Incident Reports		
	Video Available	Impact	No Impact	Video Available	Impact	No Impact	Video Available	Impact	No Impact
CCWF	1,927	1250	851	932	582	179	1219	630	560
HDSP	3,645	2,205	1,772	406	332	37	1301	999	308
Totals	5,572	3,455	2,623	1,338	914	216	2,520	1,629	868

The data in this table represents the number of times AVSS was available for Rule Violation Reports, Staff Complaints, and Incident Reports and if the video had an impact at CCWF and HDSP. A single video can be used in more than one Rule Violation Report. This data covers February 1, 2018 through May 31, 2020. Source: CDCR's Office of Research.

Proposed Resources. This proposal would include funding for ten additional facilities, not yet specified. It would also include funding for the implementation of BWCs at CCI, SAC, CCWF, and SVSP.

Depending on the institution size and design, each AVSS may consist of approximately 500 to 1,000 digital cameras installed inside and outside the buildings throughout an institution. Typical locations include, but are not limited to: exercise yards, housing units, program buildings, administration buildings, visiting rooms, gymnasiums, sally ports, and visitor processing areas. This level of camera coverage far exceeds the existing coverage at other institutions.

The proposal also includes a total of 32 positions to support the expansion of AVSS:

- 4 Information Technology Specialist Is – one for each institution receiving BWC
- 14 Correctional Officers - one for each institution receiving AVSS or BWC for monitoring and reviewing video downloaded from the system, including processing AVSS Evidence Request Forms and storing requested events and performing follow-up investigations related to criminal conduct captured on BWCs
- 4 AGPAs to act as liaisons between institutions and internal stakeholders, including tracking compliance with BWC policies, tracking damaged and inoperable equipment, and monitoring triggering events – one for each institution receiving BWCs.
- 4 AGPAs in the Division of Adult Institutions (DAI) to perform redaction services in response to PRA requests
- 3 Special Agent Investigators and 1 Senior Special Agent for the Forensic Analysis Support Team (FAST) at the Office of Internal Affairs (OIA) to serve as video surveillance and BWC liaisons.
- A technical correction to add 2.0 Special Agent positions that were inadvertently left out of the 2021-22 Statewide Correctional Video Surveillance BCP

The proposed implementation timeline is:

Task	Approximate Timeframe
Establish, recruit and fill positions	July 2022 - September 2022
Conduct site visits and design systems	August 2022 - October 2022
Procure equipment and services	September 2022 - November 2022
Install network equipment	December 2022 - March 2023
Install cabling and cameras	December 2022 - June 2023
Train users	June 2023
Test cameras and validate viewing objectives	June 2023 - July 2023
Solution validated and accepted	July 2023

LAO Comment. As noted in the previous item, LAO recommends that the Legislature wait on investments such as these until CDCR provides the required special repair, deferred maintenance, and capital outlay project report.

Staff Comments.

Retention Period. The Legislature should consider whether the 90-day retention period is sufficient. While many events trigger longer retention periods, it is not clear how those events are identified. For example, allegations of staff misconduct may not be identified or filed for months after the initial event, by which time all video evidence may be gone.

Tracking camera downtime. The Legislature may want to consider how incidents of camera downtime are tracked, as monitoring that information could prevent incidents where cameras are intentionally turned off.

Staff Recommendation: Hold Open.

Issue 10: Various Legal and Information Technology (IT) Proposals

Governor's Budget. The proposed budget includes the following legal and IT resources for CDCR:

- *Class Action Lawsuit Staff.* \$2.4 million General Fund and 14 positions in 2022-23 and \$2.3 million ongoing to handle the highly sensitive and complex legal work involved in class action lawsuits.
- *DOJ Legal Service Fees.* \$1.5 million ongoing General Fund for Department of Justice Legal Services fees, bringing the total allocation to \$69.4 million annually.
- *eDiscovery Platform, Redaction, and Delivery.* \$19.5 million General Fund and 10.0 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to develop an eDiscovery platform and increasing staffing for the centralized video storage and redaction unit.
- *Redaction Workload (SB 16).* \$1.1 million General Fund and 7.6 positions in 2022-23 and ongoing for compliance with Chapter 402, Statutes of 2021 (SB 16).
- *Privacy Office Augmentation.* 12.0 positions and \$2.1 million General Fund in fiscal year 2022-23 and ongoing for resources necessary to enhance CCHCS' ability to identify, prevent, manage, and mitigate privacy, information security, and cybersecurity risks and threats, and address key vulnerabilities consistent with recent Corrective Action Plans (CAPs).
- *Security Solutions and Laptop End User Security.* 9 positions and \$4.4 million General Fund in 2022-23 and \$5.2 million General Fund in 2023-24 and ongoing to address information security and cybersecurity vulnerability.
- *Microsoft End User Licensing Agreement.* \$11.5 million General Fund in 2022-23, \$16.1 million in General Fund 2023-24, and \$17.5 million General Fund in 2024-25 and ongoing to cover the increased cost of moving to a statewide contract for Microsoft End User Licensing Agreement.

Background. CDCR faces an increasing legal and IT workload due to multiple, ongoing, complex lawsuits, new oversight measures, the implementation of new technology systems (such as AVSS), increased cybersecurity threats, and increased handling of sensitive electronic information.

Lawsuits. CDCR faces numerous, long-standing, and still heavily litigated class action lawsuits. CDCR estimates that over the past six years, cases such as *Armstrong*, *Coleman*, *Clark*, *Plata*, *Prison Legal News*, *Three-Judge Panel*, and *Askher* have cost the state over \$115 million in litigation costs. The oldest of these cases is *Coleman*, filed in 1990. Typically, the Department of Justice (DOJ) assists in the initial litigation of these cases, and CDCR's Office of Legal Affairs (OLA) handles the ongoing workload associated with compliance.

These cases have also resulted in increasing oversight and scrutiny of CDCR by federal courts, plaintiff's teams, other appointed overseers, and external stakeholders. These cases still produce new recommendations and mandates for increased oversight, such as the implementation of video surveillance described in the previous item. To terminate these cases, CDCR needs to demonstrate long-term solutions to the issues raised by the courts, including sustainable implementation of various mandates and orders.

Class Action Team (CAT). The ongoing workload associated with these lawsuits is handled by CAT within CDCR's OLA. In 2015, the team handled 12 class action cases and 2 complex transgender cases; in 2021, the team handled 16 class action cases and 5 complex transgender cases. Between 2015 and 2021, despite successful efforts in terminating five class action cases, another nine new cases were filed. The team currently contains 18 attorneys, 6 of whom are being redirected from other OLA duties.

This team is currently understaffed, leading to long hours and retention issues. CDCR's legal team is significantly smaller than the plaintiff's teams, as outlined in the table below. As a result, the legal team is not able to take proactive steps to negotiate with plaintiffs and track CDCR's compliance with new orders. In addition, these lawsuits are closely monitored by courts, plaintiffs, and advocates, and the office needs additional administrative staff to help track requests and letters. CDCR is requesting additional attorneys and administrative staff to relieve the current workload and allow CAT to be more proactive, with the goal of helping CDCR end some of the longest running cases.

Plaintiffs' Counsel's Legal Staffing 2020								
	Armstrong		Ashker		Coleman		Plata	
	Staff	Hours	Staff	Hours	Staff	Hours	Staff	Hours
Attorney	36	12,928.1	9	3,765.2	29	9,966.9	12	4,629.8
Admin	31	12,292.3	6	420.9	23	8,709.6	10	1,047.5
TOTALS	67	25,220.4	15	4,186.1	52	18,676.5	22	5,677.3

Office of Legal Affairs' Legal Staffing 2020								
	Armstrong		Ashker		Coleman		Plata	
	Staff	Hours	Staff	Hours	Staff	Hours	Staff	Hours
Attorney*	3	5,328.0	2	3,552.0	3	5,328.0	2	3,552.0
Admin**	2	2,131.2	2	1,420.8	1	225.0	1	225.0
TOTALS	5	7,460.0	4	4,972.8	4	5,328.0	3	3,777.0

*Hourly totals are approximated based on 1,776 hours per year, per staff member. Time worked over 1,776 has not been included as attorneys do not track their time per case as plaintiffs' counsel does due to their billable hour requirement. Therefore, the hours spent on each case is an approximation.

**The 2 existing analysts provide assistance across all cases. Hours worked across cases is approximated.

Source: Department of Finance

DOJ Legal Services. The Office of the Attorney General provides legal representation for CDCR and its employees in state and federal courts. Since 2011-12, DOJ has directly billed CDCR for legal services. Over the last four years, DOJ has billed CDCR for over 300,000 hours of legal services annually. CDCR has an ongoing appropriation of \$67.8 million to cover this but has consistently exceeded this amount and has absorbed the extra cost in the general department budget.

Data management. CDCR has an increasing amount of digital data and evidence, but no uniform data management system. Currently, this task is handled separately across units. This makes responding to discovery and Public Records Act (PRA) requests increasingly difficult. CDCR receives an average of 726.6 requests annually, and regularly must ask for extensions on these requests. As CDCR moves towards digital video surveillance, this becomes an even bigger task.

The lack of a coherent system has made it difficult for CDCR to track and secure evidence, ensure nothing is deleted, corrupted, or tampered with, and has opened the department up to information security incidents. CDCR is requesting one-time funding for positions and software to develop and establish an eDiscovery system in collaboration with the California Department of Technology (CDT).

Redaction. In addition to an eDiscovery system, CDCR is requesting numerous resources for redaction of records requested through PRA or other means. As part of the eDiscovery system proposal, CDCR is requesting 10 permanent positions to expand the PRA Unit in the Department of Adult Institutions (DAI) to establish a centralized, specialized redaction team.

SB 16 Redaction. CDCR is also asking for separate redaction resources specific to the implementation of SB 16, which makes additional records related to peace officer and custodial officer investigation and personnel records available for PRA requests. However, prior to release, these records must be redacted to remove personal data or information like addresses and phone numbers, and the identity of the officer's family members or of victims and informants. Under SB 1421, which established other categories of peace officer records subject to PRA requests, CDCR received approximately 254 requests from 2019 to 2021. Based on OIA records, CDCR is anticipating an additional roughly 90 requests a year for SB 16. \$1.1 million General Fund and 7.6 positions in 2022-23 and ongoing for compliance.

Sensitive Health Care Information. The Administration is also requesting resources to assist California Correctional Health Care Services (CCHCS) in managing and protecting sensitive digital records. CCHCS is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), meaning they must take certain measures to protect patient privacy and secure records. Recent security audits, assessments, and compliance reviews have identified specific vulnerabilities and risk factors with regard to CCHCS' ability to adhere to HIPAA, state privacy, and Information Security Policy (ISP). In addition, CCHCS has recently experienced an increase in attacks on network infrastructure, endpoints, and email systems. Accordingly, CCHCS is requesting 12 positions and \$2.1 million for the Privacy Office to identify, prevent, manage, and mitigate privacy, information security, and cybersecurity risks and threats, and address key vulnerabilities consistent with recent Corrective Action Plans (CAPs).

Workload History						
Workload Measure	PY – 4	PY – 3	PY – 2	PY-1	PY	CY
Number of Information Security Incidents	52	64	89	102	113	124
Number Requiring Breach Notices	31	47	33	19	18	37
Number of Individuals Impacted	681	400,699*	1,955	2,705	6,474	10,687

*The theft of a state-issued CCHCS laptop required that the Department send out notifications to every single inmate-patient and their designated points of contacts.

Source: DOF

Security Solutions and Laptop End User Security. CDCR is requesting resources to address cybersecurity threats. In addition to the health information held by CCHCS discussed above,

CDCR maintains sensitive data about its workforce and about the incarcerated population. CDCR is also considered a covered entity in regards to HIPAA. In addition, the expansion of telework and the increased introduction of laptops and other technology into prisons is creating additional cybersecurity concerns at CDCR. CDCR has indicated that the resources requested here would be used for:

- Vulnerability management.
- Data management.
- Security and privacy awareness training.
- Privileged access management.
- The development of a business impact analysis, which together with a technology recovery plan, guides the department's response to unplanned incidents such as natural disasters and cyber attack.
- Security and operational visibility.

CDCR is requesting 9 positions and \$4.4 million General Fund in 2022-23 and \$5.2 million General Fund in 2023-24 and ongoing to address information security and cybersecurity vulnerability. Of this amount, \$1.8 million in 2022-23 and \$2.6 million ongoing will support endpoint protection software for the 37,000 thin-client laptops that will be deployed systemwide for use by incarcerated individuals in conjunction with educational programming consistent with the 2021-22 Technology for Inmates Participating in Academic Programs BCP.

Microsoft End User Licensing Agreement. CDT has negotiated a statewide contract with Microsoft to provide services to all departments. CDCR and CCHCS have migrated to this new contract, but are requesting \$11.5 million General Fund in 2022-23, \$16.1 million in General Fund 2023-24, and \$17.5 million General Fund in 2024-25 and ongoing to cover the increased cost.

LAO Comments.

Redaction Requests. The Governor requests a total of 21.6 new positions and \$2.8 million (General Fund) annually beginning in 2022-23 for CDCR to perform workload related to redacting records so that they can be released under various conditions. These resources are included in the following four proposals:

- ***SB 1421 and SB 16 Redaction Workload (\$1.1 Million).*** Proposes 7.6 new positions for redaction of records released pursuant to Chapter 988 of 2018 (SB 1421, Skinner) and Chapter 402 of 2021 (SB 16, Skinner), which expanded the types of records of peace officer misconduct that are subject to Public Records Act requests.
- ***eDiscovery Platform, Redaction, and Delivery (\$1.4 Million).*** Includes 10 new positions to provide CDCR with dedicated staffing to address existing redaction workload not driven by Chapters 988 and 402. The department indicates that this existing redaction workload is currently being done by redirected positions and is also not getting done on time. In addition, the department proposes to realign 5 existing positions that are no longer needed in CDCR's Contract Beds Unit to address this workload.

- ***Statewide Correctional Video Surveillance Continuation (\$300,000)***. Proposes 4 new positions and \$300,000 to address an anticipated increase in redaction workload due to expansion of fixed video surveillance cameras and body-worn cameras.

To date, the administration has not provided enough information to justify the above proposals. Accordingly, we recommend that the Legislature require the department to provide the information necessary to justify the proposal.

Staff Comment. As indicated by the LAO, some of the proposals have related funding. For example, the Security Solutions and Laptop End User Security proposal includes data management, which is also covered in the eDiscovery proposal. The Legislature should consider how these funding proposals interact to ensure new technologies are efficiently deployed and initiatives are not duplicated.

Staff Recommendation. Hold Open.

Issue 11: Additional Staff for Victim Restitution Collection Services

Governor's Budget. The proposed budget would authorize six extra positions for CDCR's Victim Collection Services. These would be funded in 2022-23 and 2023-24 with the remaining resources in the Restitution Administrative Fee Fund. Beginning in 2024-25, CDCR proposes to shift all expenditures supporting Victim Restitution Collection Services from the Restitution Administrative Fee Fund (RAFF) to the General Fund, resulting in \$3.1 million General Fund and 21 positions in 2024-25 and ongoing.

Background. There are two types of restitution that perpetrators of a crime may be ordered to pay:

- (1) *Restitution Fines.* Restitution fines are paid into the Victim Compensation Fund, which the California Victim Compensation Board (CalVCB) uses to pay out victim compensation claims for things like crime scene clean-up, funerals, relocation costs and other eligible expenses. Restitution fines are not earmarked for specific victims, and the amount ordered is not related to a specific crime or a victim's claim.
- (2) *Direct Orders.* In some cases, the perpetrator of a crime may be ordered to pay restitution directly to their victim(s) for specific expenses related to the crime, including stolen or damaged property, medical expenses, attorney's fees, and other eligible expenses.

CDCR collects restitution from the incarcerated population and parolees. The amount of restitution collected by CDCR has grown from \$19 million in 2010 to \$37.4 million in 2020-21, a 60 percent increase. CDCR also works with victims to deliver direct restitution. CDCR has two main programs related to restitution, with a total of 15 staff:

- *Office of Victim and Survivor Rights and Services (OVSRS).* OVSRS is responsible for collecting court-ordered restitution and helping victims. The 2021 Budget Act included ten additional positions to expand OVSRS and help improve outreach to victims. However, CDCR estimates that there are 88,000 victims whom OVSRS has collected restitution for but whose information is unknown, so CDCR will have to track them down.
- *Accounting Services Branch (ASB).* ASB handles restitution-related financial transactions, including maintaining trust accounts for the incarcerated population and restitution balances for all parolees. ASB manages the Trust Restitution Accounting and Canteen System (TRACS), a database of financial information about banking, restitution, and canteen services for all incarcerated persons.

CDCR used to charge a 10 percent administrative fee on all collected restitution. That money was deposited into the RAFF and used to fund OVSRS and ASB. However, this fee was eliminated as part of the effort to reduce fines and fees throughout the criminal justice system (AB 177, Chapter 257, Statutes of 2021). The Administration proposes to spend down RAFF over the next two fiscal years, and then shift any remaining resources and all expenditures related to these programs to the General Fund in 2024-25.

This proposal includes six additional positions for OVSRS Restitution Services Unit (RSU). These positions would be used to respond to a generally increasing workload, as well as address a one-time workload related to AB 177. Specifically, CDCR will have to adjust each of the 54,000 cases they have forwarded to the Franchise Tax Board for collection to ensure the 10 percent administrative fee is removed.

Staff Comment. The Legislature should consider how this program fits into the statewide network of victim services, including those at CalVCB and other agencies and departments.

Staff Recommendation. Hold open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, February 8, 2022
9:30 a.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

0250 JUDICIAL BRANCH	2
Issue 1: Civil Assessment Reduction	4
Issue 2: Trial Court Funding	6
Issue 3: Various Facilities and Capital Outlay Proposals	11
Issue 4: Branchwide IT Modernization	14
Issue 5: Judicial Branch Data and Information Governance	20
Issue 6: Remote Access to Court Proceedings (AB 716)	21
Issue 7: Court of Appeals Appointed Counsel	22
7870 CALIFORNIA VICTIM COMPENSATION BOARD (CALVCB)	24
Issue 8: Victim Services Consolidation	24
Issue 9: Erroneous Conviction Proposals	29
Issue 10: Federal Appropriation and Benefit Limit Adjustment	31
8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)	33
Issue 11: Peace Officer Certification (SB 2)	33
Issue 12: Officer Wellness Funding	36
8140 OFFICE OF THE STATE PUBLIC DEFENDER (OSPD)	39
Issue 13: Support General Workload	39

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

0250 JUDICIAL BRANCH

The judicial branch is responsible for the interpretation of law, the protection of individuals' 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.

The Lockyer-Isenberg Trial Court Funding Act of 1997 (Assem. Bill 233; Stats. 1997, ch. 850) consolidated the costs of operating California's trial courts at the state level. The act was based on the premise that state funding of court operations was necessary to provide more uniform standards and procedures, economies of scale, structural efficiency, and access for the public.

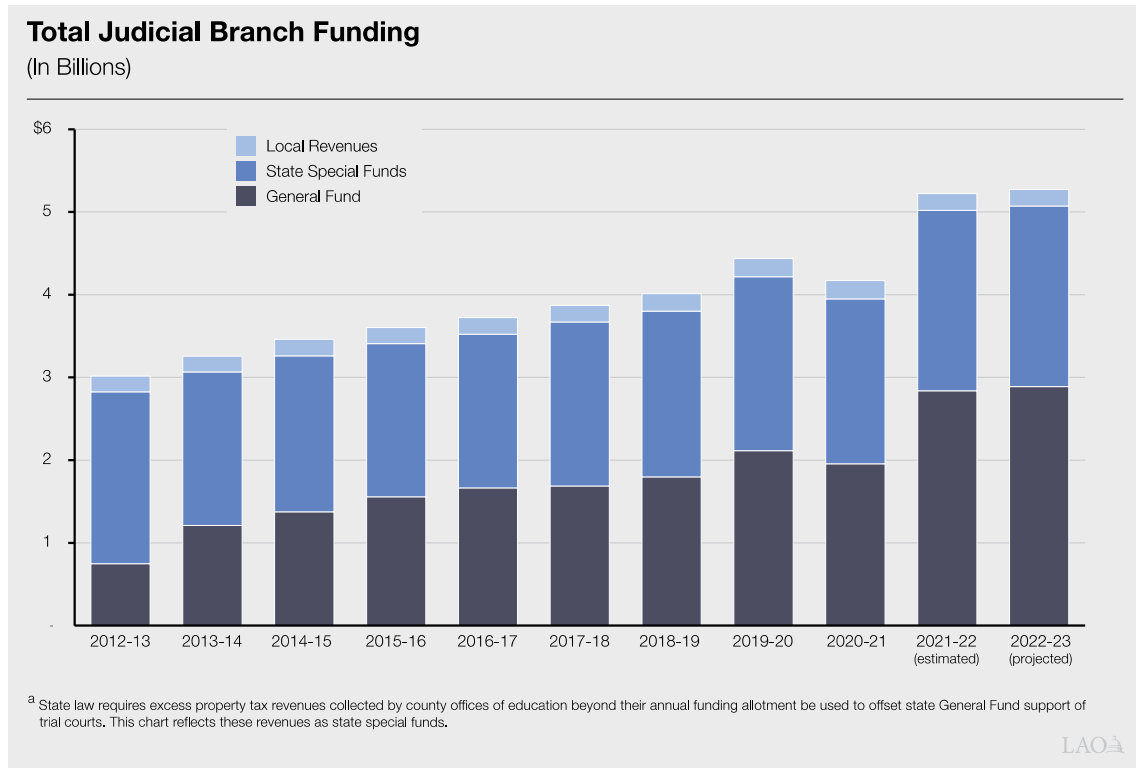
The proposed budget includes total state funding of \$5.1 billion (\$3 billion General Fund) in 2022-23 for the Judicial Branch, of which \$2.8 billion is provided to support trial court operations. This is an increase of \$52 million over the amount for 2021-22.

Judicial Branch Budget Summary—All State Funds

(Dollars in Millions)

	2020-21 Actual	2021-22 Estimated	2022-23 Proposed	Change From 2021-22	
				Amount	Percent
State Trial Courts	\$2,987	\$3,686	\$3,797	\$111	3.0%
Supreme Court	49	54	55	1	1.4
Courts of Appeal	243	268	279	11	4.2
Judicial Council	180	231	295	64	27.7
Judicial Branch Facility Program	473	763	627	-135	-17.7
Habeas Corpus Resource Center	16	19	19	—	0.6
Totals	\$3,948	\$5,021	\$5,072	\$52	1.0%

In addition, the amount of Judicial Branch support coming from the General Fund is increasing.



Source: LAO

Issue 1: Civil Assessment Reduction

Governor's Budget. The proposed budget includes budget bill and trailer bill language to reduce the Civil Assessment Fee from \$300 to \$150 as of July 1, 2022. It also provides \$50 million in backfill to trial courts, with budget bill language to allow for additional backfill with JLBC notification if necessary.

Background. In infraction, misdemeanor, and felony cases, if someone fails to appear in court or does not pay a fine ordered by the court, the court may levy a civil assessment or order a bench warrant. The civil assessment is a fee of up to \$300 (PEN 1214.1), although in practice many courts assess the full amount. The civil assessment goes into the Trial Court Trust Fund. In fiscal year 2019-20, civil assessments generated \$96.9 million in revenue for California courts.

However, the civil assessment has a disproportionate impact on low-income Californians and people of color, and simple infractions can spiral into long-lasting, highly impactful debt¹. If a person is unable to afford to pay a parking ticket, for example, they are unlikely to be able to afford to pay the civil assessment, which is typically multiple times larger than the base fine. In addition, failures to appear may also be affected by confounding factors like a lack of reliable transportation and childcare, or not receiving a mailed notice due to an unstable housing situation. The assessment also disproportionately impacts people of color, who are overrepresented in the criminal justice system in California and more likely to be stopped for a traffic violation in the first place².

Once imposed, fees are often converted into civil judgments. If an individual fails to repay their debt in full or make payments on time, a county can refer the debt to the state Franchise Tax Board which can intercept tax refunds, levy bank accounts, and garnish wages until paid in full. The state has explored ability-to-pay programs (discussed below), and the court is supposed to vacate the civil assessment in some cases. However, in practice, many people are still being levied the full civil assessment and don't know about or are unable to access relief programs.

In addition, it is not clear that civil assessments are a useful tool in compelling people to appear in court or pay fines. According to a survey from the Debt Free Justice California, 73 percent of Californians with traffic infractions did not even know there was a fee for missing a deadline to pay or appear in court, indicating that it is not an effective tool. Research suggests that non-punitive measures like text reminders and outreach are also successful in getting people to show up to court and can even lead to higher collections³. In addition, the court can still use wage garnishments and bank levies to collect debt.

San Mateo County Superior Court Lawsuit. On January 27, 2022, the ACLU Foundation of Northern California, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Bay Area Legal Aid, and Fenwick & West LLP filed a lawsuit challenging the use of the civil

¹ <https://www.latimes.com/opinion/story/2021-05-20/traffic-tickets-add-on-fee-fines-san-francisco>; <https://lccrsf.org/wp-content/uploads/2021/05/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-2015.pdf>; <https://finesandfeesjusticecenter.org/content/uploads/2022/01/FFJC-Policy-Guidance-Fee-Elimination-1.13.22.pdf>; <https://calmatters.org/commentary/2021/08/california-needs-to-get-rid-of-high-pain-low-gain-court-fees/>

² <https://www.ppic.org/blog/african-americans-are-notably-overrepresented-in-police-stops/>

³ <https://www.courthousenews.com/wp-content/uploads/2018/01/crim-just-report.pdf>

assessment by the San Mateo County Superior Court⁴. The suit is filed on behalf of plaintiff Anthony McCree and the Debt Collective, a debtors' union fighting to eliminate debt. McCree, a 28-year-old Black man, was traveling to a job interview when he was cited for fare evasion on public transit. At the time, Mr. McCree was unhoused. When he missed his payment, the San Mateo Superior Court automatically charged him a \$300 fee. Years later, Mr. McCree received notices from the Court indicating that he owed the court a total of \$860, even though the base fine for fare evasion is \$250 at the maximum⁵.

Ability to Pay. California has also explored ability-to-pay programs, where fines are not eliminated but can be reduced based on an individual's ability to pay. The 2018-19 budget funded a pilot program to facilitate the online adjudication of certain traffic infractions at a minimum of eight courts and allow individuals to request ability-to-pay determinations. The 2021-22 budget made certain components of the pilot program permanent and applicable statewide. While this is helpful, it does require the individual to know about the program and provide the required information. There is concern that individuals who most need fine and fee relief will not know or be able to access the program. In addition, amount of debt eventually collected may not justify the administrative costs associated with these programs and efforts to collect old court-ordered debt.

Staff Comment.

Retroactive reduction and elimination. The proposed trailer bill language reduces the civil assessment moving forward but does not affect civil assessments imposed prior to July 1, 2022. The Legislature may want to consider providing relief to individuals who have already received a civil assessment.

Reduction vs. elimination. The proposed budget includes a reduction, but not an elimination, of the civil assessment. However, a full elimination was considered in the budget last year, and the Legislature may want to consider how this proposal fits into long-term goals of eliminating criminal justice fines and fees.

Staff Recommendation. Hold Open.

⁴ https://www.aclunc.org/sites/default/files/Complaint_and_Exhibits_civil_assessments%5D.pdf; <https://www.courthousenews.com/california-court-sued-for-charging-hidden-tax-on-the-poor/>

⁵ https://lccrsf.org/pressroom_posts/san-mateo-court-sued-for-imposing-unlawful-and-exorbitant-late-fee-used-to-fund-court-system/; see also https://lccrsf.org/wp-content/uploads/2021/05/Demand-Letter-Sac-County-Civ-Assess-Practices-05_26_21-FINAL.pdf

Issue 2: Trial Court Funding

Governor’s Budget. The proposed budget includes the following funding for trial court operations:

- \$84.2 million ongoing General Fund, which represents a 3.8 percent increase to trial court funding to account for inflation.
- \$100 million to promote fiscal equity among trial courts.
- \$39.9 million General Fund in 2022-23 and \$39.1 million going for 23 additional superior court judgeships, to be allocated based on Judicial Council’s 2020 Judicial Needs Assessment⁶. With this funding, all judgeships authorized under law will be funded.
- \$117.8 million ongoing to continue backfilling the Trial Court Trust Fund.
- \$13.4 million ongoing to backfill the estimated loss of revenue for trial courts from the criminal fees that were eliminated by AB 177 (Committee on Budget), Chapter 257, Statutes of 2021.
- \$50 million to backfill civil assessment revenue (discussed in the previous item) and \$40 million to backfill the State Court Facilities Trust Fund (discussed in a later item).

Background.

Funding Trial Court Operations. The state’s annual budget typically designates the total amount of funding available to fund trial court operations. While a portion of this funding is provided for specific programs or purposes (such as court interpreters), a significant portion of the funding is provided on a discretionary basis with little to no restrictions on its use. Judicial Council—the policymaking and governing body of the judicial branch—is responsible for allocating the discretionary funding to individual trial courts. Upon receiving its allocation, each individual trial court has significant flexibility in determining how its share of discretionary funding from the state is used. This can result in significant differences in the programs or services offered and the level of service provided across trial courts. For example, some trial courts may choose to use a greater proportion of their funding to provide increases in employee compensation than other courts.

In recent years, increased funding for trial court operations has generally been provided through the approval of (1) budget requests for specific priorities (such as increased funding to implement enacted legislation and funding to promote fiscal equity), (2) discretionary (or unallocated) funding increases, and (3) funding to support cost increases to maintain existing service levels (such as funding for increased trial court health benefit and retirement costs).

Workload Formula. Since 2013, the judicial branch has used a formula—known as the “workload formula”—to calculate how much funding each individual trial court should receive based on its

⁶ https://www.courts.ca.gov/documents/2020_Update_of_the_Judicial_Needs_Assessment.pdf

workload as measured by various factors, including the number and type of filings each court receives. This amount is known as a court's workload formula identified need. The formula then calculates the level of funding each trial court actually received as a percentage of its workload formula identified need. This amount is known as the court's funding ratio. At the end of 2021-22, individual trial court funding ratios are estimated to range from 73 percent to over 100 percent of their workload formula identified need—with the statewide average funding ratio being about 80 percent.

Judicial Council has adopted certain rules related to the workload formula to determine how to allocate discretionary funding increases provided in the annual state budget. While these rules have changed over the years, since 2018-19, increased discretionary funding provided in the state budget is first allocated to the 15 smallest trial courts to ensure they receive 100 percent of their workload formula identified needs. Up to 50 percent of the remaining funding is then allocated to courts below the statewide average funding ratio. The remaining amount is then allocated to all trial courts generally based on workload.

State and Judicial Branch Took Various Actions to Address Pandemic-Related Impacts. Since the start of the COVID-19 pandemic, the state and the judicial branch have taken various actions to protect the health of court staff, stakeholders, and members of the public, as well as to address pandemic-related impacts on trial court operations. Some of these actions included restricting physical access to court facilities, temporarily suspending court activities, and authorizing remote proceedings to allow cases to move forward.

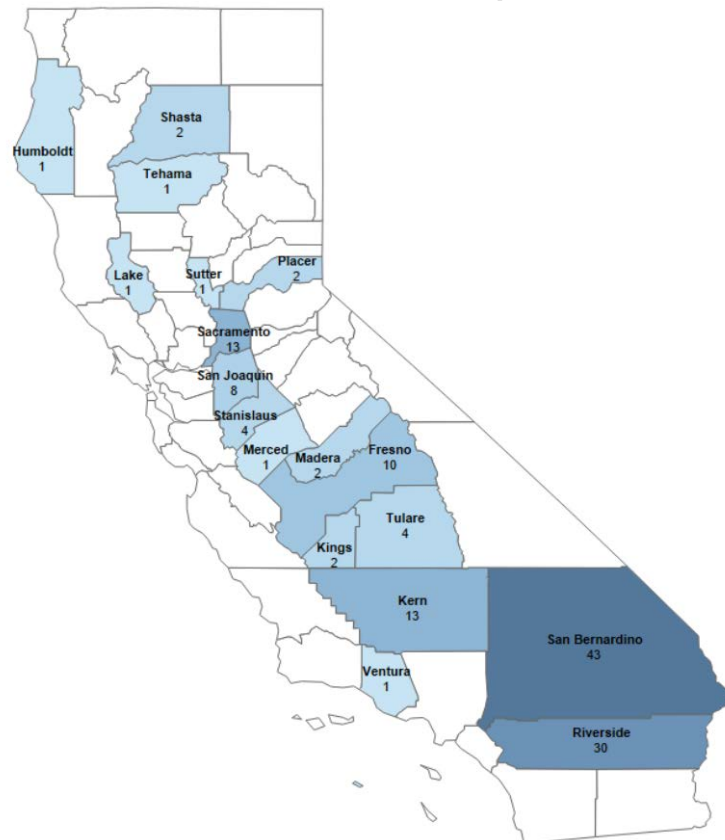
The actions taken to respond to the pandemic have generally had three major impacts on trial court operations: (1) reduced service levels; (2) case backlogs and delays; and (3) increased one-time and ongoing costs, such as from changing business practices to implement technology for remote proceedings. These impacts on individual trial courts differ due to various factors, including the specific actions taken during the pandemic. For example, some courts may have larger backlogs or increased costs due to a lack of space to conduct jury trials while appropriately socially distancing. 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.

Judgeships. California assesses the need for judicial officers in the superior courts using a weighted caseload methodology. The case weights are estimates of how long different types of cases take judicial officers to process. These are set based on a time study conducted in late 2018 in which over 900 judicial officers in 19 courts participated. The need for judicial officers is based on three-year average filing numbers. According to the most recent Judicial Needs Assessment from the Judicial Council, 18 courts need new judgeships, with a total need of 139 judges (see table below) ⁷. In addition, there are currently 23 authorized judicial positions that are unfunded. JCC will prioritize judgeships based on both absolute and relative need (columns C and D below). According to this assessment, the judgeships would go to: San Bernardino (6), Riverside (4), Kern (2), Sacramento (2), Fresno (2), San Joaquin, Stanislaus, Tulare, Kings, Madera, Sutter, and Placer.

⁷ https://www.courts.ca.gov/documents/2020_Update_of_the_Judicial_Needs_Assessment.pdf

Court	A Authorized and Funded Judicial Positions	B 2020 Assessed Judicial Need	C Number of Judgeships Needed* (B – A)	D Percentage Judicial Need Over AJP (C / A)
Tehama	4.3	5.8	1	23%
Lake	4.7	5.9	1	21%
Sutter	5.3	7.1	1	19%
Humboldt	8.0	9.7	1	13%
Merced	13.0	14.9	1	8%
Ventura	34.0	35.9	1	3%
Madera	9.3	11.8	2	22%
Kings	9.6	12.1	2	21%
Shasta	13.0	15.3	2	15%
Placer	14.5	17.1	2	14%
Tulare	24.0	28.1	4	17%
Stanislaus	25.0	29.4	4	16%
San Joaquin	34.5	42.5	8	23%
Fresno	51.0	61.9	10	20%
Kern	45.0	58.9	13	29%
Sacramento	75.5	89.0	13	17%
Riverside	85.0	115.8	30	35%
San Bernardino	94.0	137.7	43	46%
Total			139	

* Rounded down to the nearest whole number.



Source: Judicial Council's *The Need for New Judgeships in the Superior Courts: 2020 Update of the Judicial Needs Assessment*. Judicial positions needed by court (top) and judicial positions needed across the state (bottom).

LAO Comments on Fiscal Equity Funding.

Unclear How Judicial Council Would Allocate Funding. At the time of this analysis, it is unclear how the proposed augmentation would be allocated to the trial courts. This is because while the Governor's proposal requires the funding be used to address fiscal equity, it would give Judicial Council discretion in allocating these funds and it is unclear how they would do so at this time. This makes it very difficult for the Legislature to assess how the funds will promote fiscal equity among the trial courts and if it is consistent with legislative priorities.

Different Ways to Promote Fiscal Equity Among Individual Trial Courts. We note that promoting fiscal equity is a goal with merit as it promotes equal access to justice across the state. To accomplish this, there are different ways to do so depending on the specific equity-related goals the Legislature has (for example, narrowing the gap in funding between the trial courts with the highest and lowest trial court funding ratios or bringing all courts up to a minimum funding ratio) and how quickly that goal is to be reached. These decisions, in turn, dictate how much funding is needed as well as the number of courts that will receive funding and the specific amount of funding each court will receive. One example is to specify an equity goal, separate from the workload formula allocation rules discussed above. For example, the Legislature could specify that the funding be used to bring all courts up to the statewide average funding ratio (similar to how a \$47.8 million ongoing General Fund augmentation was allocated in the 2018-19 budget package). This would require funding less than the \$100 million proposed by the Governor. Alternatively, the Legislature could require the funding be used to ensure that no courts have a funding ratio below a certain level. For example, the \$100 million could be sufficient to bring all courts up to an estimated 84.5 percent of their workload formula identified need. Under these approaches, only a subset of trial courts would receive funding but there would be greater improvements in fiscal equity as the range of funding differences between trial courts would be narrowed more quickly. Another example would be to allocate the funding using workload formula allocation rules. While up to half of the funding would be allocated to courts below the statewide average funding ratio, all courts would receive some portion of the funding. Under this approach, all courts would benefit from additional funding, though courts below the statewide average funding ratio would receive a greater share of the funding. Since all courts would be receiving some funding, this approach would slow improvements in fiscal equity among the trial courts.

Other Priorities Could Be Considered. The Legislature could also determine that other funding priorities are more important. In particular, to the extent the pandemic continues to impact court operations and delay court proceedings, it may want to prioritize funding to address backlogs and delays in the short term in order to minimize impacts on court users. For example, social distancing guidelines could mean that selecting and maintaining a jury for jury trials requires more in-person space, staff, and resources, which in turn could result in fewer jury trials moving forward at any given time, resulting in backlogs. Funding could be targeted to address such impacts—such as leasing space or hiring temporary staff. Examples of other priorities outside the pandemic could include prioritizing funding for technology modernization as well as physical or remote infrastructure to help ensure that individuals have similar access—physical, remote, or electronic—across all trial courts.

LAO Recommendation on Fiscal Equity Funding.

Ensure Funding Reflects Legislative Priorities. We recommend the Legislature ensure the amount of funding provided, as well as how the funding is allocated, reflects its funding priorities for trial court operations. This can include specifying how funding must be allocated to improve fiscal equity among trial courts (as proposed by the Governor) or addressing other priorities. In particular, the Legislature could provide some, or all, of the requested funding to address pandemic-related impacts in 2022-23 in order to minimize impacts (such as backlogs or delays) on courts users statewide. This could help address equity in terms of public access to the courts and how quickly cases can be resolved. To provide assistance with this, the Legislature could direct the judicial branch to report in budget hearings on pandemic-related impacts on court operations and identify where the greatest needs are. In future years, the funding could be allocated to ensure that all trial courts have at least 84.5 percent of their workload formula identified need. While this would mean that only a subset of trial courts received funding, it would narrow the fiscal inequity among trial courts more quickly.

Staff Recommendation. Hold Open.

Issue 3: Various Facilities and Capital Outlay Proposals

Governor's Budget. The proposed budget includes:

- \$40 million one-time to backfill the State Court Facilities Construction Fund (SCFCF) and maintain existing service levels. The SCFCF, which covers a range of costs including facility modifications, repairs, and debt service, has a structural deficit due to a decline in fine and fee revenues.
- \$15.4 million ongoing for critical building repairs in the trial courts.
- \$263 million in construction projects, including \$132 million in General Fund for five new trial court projects, and \$3.9 million General Fund and \$127.2 million in lease revenue bond authority to continue three previously approved projects.

Background.

Judicial Branch Facility Needs. 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, 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). Additionally, in August 2021, the judicial branch identified 22,743 deferred maintenance projects totaling \$5 billion.

Construction Account Insolvent. 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. (We note a second construction account was consolidated into the SCFCF as part of the 2021-22 budget.) Specifically, state law increased certain criminal and civil fines and fees and deposited the revenues into the SCFCF to finance trial court construction and other facility-related expenses. The amount of revenue deposited has steadily declined over time, largely due to declining criminal fine and fee revenue. This has resulted in SCFCF expenditures—including debt service, facility modifications, and trial court operations—routinely exceeding revenues. (Currently, a total of \$55.5 million is redirected annually from the SCFCF to support trial court operations. Such transfers were initially implemented to mitigate the impacts of budget reductions on trial court operations.) To support this level of spending, the judicial branch has been expending funds from the SCFCF fund balance. As a result, the SCFCF faces insolvency in 2022-23.

New Construction Supported by General Fund. Given the insolvency of the SCFCF, the 2021-22 budget shifted support for the construction of any future courthouses to the General Fund. The 2021-22 budget also included funding to start the construction or renovation of six of the highest ranked immediate need projects identified in Judicial Council's 2019 reassessment of facilities.

The judicial branch is requesting funding for the capital outlay projects listed below. All of these are categorized as immediate need projects. According to JCC's Five Year Infrastructure Plan, work will begin on critical need projects in 2024-25.

\$263 Million Proposed by Governor for Trial Court Construction Projects

(In Millions)

Construction Project	General Fund	Lease Revenue Bond Authority
New Projects		
New Santa Clarita Courthouse	\$53.1	—
New San Luis Obispo Courthouse	29.2	—
New Solano Hall of Justice	21.4	—
New Fresno Courthouse	21.2	—
New Quincy Courthouse	7.1	—
Subtotals	(\$131.8)	(—)
Previously Approved Projects		
New Ukiah Courthouse	—	\$127.2
Butte Juvenile Hall Addition and Renovation	\$3.2	—
San Bernardino Juvenile Dependency Courthouse Addition and Renovation	0.7	—
Subtotals	(\$3.9)	(\$127.2)
Totals	\$135.8	\$127.2

Source: LAO.

The status of projects funded starting in fiscal year 2018-19 is listed below. There are 15 active capital outlay projects being managed by the facilities program.

Tab	Project Name	City	Courtrooms	Square feet	Current Phase	Phase % Complete	Approved Project Budget	Forecast Project Completion
1	New Yreka Courthouse	Yreka	5	67,459	Completed	100%	\$ 77,186,179	6/2/2021
2	New Sonoma Courthouse	Sonoma	5	60,800	Completed	100%	\$ 71,316,000	10/15/2021
3	New Redding Courthouse	Redding	14	166,887	Construction	83%	\$ 184,753,394	6/22/2022
4	New El Centro Courthouse	El Centro	4	46,810	Construction	65%	\$ 67,096,000	6/29/2022
5	Renovations and Addition to Willows Historic Courthouse	Willows	3	41,867	Construction	48%	\$ 58,423,967	8/3/2022
6	Neveda City Study	Neveda City	6	NA	Study	27%	\$ 972,000	9/30/2022
7	LA Master Plan Study	Los Angeles	NA	NA	Study	27%	\$ 2,347,000	5/7/2023
8	New Sacramento Courthouse	Sacramento	53	543,437	Construction	23%	\$ 514,792,000	11/15/2023
9	New Santa Rosa Courthouse	Santa Rosa	15	167,147	Construction	11%	\$ 204,803,000	12/13/2023
10	New Indio Juvenile and Family Courthouse	Indio	5	53,047	Construction	1%	\$ 80,873,800	2/16/2024
11	Menifee Justice Center	Menifee	9	85,010	Construction	3%	\$ 95,253,100	3/21/2024
12	Butte County Juvenile Hall Addition & Renovation	Oroville	1	610	Preliminary Plans	5%	\$ 3,384,899	11/30/2024
13	New Modesto Courthouse	Modesto	27	309,284	Construction	1%	\$ 345,355,000	12/12/2024
14	San Bernardino Juvenile Dependency Courthouse Addition & Renovation	San Bernardino	2	5,000	Acquisition	29%	\$ 8,981,910	12/21/2024
15	New Lakeport Courthouse	Lakeport	4	46,000	Performance Criteria	60%	\$ 73,134,139	9/22/2025
16	New Ukiah Courthouse	Mendocino	7	82,000	Performance Criteria	15%	\$ 118,125,538	11/2/2026
17	New Fort Ord Courthouse	Monterey	7	83,000	Acquisition	15%	\$ 154,255,918	4/6/2028

LAO Comment.

Insolvency Requires Ongoing General Fund Resources. As noted above, the SCFCF faces insolvency in 2022-23. The Governor's proposed one-time SCFCF backfill would only address the insolvency in the budget year—effectively leaving the SCFCF with a zero fund balance. SCFCF revenues are estimated to be around \$200 million and expenditures to be around \$425 million in 2022-23. While both amounts are estimated to decline slightly in the future, this trend continues into future years—which means that ongoing General Fund resources will be needed to backfill the difference in revenues in order for the state to meet financing payments for completed projects as well as other obligations. As shown in Figure 6, absent any changes in expenditures, this could mean that at least \$200 million would be needed annually for nearly a decade. The amount would then decline as the state ends debt service payments on completed construction projects.

LAO Recommendation.

Shift Full Responsibility for Trial Court Construction to the General Fund. In order to permanently address the insolvency of the SCFCF, we recommend the Legislature shift full responsibility for trial court construction to the General Fund. This includes (1) shifting all financing obligations for completed projects to the General Fund, (2) appropriating \$160 million General Fund annually (declining to \$145 million in 2024-25) to support all non-construction-related expenditures currently supported by the SCFCF, and (3) depositing all SCFCF revenues into the General Fund to partially offset the shifted costs. This approach would ensure that all construction-related obligations are fully accounted for and considered when evaluating the state's overall fiscal condition and determining General Fund priorities. It would also maintain existing levels of support for all non-construction-related expenditures—such as facility modification projects and trial court operations. Finally, it allows the Legislature to fund future trial court construction projects based on its priorities.

Appropriate Funding for Facility Modification and Construction Based on General Fund Priorities. Regardless of whether the Legislature adopts the recommendation to shift full responsibility for trial court construction to the General Fund, we recommend the Legislature appropriate funding for facility modification projects and construction based on its General Fund priorities. While the Governor's proposals are generally reasonable, the judicial branch has identified significant facility needs. If a priority, the Legislature could consider additional one-time funding—such as for facility modification projects or deferred maintenance. We note that such spending is excludable under the state appropriations limit (SAL). (The California Constitution imposes a limit on the amount of revenue the state can appropriate each year. The state can exclude certain spending—such as on capital outlay projects, as well as for certain kinds of emergency spending—from the SAL calculation.)

Staff Recommendation. Hold Open.

Issue 4: Branchwide IT Modernization

Governor's Budget. The proposed budget includes \$34.5 million and 27 positions in 2022-23 growing to \$40.3 million and 50 positions in 2024-25 and ongoing to support and expand the branch's modernization efforts. This includes:

- \$6.2 million for a new Judicial Branch Information Security Office.
- \$3.1 million for modernization of the Appellate and Supreme Courts, which have not been included in previous modernization funding.
- \$4.2 million for ongoing support and maintenance for modernization of Trial Courts.
- \$14.1 million for branch-wide modernization initiatives.
- \$12.5 million to fund court-specific modernization projects.

Background. Over the last seven years, the Judicial Branch has focused significant time and resources building and implementing a comprehensive plan to modernize the Judicial Branch. The guiding documents for the modernization effort are the Judicial Council approved Strategic Plan for Technology and Tactical Plan for Technology. The focus of those plans has been to align the branch with the Chief Justice's vision for Access 3D, introduced in 2013, to expand physical, remote, and equal access, by enhancing our existing court services and creating new digital court services. Priorities include enhancing remote appearance technology, digitizing court records, implementing case management systems, expanding cloud services, and improving digital services such as e-filing and notification systems. The key guiding documents are outlined below:

- *Governance and Funding Model.* This document provides broad guidance on the judicial branch's vision and principles related to technology and lays out the process for the approval and oversight of projects. Specifically, this includes specifying criteria for assessing statewide versus local projects; the roles and responsibilities of all key stakeholders (such as specific Judicial Council committees, as well as individual courts); and processes by which projects are identified, justified, approved, and monitored.
- *Strategic Plan.* This document provides the judicial branch's strategic goals, objectives, and metrics to measure success of technology projects over a four-year period. The 2019-22 Strategic Plan identifies three guiding principles: access, reliability, and innovation. Based on these principles, the plan specifies four key goals: (1) promoting the digital court, (2) innovating through the technology community, (3) advancing technology security and infrastructure, and (4) promoting rule and legislative changes that impact the use of technology. Each goal has prioritized objectives. For example, ensuring secure, reliable, and sufficient data network connectivity throughout the judicial branch is the first of six objectives to meet the goal of advancing technology security and infrastructure.
- *Tactical Plan.* This document provides the individual steps or areas of focus identified by the judicial branch to achieve Strategic Plan goals over a two-year period. The 2021-22 Tactical Plan lays out 18 specific areas of focus tied to the goals in the Strategic Plan. For example, case management system migration and deployment is one area of focus to address the goal of promoting the digital court. The Tactical Plan then lays out specific goals and objectives within each area of focus. For example, an identified goal and

objective related to the case management system migration and deployment area of focus is to continue implementation of new systems for all case types across the branch.

- *California Courts Connected Framework.* This document provides a framework to help individual courts assess their progress in meeting the goals identified in the Strategic Plan and the Tactical Plan. This allows courts to identify their existing technology capacities as well as potential areas of need. According to the judicial branch, a July 2021 inventory assessing court needs using this framework resulted in the identification of 201 projects—totaling to \$43.6 million—across 20 technology categories (such as technology infrastructure).

Using the above documents in concert with one another helps Judicial Council identify and prioritize the judicial branch's technology needs. It also helps Judicial Council identify those specific projects where funding needs to be requested through the annual state budget process. Finally, following its approval of projects, Judicial Council generally receives regular updates to monitor the use of funding and ensure that the intended outcomes are reached.

Previous Resources. The JCC has been provided a total of \$149.4 million in one-time funding over the last seven years, which has enabled the branch to begin implementing many new modernization initiatives required to achieve Access 3D. The 2020-21 and 2021-22 budgets each included \$25 million for projects to modernize trial court operations that were selected by Judicial Council. The 2020-21 funding went towards both court-specific and branch-wide projects related to remote appearance technology (\$6.5 million), cloud solutions (\$5 million), digital services (\$3.3 million), digitizing documents (\$2.2 million), digital ecosystems (\$1.6 million), virtual customer service (\$1.5 million), and data governance (\$1.5 million), among others. Each trial court received at least \$40,000 for modernization projects in 2020-21.

As part of the 2021-22 funding, JCC established the California Courts Connected framework and asked courts to complete a technology inventory to assist courts in modernizing their courts and help identify and prioritize projects. 201 projects totaling \$43.6 million were requested by the trial courts. The most common project categories were courthouse (38 requests), electronic records management (37), infrastructure (24), case management systems (16), cyber security (15), and remote appearances (13). In addition, the state of implementation varies significantly across the state. Some courts need assistance with basic connectivity and infrastructure, many are working on implementing core systems including case management systems and electronic records management, and others are working on enhanced services.

Details of proposed resources. The Judicial Branch is asking for ongoing resources to address these outstanding projects and future needs, and sustain the modernization program in the long-term. In addition, the previous funding has focused on the trial courts and has not included the Courts of Appeals or the Supreme Court. Specifically, this request includes five initiatives:

1. *Implementation of the Judicial Branch Information Security Office* – \$6.2 million. Current statewide systems do not monitor the Judicial Branch's networks for suspicious activity or cyberattacks. This funding will create a centralized office for cybersecurity to support the

Trial, Appellate, and Supreme Courts, and the JCC, in cooperation with the California Office of Information Security.

2. *Modernization of Appellate and Supreme Courts* – \$3.1 million. Previous funding for trial court modernization did not include the Courts of Appeals or the Supreme Court. This funding will help those courts update their case management, e-filing, and other digital services, as well as upgrade general IT and software systems.
3. *Modernization of Trial Courts* – \$4.175 million. This funding would provide ongoing resources including staffing and IT support to allow courts to maintain their technology initiatives.
4. *Judicial Branch Modernization Initiatives* – \$14.1 million. This funding will help fund branch-wide initiatives such as Voice to Text Translation, Live Chat, and other self-help digital services, as well as software licenses, other language access and remote appearance support, and electronic access to court records and other digital services, among other projects.
5. *Modernization Program Annual Project Allocation* – \$12.5 million. This funding will allow JCC to continue to provide funding for specific projects identified by courts in their technology inventories. This would include projects at the Trial, Appellate and Supreme Courts. Projects range from basic infrastructure to core systems including case management and electronic record systems to enhancements and other new digital services.

The Judicial Council plans to continue to track the progress of courts, including the status of core programs such as case management systems (CMS) and electronic records management (ERM). Currently, 45 percent of courts have fully implemented and 51 percent have partially implemented CMS, and 5 percent have fully implemented and 83 percent have partially implemented ERM.

Electronic Filing for Restraining Orders. In addition to the above resources, the proposed budget includes \$2.6 million General Fund in 2022-23 and \$1.7 million in 2023-24 and ongoing to implement, support, and maintain electronic filing interfaces for domestic violence restraining orders (DVRO), domestic temporary restraining orders (TRO), and gun violence restraining orders (GVRO) at all trial courts. AB 887, Chapter 681, Statutes of 2021 and SB 538, Chapter 686, Statutes of 2021 require courts to accept electronic submissions of those restraining orders. However, as described above, many courts do not have fully implemented CMS or ERM. By the date these bills take effect, the Judicial Council expects 28 courts to lack the capability to accept these filings online. Therefore, JCC will use this funding to implement a central electronic delivery portal that the courts could use to satisfy the requirements of AB 887 and SB 538.

Expected outcomes of branch wide Modernization program:

Projected Outcomes

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
Implementation of Core Solutions						
CMS	45 Courts	58 courts	60 Courts	62 Courts	64 Courts	65 Courts
Digital Court Records	10% digitized	15% digitized	20% digitized	25% digitized	30% digitized	35% digitized
Public Partner Services						
Web Solutions-enhanced ADA and Mobile accessibility	15 Courts	25 Courts	35 Courts	45 Courts	55 Courts	65 Courts
Remote Payments	TBD					
Notification Systems	5 courts	10 courts	15 courts	20 courts	25 courts	30 courts
Remote Records and Search (State Index)	3 courts	5 courts	10 courts	15 courts	20 courts	25 courts
Electronic Filing (one case type)	25 courts	35 courts	45 courts	58 courts	Remaining court upgrades	
Remote Appearance	10% courtrooms	20% courtrooms	30% courtrooms	40% courtrooms	50% courtrooms	60% courtrooms
Online Dispute Resolution	1 court	3 courts	5 courts	8 courts	12 courts	15 courts

Source: DOF

LAO Comments.

Two Proposals Appear Reasonable. Two of the Governor's proposals appear reasonable. First, the proposal for a new Judicial Branch Information Security Office seems reasonable. Court operations are increasingly reliant on technology to operate effectively. Additionally, the courts receive, access, and process information that can be confidential or private. Accordingly, it is reasonable for the judicial branch to have an office dedicated to addressing information security issues across the state, particularly since this minimizes the need for such expertise at each individual court.

Second, the proposal requesting direct allocations to and related staffing for the state courts and trial courts seems reasonable. The requested funding would provide individual courts with a small amount of annual resources that could help address more routine and/or smaller modernization efforts. These allocations recognize that each court's modernization needs may not be the same. Additionally, the funding provides a certain amount of flexibility to individual courts to adjust to address the most immediate needs as they arise (such as sudden equipment failure). The staffing would also provide the state courts with sufficient capacity and expertise to oversee the effective completion of modernization projects.

Judicial Branch Modernization Program Reduces Legislative Oversight, but Could Have Some Benefits as Well. The proposed Judicial Branch Modernization Program reduces legislative

oversight of technology projects. This is because it lacks the same oversight mechanisms that exist when funding is allocated by the Legislature to specific projects through the annual budget process. Allocating funding through the budget process to specific projects or providing limited-term funding for specified purposes allows the Legislature to ensure that funded projects are of high priority and reflect statewide policies and priorities for court processes and procedures. This approach also allows the Legislature to assess whether each budget request accurately identifies a problem or need and presents a cost-effective solution, clear outcome expectations, complete and accurate costs, a comprehensive and reasonable implementation plan, and clear metrics to monitor the implementation of the solution. In addition, this approach allows the Legislature to take certain steps—such as requiring a project be piloted first, approving only partial funding, or requiring the reporting of certain information on a regular basis—to ensure it has sufficient oversight of projects. Such steps can be tailored specifically to individual projects.

As proposed by the Governor, this level of oversight would not occur over the projects that would be funded through the proposed Judicial Branch Modernization program. This is because Judicial Council would have full discretion to allocate funding to branchwide projects and court-specific projects based on its priorities. While Judicial Council has developed a fairly robust process for identifying, approving, and conducting oversight of technology projects, those processes do not generally allow for legislative oversight or input unless the request is submitted for consideration through the budget process. We note that the level of annual funding proposed by the Governor for the new program would likely result in most of the funded projects being smaller in scope. However, because this funding is ongoing, it could enable the funding of multiyear projects—including projects whose total costs could reach into the millions of dollars.

While the specific structure of the Governor’s proposal raises concerns, we acknowledge that there are a few advantages to providing some amount of discretionary funding for branchwide modernization projects selected by Judicial Council during the course of a fiscal year. For example, such an approach would give Judicial Council the flexibility to respond quickly as needs arise across the branch. We note that the discretion provided to Judicial Council to allocate \$25 million in modernization funding in 2020-21 likely helped courts more rapidly change their business practices to operate during the pandemic. Additionally, such an approach could eliminate the need for the Legislature to consider budget requests each year for relatively small technology projects.

LAO Recommendations.

Approve Proposals for New Judicial Branch Information Security Office (\$3.7 Million) and Direct Allocations to State and Trial Courts (\$7.3 Million). We recommend the Legislature approve the proposals for the new Judicial Branch Information Security Office as well as the direct allocations to the state and trial courts. As discussed above, the Judicial Branch Information Security Office would address an important judicial branch information security need while the direct allocations to the state and trial courts would provide a small amount of ongoing, flexible funding for technology modernization efforts at each individual court based on their needs.

Modify Proposed Judicial Branch Modernization Program to Ensure Appropriate Legislative Oversight (\$23.5 Million). To the extent that providing some discretionary funding for branchwide modernization projects to be selected by Judicial Council is a legislative priority, we recommend

that the Legislature modify the proposed Judicial Branch Modernization Program to increase legislative oversight. Specifically, we recommend the Legislature specify limits on the types of projects that can be funded or set a total per-project cost limit on projects that can be funded. This would limit the number or types of projects that could be pursued without legislative oversight through the annual state budget process. We also recommend requiring annual reporting from Judicial Council on what projects are expected to receive funding through the program each year and how program funds were actually used in the prior year. This would allow the Legislature to conduct regular oversight of the program, provide input prior to allocation of program funds, and identify areas where legislative action could be merited. Depending on the specific modifications made to the Governor's proposal, the Legislature will want to adjust the amount of funding accordingly.

Staff Recommendation. Hold Open.

Issue 5: Judicial Branch Data and Information Governance

Governor's Budget. The Judicial Council of California (JCC) requests 11.0 positions and \$15 million General Fund in 2022- 23 and \$3.75 million General Fund ongoing beginning in 2023-24 to establish and implement branch data and information governance and expand the technology platform needed to improve and expand Judicial Branch data access, use, and sharing.

Background.

JCC is required to collect and compile a significant amount of data from the courts, which is used to make policy decisions and distribute judgeships and workload-based funding. Currently, JCC maintains several separate databases, including jury and case management datasets maintained as part of the Judicial Branch Statistical Information System (JBSIS), and financial information stored in Phoenix. JBSIS requires the courts to submit monthly reports, and any changes to the data collected require significant recoding both at the branchwide and individual court levels. In addition, the information stored in JBSIS is not very detailed, and the Judicial Branch often relies on surveys to collect more specific data about the courts, which is a time-consuming process.

The 2019-20 Budget included \$4.7 million one-time for a statewide data management platform pilot, which integrates court workload and other JBSIS data with appellate case management system data and with data from the pretrial pilot program, the statewide index project, and the statewide ability to pay program. The JCC anticipates that additional data could also be integrated into this system, including jury management and self-help service data. Additional resources from the modernization funding described in the previous item were used to help implement data governance and trainings at individual courts, and JCC anticipates similar funding will be needed at all courts moving forward.

However, there are no dedicated, ongoing resources for data governance and analytics at the branch level. In addition, the significant modernization efforts described in the previous item will improve the ability to collect information from individual courts. This funding will allow Judicial Council to establish and maintain a new, unified data system for tracking the data provided by the courts.

Staff Recommendation. Hold Open.

Issue 6: Remote Access to Court Proceedings (AB 716)

Governor's Budget. The Judicial Council of California (JCC) requests four positions and \$33.2 million General Fund in FY 2022-2023 and FY 2023-2024, and a total of four positions and \$1,632,000 ongoing funding to implement, support and maintain remote access to courtroom proceedings as required by AB 716 (Bennett), Chapter 526, Statutes of 2021. These one-time funds over two years will be used to upgrade courtroom audio and video solutions to allow for remote access to all courtroom proceedings through the use of internet or telephonic access.

Background. Throughout the pandemic, courts worked to improve their audio and visual systems to allow for remote proceedings. However, many courtrooms, especially older ones, lack the fundamental infrastructure to enable for modern audio-visual systems and integration with remote technologies like Zoom. One of the major issues in these old courtrooms is sound quality – remote participants are not able to clearly hear the sound from all of the in-person participants. In addition, many systems lack more advanced features like digital evidence sharing.

With the use of the one-time trial court modernization money, the Judicial Council and trial courts have been able to begin to upgrade some of the courtrooms to enable this patchwork of solutions allowing for remote access. In FY 2020-2021, 500 or approximately 25 percent of the 2030 courtrooms were retrofitted to included remote appearance technology to provide basic remote appearance proceedings. Note many courtroom retrofits only provided the basic ability to allow proceedings; however, the courtrooms still require retrofitting to allow full remote access to justice – for example integrated digital evidence sharing.

The Judicial Council also invested in branchwide Zoom licenses for courts to utilize over the next three years, which includes a free 'call-in' phone line for courtroom proceedings. These initial investments totaled \$6,476,000. However, these enhancements do not address the ability to optimally hear and see all participants in a proceeding. This one-time funding was only enough to provide a patchwork of solutions that provides basic access, but it is inconsistent across the state. AB 716 also requires all courts to provide remote access to courtroom proceedings either by audio or telephonic means.

This request addresses the courtrooms with the most critical needs for audio and video system upgrades, specifically focusing on courthouses that are 20+ years and older. Other courtrooms will need to be upgraded over time as their equipment ages, but these are the most critical needs today. Many of these courthouse's analog audio and video solutions are 30 years or older and have no capability to integrating into the modern digital solutions. As of March 2021, 1775 courtrooms (more than 85 percent of the state's 2030 courtrooms) within the state are older than 20 years and have had minimal upgrades to courtroom technology. Based on initial estimates, the Judicial Council estimates it will cost an average of \$35,000 per courtroom.

Staff Comment. Some courts charge fees for some remote appearance services. It is not clear if any courts are charging fees for any of the remote appearance technology implemented during or due to the pandemic, but the Legislature should consider an explicit prohibition.

Staff Recommendation. Hold Open.

Issue 7: Court of Appeals Appointed Counsel

Governor’s Budget. The Judicial Council of California (JCC) requests \$8.3 million ongoing General Fund in 2022-23 to support the Courts of Appeal Court Appointed Counsel Program. This total amount includes \$6.4 million ongoing General Fund for a \$15 rate increase for non-capital appeal appointments, and \$1.9 million for a permanent 10.5 percent increase in the Project Offices annual contracts.

Background. California’s Court-Appointed Counsel Program fulfills the constitutional mandate of providing adequate representation for indigent appellants in the Courts of Appeal in non-capital cases (capital cases are typically handled by the State Public Defender). The objectives of California’s appellate court-appointed counsel system are to: (1) ensure the right of indigent clients to receive the effective assistance of appointed appellate counsel as guaranteed them by the U.S. Constitution; and (2) provide the Courts of Appeal with useful briefings and arguments that allow the Courts to perform their functions effectively and efficiently.

Each district of the California Courts of Appeal contracts with a Court Appointed Counsel Project Office to manage the court-appointed counsel system in that district and to perform quality control functions. Each Project Office oversees a panel of attorneys who receive appointments in that district. The Project Offices are responsible for work with the panel attorneys to ensure that effective legal assistance is provided. The contracts between the Courts of Appeal and the Project Offices require each Project Office to supervise and assist appointed counsel, so that the People of California can satisfy their obligation of providing competent legal representation to indigent clients in California’s Courts of Appeal and, when appropriate, the Supreme Court.

Retention Challenges. The overall number of panel attorneys is at 751, down from 927 in 2013. The Administration reports that several more qualified attorneys have left for more lucrative contracts, and that they are not retaining junior attorneys (“assisted attorneys”) long enough for them to gain experience and become more qualified senior attorneys (“independent attorneys”). On average, it takes an attorney four to five years to move to an independent appointment status. Many of the senior attorneys will also be retiring soon.

Proposal Details.

This request reflects a 10.5 percent increase in 2022-23 in amounts budgeted for the Project Offices, so they may meet their obligations to ensure justice through competent and qualified defense counsel for indigent defendants. This funding will be used to fund cost increases for rent, employer health benefit costs, and training, and other service costs that have been cut due to a lack of funding. The 2017-18 Budget Act provided a \$786,000 General Fund increase for the Project Offices. Prior to 2017-18 the Project Offices had not received an increase to their contracts since 2007-08. The 2017-18 increase provided funding that may be used to address only three of the ten years of increased costs for contractual services, causing structural underfunding to remain.

The request also includes a \$15 increase in the hourly appointment rate for the statewide panel attorneys. From 1989 to 1995, the hourly rate for all appointed cases was \$65 per hour. In 1995 a second tier was added at \$75 per hour to differentiate compensation in assisted and independent cases. A third tier at \$85 per hour was added in 1998 for the most serious and complex matters.

Effective October 1, 2005, the rates increased by \$5 per hour; a \$10 per hour increase was put in place July 1, 2006; and one final \$5 per hour increase effective July 1, 2007. That same rate that was in place until July 1, 2016, when there was a \$10 increase. The Judicial Council is requesting a \$15 per hour increase to raise these 2016 rates to \$110, \$120, and \$130 per hour, respectively. Even with the approval of this requested rate increase of \$15 per hour, the statewide panel attorneys' highest hourly compensation rate (\$130 per hour) is under the Department of General Services 2020-21 Price Book of \$170 per hour for external legal advice.

Staff Recommendation. Hold Open.

7870 CALIFORNIA VICTIM COMPENSATION BOARD (CALVCB)**Issue 8: Victim Services Consolidation**

Victim services are currently spread across four state departments with most grants and programs residing in the Victim's Compensation Board (CalVCB) and the Office of Emergency Services (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).

OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, 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. Most recently, 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. More details on the VCB process are provided later in this item.

In 2015, the LAO published a report titled “Improving State Programs for Victims of Crime.”⁸ This report highlighted the fragmentation of victim services across the state, including a lack of coordination between OES and CalVCB. 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 CalVCB and restructuring the board membership.

The 2018-19 Budget Act required the VCB and 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 2018⁹. The 2019-20 budget directed the Administration to develop a plan to consolidate the victim programs housed at OES and CalVCB within a new state department under the Government 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 have been 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 that the limited resources allocated for these programs are done so efficiently.

This is an informational item to hear an update from the Administration on victim services and plans for consolidation.

⁸ <https://lao.ca.gov/Publications/Detail/3215>

⁹ <https://victims.ca.gov/uploads/2021/02/FinalConsolidationReport.pdf>

Background.

CalVCB. 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. CalVCB 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. CalVCB 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. CalVCB 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. CalVCB'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:

- CA 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 filing 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 is 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

Currently, CalVCB provides materials in 13 languages as required by state law. They have in-house Spanish speakers and have contracts with interpretation and translation service providers. CalVCB's website is also integrated with Google Translate so that each page can be automatically translated.

During the COVID-19 pandemic, CalVCB worked to improve its digital outreach, updated and translated publications that are mailed to organizations that assist victims/survivors. In May of 2021, CalVCB overhauled its website to create an easier interface that is also accessible on mobile devices. They also worked with law enforcement agencies and victim witness centers to provide resources to victims/survivors. CalVCB assesses the efficacy of these efforts based on the number of contacts made and the resulting application trends. At this time, CalVCB has not used any user surveys to collect feedback from applicants who utilize the website and other services provided by the board.

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

	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 CalVCB to approve and process a claim. In 2021, it took 32 days on average to approve a claim. The time it takes CalVCB to then process the claim depends on the category of the claim, with the slowest being 62 days on average to process is income/support loss claims.

LAO Comment.

Victim Program Consolidation Not in the Budget. As part of the 2019-20 budget package, the Governor and Legislature agreed in concept to consolidate the victim services programs currently operated by CalVCB and the Governor's Office of Emergency Services (OES) into a new victim services department under the Government Operations Agency. In order to allow the administration time to work out the details of the consolidation, the implementation of the new department was deferred until the 2020-21 budget when the administration agreed to bring forward

a detailed proposal. However, the administration did not submit the proposal for consideration as part of the 2020-21 budget, citing the onset of the COVID-19 pandemic and OES's workload related to pandemic response as the reason for delaying the proposal. Notably, the pandemic did not prevent the administration, however, from proposing to increase OES's responsibilities by transferring the Seismic Safety Commission to it as part of the 2020-21 budget.

The agreement to consolidate the programs under a new department was the result of multiple years of interest from the Legislature and legislative staff in making this change. For example, a 2015 report by our office found inefficiencies and missed opportunities with the current structure of the programs being housed in two different departments. In our report, we recommended moving victim programs out of OES and consolidating them with CalVCB's programs. The same concerns that lead to our findings and recommendations in 2015 generally continue to apply today.

Given the agreement between the Legislature and the administration as part of the 2019-20 budget, we want to highlight the continued absence of a proposal to create a new victims department that would consolidate the programs currently managed by OES and CalVCB. The Legislature may want to consider asking the administration for an update on when the agreed upon consolidation plan will be provided for the Legislature's review.

Staff Comment. In addition to the challenge of consolidation, there are several challenges that victims face while trying to receive assistance. These include:

- It often takes weeks or months to get a claim approved, and then additional time to get reimbursed. This leaves victims with significant financial burdens in the immediate aftermath of the crime.
- California is one of only eight states that denies victim compensation to people based on past conviction or their status on probation or parole.
- Claims typically require the victims to cooperate with law enforcement and file police reports. California allows alternatives to police reports for certain victims/survivors (typically human trafficking, domestic violence, sexual assault) but not all victims/survivors. The federal VOCA Fix Act, which passed in July of 2021, clarified that states are not required under federal rules to deny victims/survivors compensation for noncooperation with law enforcement, providing the opportunity for states to change their policies. Some states, like Hawaii and Vermont have already removed their cooperation requirement. Illinois changed its policy such that if a victim/survivor seeks medical care, this alone qualifies as cooperation.

In addition, the ongoing solvency of the Restitution Fund is a concern as it is currently funded by fine and fee revenue, which is declining.

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

Issue 9: Erroneous Conviction Proposals

Governor's Budget. The proposed budget includes:

- \$535,000 General Fund and 2 positions in 2022-23 and \$471,000 in 2023-24 and ongoing to meet the anticipated workload pursuant to SB 446 (Glazer), Chapter 490, Statutes of 2021, which changes existing procedures related to wrongful conviction compensation claims and shifts the burden on the state to prove that the claimant is not entitled to compensation in specified cases.
- \$7 million General Fund in 2022-23 and ongoing and statutory changes to make payments to erroneous conviction claims that are approved pursuant to Penal Code sections 4900 et seq. This proposal also includes provisional language that authorizes the Director of Finance to augment the appropriation if funds are insufficient to cover claims.

Background. People who are falsely imprisoned on felony charges, and are later exonerated, are entitled to \$140 per day incarcerated. These claims are handled by CalVCB, and must be filed no earlier than 60 days and no later than ten years after the exoneration. Each claim requires a response from the Attorney General (AG) within 60 days. If the AG opposes the claim, there is an informal hearing. CalVCB determines the outcome, although they are bound by the facts established in the relevant legal proceedings. No hearings are necessary for individuals who have obtained a declaration of factual innocence from a court. Currently, CalVCB has one attorney working part-time on these claims.

Prior to SB 446, the burden of proof in these hearings was on the claimant. They had to meet a higher legal standard (preponderance of the evidence) than for the court reversal of their conviction (reasonable doubt). SB 446 changes existing procedures related to wrongful conviction compensation claims and shifts the burden on the state to prove that the claimant is not entitled to compensation in specified cases. Specifically, the Attorney General, who responds to these claims, must provide clear and convincing evidence in the hearing that the claimant committed the crime.

Due to this shift, CalVCB expects the workload to more than triple. CalVCB expects the number of claims to increase, as SB 446 makes it more favorable to seek the claim in a CalVCB hearing, rather than through a finding of factual innocence in a court or not filing a claim at all. In addition, the administrative hearings will become longer and more complex as the AG seeks to present evidence to meet the new burden of proof.

In addition, CalVCB estimates that if this law had been in place over the past three years, CalVCB may have been compelled to grant an additional \$3.7 million in compensation, increasing the average annual appropriation by \$1.23 million. CalVCB expects to pay out \$5.67 million dollars in the current fiscal year. Based on their estimates, if SB 446 had been in effect, they would have had to pay out \$6.9 million. Over the past three fiscal years, CalVCB has approved 17 claims at a total appropriation of \$14.2 million, an average of \$4.3 million per year. In the 2021 Legislative Session, appropriations have been made for five claims with a sixth claim pending in the Legislature, at a total of \$6.84 million. However, these historical numbers do not account for the potential impacts of SB 446.

Workload History

Workload Measure	PY – 4	PY – 3	PY – 2	PY-1	PY	CY
Erroneous Conviction Payout	\$4,666,000	\$6,941,000	\$92,000	\$3,447,000	\$5,087,000	\$5,676,000

Currently, each approved claim requires CalVCB to make a recommendation to the Legislature to make an appropriation to pay out the claim. The appropriation is included in a claims bill that must pass through the legislative process, meaning the claimant usually doesn't receive the funds until summer or fall. If a claim is made in fall, they will not receive funds until the next fall. The requested \$7 million would be used to pay out these claims immediately.

Staff Recommendation. Hold Open.

Issue 10: Federal Appropriation and Benefit Limit Adjustment

Governor's Budget. CalVCB requests \$7 million Federal Trust Fund in 2022-23 and ongoing to reflect the Federal Victims of Crime Act reimbursement rate increase from 60 percent to 75 percent. The additional federal funding will be used, in part, to support an increase in benefit limits for crime scene cleanup costs (\$1,000 to \$1,700), funeral/burial costs (\$7,500 to \$12,800), and relocation claims (\$2,000 to \$3,400) to adjust for inflation since these limits were set in the early 2000's.

Background. CalVCB's primary funding source consists of revenue from restitution fines and orders, fees and penalty assessments levied on persons convicted of crimes in California. In addition, CalVCB receives an annual grant from the federal Victims of Crime Act, which reimburses state compensation programs by matching a percentage of the annual amount paid to reimburse crime victims for losses they incur as a result of violent crime. The change to the VOCA formula results in an estimated \$7 million per year additional reimbursement for CalVCB.

Over the last three years, CalVCB has processed an average of 49,180 applications per year and provided \$57.7 million in compensation to victims annually. There is a per claim statutory maximum of \$70,000, and over the last five years CalVCB has awarded less than 1% of all claims at the maximum level. The additional federal funding will be used, in part, to support an increase in benefit limits for the following: crime scene cleanup costs (\$1,000 to \$1,700), funeral/burial costs (\$7,500 to \$12,800), and relocation claims (\$2,000 to \$3,400) to adjust for inflation since these limits were set in the early 2000's.

- *Crime Scene Clean-up Costs from \$1,000 to \$1,700:* This benefit limitation was established 20 years ago and CalVCB receives approximately 40 requests for crime scene cleanup annually. CalVCB estimates that 36 percent of claims will reach this limit, compared to 50 percent of claims under the old limit.
- *Funeral/Burial Costs from \$7,500 to \$12,800:* The funeral and burial benefit was added in 1974 and the limit has not been increased since 2003. An average of 1,900 applicants per year received funeral/burial reimbursement. In California, the average cost for funerals/burials is approximately \$12,000. CalVCB estimates that 8 percent of claims will reach this limit, compared to 34 percent of claims under the old limit.
- *Relocation Claims from \$2,000 to \$3,400:* This benefit, which has not been changed since the year 2000, pays for moving costs such as the first and last month's rent, security, and pet deposits, moving trucks, temporary housing, utility deposits, etc. CalVCB estimates that 11 percent of claims will reach this limit, compared to 48 percent of claims under the old limit.

Those benefit limits had not been adjusted since they were established approximately 20 years ago. The funeral/burial and relocation limits are frequently cited by advocates as insufficient to meet the needs of victims. The only other benefits with statutory limitations were residential security (currently at \$1,000 and vehicle modifications currently at \$30,000) which have not been the source of many claims or feedback regarding additional needs. Over the last three years, there

have been less than 40 total vehicle modification claims and less than a quarter of those with unmet needs. In the same timeframe, there have been only 3,500 residential security claims with a little over a quarter of those with unmet needs. The following table summarizes the unmet need due to these statutory limitations and overall \$70,000 lifetime benefit maximum across all benefit types.

Total Unmet Needs Due to Benefit Caps, By Category				
	2018	2019	2020	2021
<i>Crime Scene Cleanup</i>	\$99,420.66	\$25,779.45	\$91,660.12	\$47,645.77
Dental	\$0.00	\$0.00	\$94,456.00	\$103,611.75
<i>Funeral/Burial</i>	\$2,981,932.68	\$2,940,356.44	\$4,134,788.14	\$6,582,997.55
Home Modification	\$0.00	\$0.00	\$0.00	\$80,000.00
Medical	\$214,801.41	\$1,128,654.10	\$833,425.57	\$1,531,422.39
Mental Health	\$344,249.50	\$860,537.78	\$1,199,048.91	\$988,868.98
Rehabilitation	\$0.00	\$0.00	\$0.00	\$0.00
<i>Relocation</i>	\$2,591,083.69	\$3,243,571.62	\$3,775,319.82	\$5,250,386.70
Residential Security	\$191,237.86	\$265,188.77	\$372,177.69	\$397,916.85
Vehicle Purchase/Mod	\$134,764.40	\$217,892.78	\$347,610.19	\$194,388.38
Total Unmet Needs	\$6,557,490.20	\$8,681,980.94	\$10,848,486.44	\$15,177,238.37

Source: CalVCB

Staff Recommendation. Hold Open.

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

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. Specifically, 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.

The Governor's January budget proposes a total of \$110.2 million to operate POST in 2022-23, including \$63 million from the General Fund, with most of the remainder coming from criminal fines and fees. This amount represents an increase of \$23.3 million (27 percent) from the revised 2021-22 level. The budget proposes a total of 263 positions for POST in 2022-23, an increase of 127 positions (93 percent) above the revised 2021-22 level. The proposed increase in resources is largely related to the two proposals described below.

Issue 11: Peace Officer Certification (SB 2)

Governor's Budget. The Commission on Peace Officer Standards and Training (POST) requests \$22.7 million General Fund in 2022-23, \$20.6 million in 2023-24 and ongoing, and 127 positions to support implementation of SB 2 (Bradford and Atkins), Chapter 409, Statutes of 2021, which makes significant reforms to increase peace officer accountability and creates a process by which peace officer certification can be suspended or revoked in instances of misconduct.

Specifically, the Governor's budget proposes the following:

- ***Additional Staffing (\$19.5 Million).*** The proposed budget includes 127 positions to staff the Peace Officer Standards and Accountability Division and provide POST with increased administrative staff. The positions for the new division include 51 decertification staff, 20 certification staff, 14 legal staff, 16 intake and disposition staff, 4 support staff, and a Deputy Director position to oversee the new division. The additional administrative staff include six human resources positions, six information technology positions, five positions for accounting and procurement, and four positions for communications and Public Records Act requests. In addition, the budget includes certain one-time and ongoing operating expenses to support these positions such as travel costs, startup equipment, storage for confidential information, and training.
- ***Allegation Intake Software System (\$2 Million).*** The budget includes \$2 million one time and \$900,000 ongoing for POST to procure a software system to facilitate and manage the intake of allegations of serious misconduct submitted by law enforcement agencies, which will likely include lengthy supporting documentation, such as documents related to internal investigations. (We note that POST has already developed a system for accepting allegations of serious misconduct from the public.)

- ***Lease Costs (\$1 Million).*** The budget includes \$1 million ongoing for POST to lease additional office space to accommodate the expanded workforce.
- ***Peace Officer Standards Accountability Advisory Board Costs (\$179,000).*** The budget includes \$158,000 ongoing and \$21,000 one time to support the new Standards and Accountability Advisory Board for costs such as travel, per diem, and training for the board members.

Background.

Most peace officers are required to receive a basic certificate from POST when they have completed basic training, passed a background check, and completed a probationary period, among other requirements. Prior to the enactment of SB 2, POST lacked the authority to suspend or revoke an officer's basic certificate. SB 2 establishes a process for POST to suspend or permanently revoke a peace officer's basic certificate for serious misconduct.

Under SB 2, POST must receive and review event reports and allegations from agencies employing peace officers and from members of the public. POST can also independently review allegations it becomes aware of in other ways, such as through the media. POST anticipates receiving hundreds of reports weekly, amounting to thousands of reports and investigations needed annually. SB 2 requires POST to establish the Peace Officer Standards Accountability Division (Division) within the Commission to review serious misconduct investigations conducted by law enforcement agencies, conduct follow up investigations if necessary, and make findings on matters that may lead to grounds for suspension or revocation of an individual's peace officer certification

For cases in which the division recommends decertification and the officer agrees with the recommendation, the case ends and the officer's certificate or proof of eligibility is suspended or revoked. If the officer contests a decertification recommendation, the case is referred to a new nine-member board within POST—the Peace Officer Standards Accountability Advisory Board. (The members of the new board will be appointed by the Governor and Legislature.) If the board determines decertification is warranted, the case is referred to the full 18-member POST commission, who will then vote whether to decertify the officer. If the commission votes for decertification, the case is referred to an administrative law judge who will render the final decision.

LAO Comments.

Resources for Certain Aspects of SB 2 Implementation Not Requested. The proposal does not include the staffing necessary to address workload associated with the one-time surge in reports expected for allegations of serious misconduct occurring prior to January 1, 2023. This is because POST indicates that its workload estimates and staffing requests are based on assumptions only about ongoing workload. Moreover, POST has not provided estimates of the expected size of this one-time surge in workload. The Governor's proposal also does not include staffing for the one-time certification workload to issue proof of eligibility certificates to officers who do not have a basic certificate, including approximately 4,400 officers who are still in the probationary period with their employing agency and 2,000 reserve officers who do not have a basic certificate.

Without resources for this workload, it will be difficult for POST to fully implement the decertification program as envisioned by the Legislature, which could result in individuals who have engaged in serious misconduct serving as peace officers longer than they otherwise would.

POST Faces Significant SB 2 Implementation Challenges. POST will likely face significant challenges implementing SB 2, primarily due to the fact that the commission's staffing will need to roughly double by January 1, 2023—only six months after receiving funding in the budget if the Governor's proposal is approved. This challenge is compounded by the fact that POST will first need to fill the requested human resources positions before having the capacity to scale up the hiring of a large number of staff, particularly staff for classifications it does not currently employ (such as the attorneys who will handle the cases when an officer contests a decertification). In addition, POST's current office space is insufficient to accommodate the proposed expansion in its workforce and POST has been informed by the Department of General Services that it will likely take a year or more to secure additional office space. It is unclear how POST will accommodate the increase in its staff in the meantime. Lastly, POST will need to procure an allegation intake software system to receive reports from law enforcement agencies and have the system operational by January 1, 2023. While it is feasible that POST can address these challenges, the Legislature will want to understand POST's implementation plans and any contingency plans that POST has to ensure it implements the SB 2 program on time. Effective implementation in the early stages of the program will be important for instilling public trust in the program and meeting program goals in a timely manner.

LAO Recommendation.

Direct POST to Present Revised Proposal in Spring. We recommend that the Legislature direct POST to submit an updated proposal in the spring that addresses the above concerns. Specifically, the proposal should provide additional workload estimates on the number of reports POST anticipates receiving related to alleged serious misconduct occurring before January 1, 2023 and how POST plans to accommodate this one-time surge in workload, as well as the one-time workload to issue proof of eligibility certificates. Lastly, the revised proposal should include a plan for addressing the implementation challenges we have identified, such as how POST will hire sufficient staff and house them in its existing office space to implement SB 2 in a timely manner.

Issue 12: Officer Wellness Funding

Governor's Budget. The Governor's budget proposes \$5 million one-time from the General Fund available over three years for POST to develop a law enforcement officer wellness program. The proposal identifies various categories of wellness the program would seek to improve, including individual officer wellness, organizational wellness, and community wellness. The proposal also identifies numerous potential wellness activities that might be developed or conducted with the requested funds, such as creating a podcast, holding workshops, improving training, developing videos, and other activities.

Background. In recent years, greater attention has been placed on the wellness of first responders such as peace officers. The job requirements of a peace officer can be physically, mentally, and emotionally taxing. This is because officers can face dangerous situations, work late night shifts, and have repeat exposure to violent situations. The overall wellness of officers is important for their ability to effectively carry out their duties, such as responding to and deescalating dangerous situations. For example, studies have noted significant rates of Post Traumatic Stress Disorder (PTSD) among peace officers with at least one study finding a correlation between PTSD and excessive use of force.

POST began the development of an officer and organizational wellness initiative in earnest in March of 2020. At that time, POST developed an internal working group of practitioners and interested parties to assist in the development of a wellness collaborative. This group began the process of identifying the status of officer and organizational wellness programs in the state, where any gaps existed, and the role POST should take in supporting those programs. In November 2020, POST conducted a survey available to all peace officers and public safety dispatchers to solicit feedback about the current state of wellness initiatives as law enforcement agencies and to further assist in identifying how POST could support initiatives.

The results of the survey were used during subsequent wellness workshops hosted by POST, where a wide range of stakeholders were invited to provide feedback about current and future needs in officer and organizational wellness. These experts included clinicians serving directly with or under contract with California law enforcement agencies, agency representatives with expertise in the development and implementation of sustainable wellness programs, legal representatives with expertise in agency and labor issues relevant to wellness programs, and agency personnel who have been personally impacted by the availability, or lack of availability, of wellness programs. The feedback received from the internal collaborative, the survey, and the wellness workshops inform the current project proposal.

While the funding is limited-term in nature, POST indicates that it intends the effect to be ongoing through the development of permanent resources (such as the podcast), training to help agencies set up ongoing local or regional wellness programs, and the implementation of officer wellness in peace officer training. POST plans to provide training to at least 100 agencies over the three-year funding period. In addition, POST plans to use university and research partners in both the development and evaluation of the program.

POST anticipates using the funding as follows:

- Year 1- \$1,250,000 for initial development of academy programs, identification of multi-media vendors and development, identification of subject matter experts in agency wellness integration, and for the first series of agency wellness workshops.
- Year 2- \$1,550,000 for the development of academy wellness instructors, completion of the wellness podcast series, identification and evaluation of university and research partner organizations, and the continuation of agency wellness workshops.
- Year 3- \$2,200,000 for the continuation of agency wellness workshops, development of multimedia resources for officer and organizational wellness, the development and implementation of research and evaluation programs with the university and research partners, and the dissemination of best practices and evidence-based programs to all law enforcement agencies throughout the state.

LAO Comments.

Key Questions About Proposal Remain Unanswered. While the general concept of improving officer wellness has merit, the administration has not been able to provide detailed information about the proposal at this time to determine whether the proposed program would in fact improve officer wellness. Specifically, the administration has been unable to adequately respond to the following key questions:

- *What Are the Primary Goals of the Program?* While it is clear the program is intended to improve officer wellness, the more specific, primary goals of the program remain unclear. For example, POST has not provided information on the type of wellness—mental, physical, or emotional—the program is intended to improve.
- *What Problem Would the Program Solve?* POST has not identified what the highest-priority needs for improving officer wellness are or whether there are gaps in existing wellness programs offered by law enforcement agencies that it is attempting to fill.
- *What Activities Would Be Funded?* While the proposal identifies numerous potential activities, it is unclear whether the proposal would fund all of the listed activities or just some of them and how much funding would be allocated to each.
- *What Outcomes Are Expected?* POST has not described the outcomes it expects to achieve, such as the number of officers that it will reach or the number of trainings it intends to offer.
- *How Will SB 2 Implementation Affect the Program?* As discussed above, POST faces considerable SB 2 implementation challenges, including the need to roughly double its workforce by January 1, 2023. It is unclear how POST will be able to effectively implement SB 2 and the officer wellness program simultaneously.

We note that POST staff have indicated that many of the above questions cannot be answered until the program is more fully developed, which they indicate will take about 12 months. However, without answers to these questions, it is difficult for the Legislature to evaluate the merits of the proposal.

LAO Recommendation.

Direct POST to Provide Key Details Regarding Proposal. While the proposed program could have some merit, given the significant unanswered questions about the proposal, it is difficult at this time to assess whether it would be effective at improving officer wellness. Accordingly, we recommend that the Legislature direct the administration to provide sufficient details about how the program would be implemented. Until such information is provided, we recommend the Legislature withhold action on the Governor's proposal. If such information is provided demonstrating that the program is consistent with legislative priorities, would be likely to improve officer wellness, and would not interfere with the timely implementation of the SB 2 decertification program, we would recommend the Legislature approve the proposal. Otherwise, we would recommend the Legislature reject the proposal without prejudice to allow POST to more fully develop a proposal to improve officer wellness for consideration as part of the 2023-24 budget.

Staff Recommendation. Hold Open.

8140 OFFICE OF THE STATE PUBLIC DEFENDER (OSPD)**Issue 13: Support General Workload**

Governor's Budget. The proposed budget includes \$442,000 ongoing General Fund and 3.5 positions to manage OSPD's increased workload.

Background. The State Public Defender requires these positions to fulfill its statutory responsibilities to provide effective representation of individuals sentenced to death and to carry out its new mandate to provide training and technical assistance to defenders across California.

The Office of the State Public Defender (OSPD) is a long-established criminal appellate agency with a new mission to assist the counties in the provision of constitutionally mandated public defense services. OSPD was established in 1976 to provide appellate representation to indigent defendants across the state. With the rise in death penalty sentences, in 1997, OSPD began to focus primarily on death penalty appeals. For the past 25 years, OSPD attorneys have largely represented men and women sentenced to death on the appeal of their convictions in the California Supreme Court. OSPD took a few cases from the courts of appeal. OSPD appellate attorneys continue to represent over 100 people in fulfillment of that responsibility.

Since 2016, OSPD has taken a larger state-wide role in death penalty defense and has assumed responsibilities for litigating issues that affect multiple death penalty cases across the state. This new cross-case role required OSPD to collect and synthesize data regarding systemwide application of the death penalty as it relates to mental health issues, race and ethnicity, poverty, and geography. Additionally, OSPD has assisted other state entities, for example, the Committee on the Revision of the Penal Code, in its assessment of the problems of the administration of the death penalty. The OSPD appellate attorneys have also taken an active role in assisting trial counsel in capital cases in litigating targeted issues at trial. OSPD also occasionally acts as expert in area of criminal legislation.

In 2020, OSPD an additional mandate from the Legislature. OSPD now has the responsibility to train and offer technical assistance to county level public defenders and other private attorneys representing the indigent. (Cal. Gov. Code, §§ 15420-21.) In response to that legislative mandate, OSPD has created a new division, the Indigent Defense Improvement Division (IDID), which has the responsibility for implementing the new legislative mandate. This fiscal year, the IDID is hiring staff and is in the process of refining its mission.

As part of the new mandate OSPD also assumed responsibilities for assisting the Board of State and Community Corrections (BSCC) in administering two grant programs. The first is a pilot program of \$10 million dollars to small and medium size counties with public defender offices for the purposes improving defense in those counties (Budget Act of 2020). The second is a \$150 million program to be administered over three years for the workload costs of public in every county in the State associated with four ameliorative criminal defense statutes, Penal Code sections 1170(d)(1), 1473.7, 3051, and 1170.95. (Budget Act of 2021, section 189.) These funds can go to defense for public defender offices, alternative public defender offices, and other alternative offices providing indigent criminal defense service.

Additionally, the OSPD appellate unit has taken on responsibilities for supporting and training county individuals in the area of three new pieces of legislation, AB 3070 (a bill which limits the ability of the prosecution to exercise certain kinds of jury challenges against disadvantaged groups), AB 2542 (the “Racial Justice Act” which prohibits discrimination against racial, national and ethnic groups, in charging and sentencing, and SB 1437 (a bill that makes radically redefined who could be held accountable for the crime of murder, and providing a mechanism for people convicted of murder to challenge their conviction in the trial court.) The appellate unit now has an active amicus program in the California Supreme Court and the courts of appeal.

Currently, OSPD does not have sufficient staff to support the administrative/human resource, information technology, and business services related work needed to assure that OSPD is able to fulfill its statutory mandate effectively.

OSPD is requesting \$442,000 ongoing General Fund and 3.5 positions (1.5 Associate Governmental Program Analysts (AGPA), 1.0 Associate Personnel Analyst (APA), and 1.0 Information Technology Specialist I (ITS I)) to effectively manage OSPD’s increased workload due to an increased staff and additional responsibilities. The State Public Defender requires these positions to fulfill its statutory responsibilities to provide effective representation of individuals sentenced to death and to carry out its new mandate to provide training and technical assistance to defenders across California.

Staff Recommendation. Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, February 8, 2022
9:30 a.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

0250 JUDICIAL BRANCH	2
Issue 1: Civil Assessment Reduction	4
Issue 2: Trial Court Funding	6
Issue 3: Various Facilities and Capital Outlay Proposals	11
Issue 4: Branchwide IT Modernization	14
Issue 5: Judicial Branch Data and Information Governance	20
Issue 6: Remote Access to Court Proceedings (AB 716)	21
Issue 7: Court of Appeals Appointed Counsel	22
7870 CALIFORNIA VICTIM COMPENSATION BOARD (CALVCB)	24
Issue 8: Victim Services Consolidation	24
Issue 9: Erroneous Conviction Proposals	29
Issue 10: Federal Appropriation and Benefit Limit Adjustment	31
8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)	33
Issue 11: Peace Officer Certification (SB 2)	33
Issue 12: Officer Wellness Funding	36
8140 OFFICE OF THE STATE PUBLIC DEFENDER (OSPD)	39
Issue 13: Support General Workload	39

Public Comment

ALL ITEMS HELD OPEN

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

0250 JUDICIAL BRANCH

The judicial branch is responsible for the interpretation of law, the protection of individuals' 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.

The Lockyer-Isenberg Trial Court Funding Act of 1997 (Assem. Bill 233; Stats. 1997, ch. 850) consolidated the costs of operating California's trial courts at the state level. The act was based on the premise that state funding of court operations was necessary to provide more uniform standards and procedures, economies of scale, structural efficiency, and access for the public.

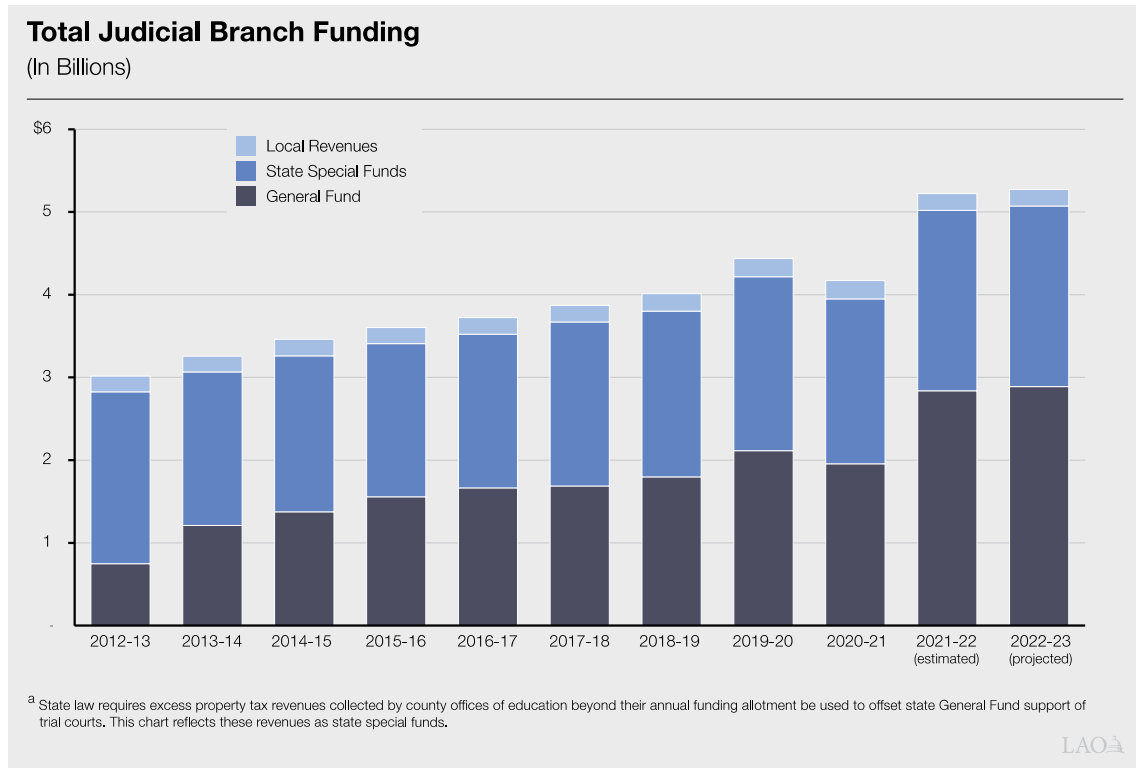
The proposed budget includes total state funding of \$5.1 billion (\$3 billion General Fund) in 2022-23 for the Judicial Branch, of which \$2.8 billion is provided to support trial court operations. This is an increase of \$52 million over the amount for 2021-22.

Judicial Branch Budget Summary—All State Funds

(Dollars in Millions)

	2020-21 Actual	2021-22 Estimated	2022-23 Proposed	Change From 2021-22	
				Amount	Percent
State Trial Courts	\$2,987	\$3,686	\$3,797	\$111	3.0%
Supreme Court	49	54	55	1	1.4
Courts of Appeal	243	268	279	11	4.2
Judicial Council	180	231	295	64	27.7
Judicial Branch Facility Program	473	763	627	-135	-17.7
Habeas Corpus Resource Center	16	19	19	—	0.6
Totals	\$3,948	\$5,021	\$5,072	\$52	1.0%

In addition, the amount of Judicial Branch support coming from the General Fund is increasing.



Source: LAO

Issue 1: Civil Assessment Reduction

Governor's Budget. The proposed budget includes budget bill and trailer bill language to reduce the Civil Assessment Fee from \$300 to \$150 as of July 1, 2022. It also provides \$50 million in backfill to trial courts, with budget bill language to allow for additional backfill with JLBC notification if necessary.

Background. In infraction, misdemeanor, and felony cases, if someone fails to appear in court or does not pay a fine ordered by the court, the court may levy a civil assessment or order a bench warrant. The civil assessment is a fee of up to \$300 (PEN 1214.1), although in practice many courts assess the full amount. The civil assessment goes into the Trial Court Trust Fund. In fiscal year 2019-20, civil assessments generated \$96.9 million in revenue for California courts.

However, the civil assessment has a disproportionate impact on low-income Californians and people of color, and simple infractions can spiral into long-lasting, highly impactful debt¹. If a person is unable to afford to pay a parking ticket, for example, they are unlikely to be able to afford to pay the civil assessment, which is typically multiple times larger than the base fine. In addition, failures to appear may also be affected by confounding factors like a lack of reliable transportation and childcare, or not receiving a mailed notice due to an unstable housing situation. The assessment also disproportionately impacts people of color, who are overrepresented in the criminal justice system in California and more likely to be stopped for a traffic violation in the first place².

Once imposed, fees are often converted into civil judgments. If an individual fails to repay their debt in full or make payments on time, a county can refer the debt to the state Franchise Tax Board which can intercept tax refunds, levy bank accounts, and garnish wages until paid in full. The state has explored ability-to-pay programs (discussed below), and the court is supposed to vacate the civil assessment in some cases. However, in practice, many people are still being levied the full civil assessment and don't know about or are unable to access relief programs.

In addition, it is not clear that civil assessments are a useful tool in compelling people to appear in court or pay fines. According to a survey from the Debt Free Justice California, 73 percent of Californians with traffic infractions did not even know there was a fee for missing a deadline to pay or appear in court, indicating that it is not an effective tool. Research suggests that non-punitive measures like text reminders and outreach are also successful in getting people to show up to court and can even lead to higher collections³. In addition, the court can still use wage garnishments and bank levies to collect debt.

San Mateo County Superior Court Lawsuit. On January 27, 2022, the ACLU Foundation of Northern California, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Bay Area Legal Aid, and Fenwick & West LLP filed a lawsuit challenging the use of the civil

¹ <https://www.latimes.com/opinion/story/2021-05-20/traffic-tickets-add-on-fee-fines-san-francisco>; <https://lccrsf.org/wp-content/uploads/2021/05/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-2015.pdf>; <https://finesandfeesjusticecenter.org/content/uploads/2022/01/FFJC-Policy-Guidance-Fee-Elimination-1.13.22.pdf>; <https://calmatters.org/commentary/2021/08/california-needs-to-get-rid-of-high-pain-low-gain-court-fees/>

² <https://www.ppic.org/blog/african-americans-are-notably-overrepresented-in-police-stops/>

³ <https://www.courthousenews.com/wp-content/uploads/2018/01/crim-just-report.pdf>

assessment by the San Mateo County Superior Court⁴. The suit is filed on behalf of plaintiff Anthony McCree and the Debt Collective, a debtors' union fighting to eliminate debt. McCree, a 28-year-old Black man, was traveling to a job interview when he was cited for fare evasion on public transit. At the time, Mr. McCree was unhoused. When he missed his payment, the San Mateo Superior Court automatically charged him a \$300 fee. Years later, Mr. McCree received notices from the Court indicating that he owed the court a total of \$860, even though the base fine for fare evasion is \$250 at the maximum⁵.

Ability to Pay. California has also explored ability-to-pay programs, where fines are not eliminated but can be reduced based on an individual's ability to pay. The 2018-19 budget funded a pilot program to facilitate the online adjudication of certain traffic infractions at a minimum of eight courts and allow individuals to request ability-to-pay determinations. The 2021-22 budget made certain components of the pilot program permanent and applicable statewide. While this is helpful, it does require the individual to know about the program and provide the required information. There is concern that individuals who most need fine and fee relief will not know or be able to access the program. In addition, amount of debt eventually collected may not justify the administrative costs associated with these programs and efforts to collect old court-ordered debt.

Staff Comment.

Retroactive reduction and elimination. The proposed trailer bill language reduces the civil assessment moving forward but does not affect civil assessments imposed prior to July 1, 2022. The Legislature may want to consider providing relief to individuals who have already received a civil assessment.

Reduction vs. elimination. The proposed budget includes a reduction, but not an elimination, of the civil assessment. However, a full elimination was considered in the budget last year, and the Legislature may want to consider how this proposal fits into long-term goals of eliminating criminal justice fines and fees.

Staff Recommendation. Hold Open.

⁴ https://www.aclunc.org/sites/default/files/Complaint_and_Exhibits_civil_assessments%5D.pdf; <https://www.courthousenews.com/california-court-sued-for-charging-hidden-tax-on-the-poor/>

⁵ https://lccrsf.org/pressroom_posts/san-mateo-court-sued-for-imposing-unlawful-and-exorbitant-late-fee-used-to-fund-court-system/; see also https://lccrsf.org/wp-content/uploads/2021/05/Demand-Letter-Sac-County-Civ-Assess-Practices-05_26_21-FINAL.pdf

Issue 2: Trial Court Funding

Governor’s Budget. The proposed budget includes the following funding for trial court operations:

- \$84.2 million ongoing General Fund, which represents a 3.8 percent increase to trial court funding to account for inflation.
- \$100 million to promote fiscal equity among trial courts.
- \$39.9 million General Fund in 2022-23 and \$39.1 million going for 23 additional superior court judgeships, to be allocated based on Judicial Council’s 2020 Judicial Needs Assessment⁶. With this funding, all judgeships authorized under law will be funded.
- \$117.8 million ongoing to continue backfilling the Trial Court Trust Fund.
- \$13.4 million ongoing to backfill the estimated loss of revenue for trial courts from the criminal fees that were eliminated by AB 177 (Committee on Budget), Chapter 257, Statutes of 2021.
- \$50 million to backfill civil assessment revenue (discussed in the previous item) and \$40 million to backfill the State Court Facilities Trust Fund (discussed in a later item).

Background.

Funding Trial Court Operations. The state’s annual budget typically designates the total amount of funding available to fund trial court operations. While a portion of this funding is provided for specific programs or purposes (such as court interpreters), a significant portion of the funding is provided on a discretionary basis with little to no restrictions on its use. Judicial Council—the policymaking and governing body of the judicial branch—is responsible for allocating the discretionary funding to individual trial courts. Upon receiving its allocation, each individual trial court has significant flexibility in determining how its share of discretionary funding from the state is used. This can result in significant differences in the programs or services offered and the level of service provided across trial courts. For example, some trial courts may choose to use a greater proportion of their funding to provide increases in employee compensation than other courts.

In recent years, increased funding for trial court operations has generally been provided through the approval of (1) budget requests for specific priorities (such as increased funding to implement enacted legislation and funding to promote fiscal equity), (2) discretionary (or unallocated) funding increases, and (3) funding to support cost increases to maintain existing service levels (such as funding for increased trial court health benefit and retirement costs).

Workload Formula. Since 2013, the judicial branch has used a formula—known as the “workload formula”—to calculate how much funding each individual trial court should receive based on its

⁶ https://www.courts.ca.gov/documents/2020_Update_of_the_Judicial_Needs_Assessment.pdf

workload as measured by various factors, including the number and type of filings each court receives. This amount is known as a court's workload formula identified need. The formula then calculates the level of funding each trial court actually received as a percentage of its workload formula identified need. This amount is known as the court's funding ratio. At the end of 2021-22, individual trial court funding ratios are estimated to range from 73 percent to over 100 percent of their workload formula identified need—with the statewide average funding ratio being about 80 percent.

Judicial Council has adopted certain rules related to the workload formula to determine how to allocate discretionary funding increases provided in the annual state budget. While these rules have changed over the years, since 2018-19, increased discretionary funding provided in the state budget is first allocated to the 15 smallest trial courts to ensure they receive 100 percent of their workload formula identified needs. Up to 50 percent of the remaining funding is then allocated to courts below the statewide average funding ratio. The remaining amount is then allocated to all trial courts generally based on workload.

State and Judicial Branch Took Various Actions to Address Pandemic-Related Impacts. Since the start of the COVID-19 pandemic, the state and the judicial branch have taken various actions to protect the health of court staff, stakeholders, and members of the public, as well as to address pandemic-related impacts on trial court operations. Some of these actions included restricting physical access to court facilities, temporarily suspending court activities, and authorizing remote proceedings to allow cases to move forward.

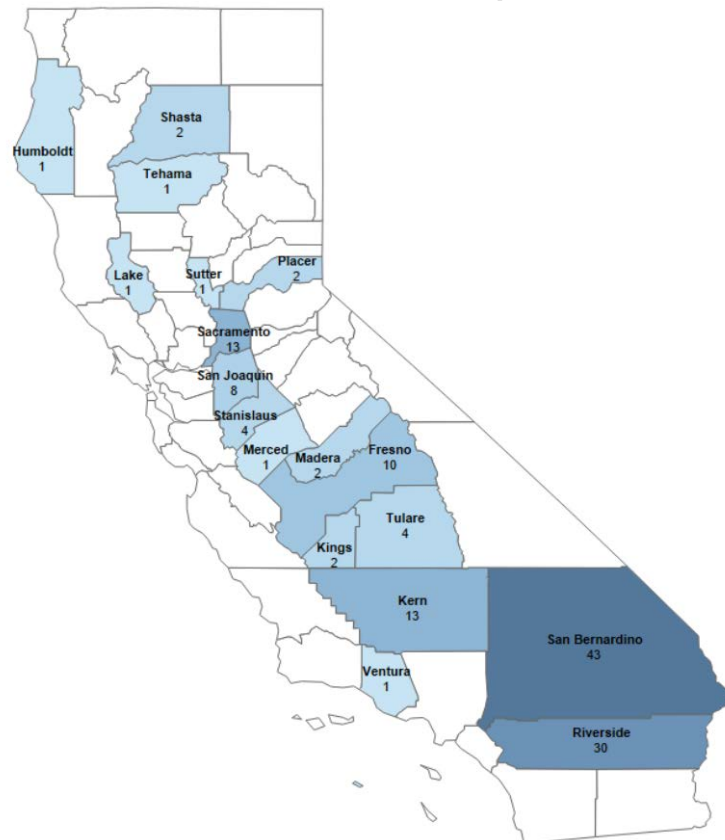
The actions taken to respond to the pandemic have generally had three major impacts on trial court operations: (1) reduced service levels; (2) case backlogs and delays; and (3) increased one-time and ongoing costs, such as from changing business practices to implement technology for remote proceedings. These impacts on individual trial courts differ due to various factors, including the specific actions taken during the pandemic. For example, some courts may have larger backlogs or increased costs due to a lack of space to conduct jury trials while appropriately socially distancing. 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.

Judgeships. California assesses the need for judicial officers in the superior courts using a weighted caseload methodology. The case weights are estimates of how long different types of cases take judicial officers to process. These are set based on a time study conducted in late 2018 in which over 900 judicial officers in 19 courts participated. The need for judicial officers is based on three-year average filing numbers. According to the most recent Judicial Needs Assessment from the Judicial Council, 18 courts need new judgeships, with a total need of 139 judges (see table below) ⁷. In addition, there are currently 23 authorized judicial positions that are unfunded. JCC will prioritize judgeships based on both absolute and relative need (columns C and D below). According to this assessment, the judgeships would go to: San Bernardino (6), Riverside (4), Kern (2), Sacramento (2), Fresno (2), San Joaquin, Stanislaus, Tulare, Kings, Madera, Sutter, and Placer.

⁷ https://www.courts.ca.gov/documents/2020_Update_of_the_Judicial_Needs_Assessment.pdf

Court	A Authorized and Funded Judicial Positions	B 2020 Assessed Judicial Need	C Number of Judgeships Needed* (B – A)	D Percentage Judicial Need Over AJP (C / A)
Tehama	4.3	5.8	1	23%
Lake	4.7	5.9	1	21%
Sutter	5.3	7.1	1	19%
Humboldt	8.0	9.7	1	13%
Merced	13.0	14.9	1	8%
Ventura	34.0	35.9	1	3%
Madera	9.3	11.8	2	22%
Kings	9.6	12.1	2	21%
Shasta	13.0	15.3	2	15%
Placer	14.5	17.1	2	14%
Tulare	24.0	28.1	4	17%
Stanislaus	25.0	29.4	4	16%
San Joaquin	34.5	42.5	8	23%
Fresno	51.0	61.9	10	20%
Kern	45.0	58.9	13	29%
Sacramento	75.5	89.0	13	17%
Riverside	85.0	115.8	30	35%
San Bernardino	94.0	137.7	43	46%
Total			139	

* Rounded down to the nearest whole number.



Source: Judicial Council's *The Need for New Judgeships in the Superior Courts: 2020 Update of the Judicial Needs Assessment*. Judicial positions needed by court (top) and judicial positions needed across the state (bottom).

LAO Comments on Fiscal Equity Funding.

Unclear How Judicial Council Would Allocate Funding. At the time of this analysis, it is unclear how the proposed augmentation would be allocated to the trial courts. This is because while the Governor's proposal requires the funding be used to address fiscal equity, it would give Judicial Council discretion in allocating these funds and it is unclear how they would do so at this time. This makes it very difficult for the Legislature to assess how the funds will promote fiscal equity among the trial courts and if it is consistent with legislative priorities.

Different Ways to Promote Fiscal Equity Among Individual Trial Courts. We note that promoting fiscal equity is a goal with merit as it promotes equal access to justice across the state. To accomplish this, there are different ways to do so depending on the specific equity-related goals the Legislature has (for example, narrowing the gap in funding between the trial courts with the highest and lowest trial court funding ratios or bringing all courts up to a minimum funding ratio) and how quickly that goal is to be reached. These decisions, in turn, dictate how much funding is needed as well as the number of courts that will receive funding and the specific amount of funding each court will receive. One example is to specify an equity goal, separate from the workload formula allocation rules discussed above. For example, the Legislature could specify that the funding be used to bring all courts up to the statewide average funding ratio (similar to how a \$47.8 million ongoing General Fund augmentation was allocated in the 2018-19 budget package). This would require funding less than the \$100 million proposed by the Governor. Alternatively, the Legislature could require the funding be used to ensure that no courts have a funding ratio below a certain level. For example, the \$100 million could be sufficient to bring all courts up to an estimated 84.5 percent of their workload formula identified need. Under these approaches, only a subset of trial courts would receive funding but there would be greater improvements in fiscal equity as the range of funding differences between trial courts would be narrowed more quickly. Another example would be to allocate the funding using workload formula allocation rules. While up to half of the funding would be allocated to courts below the statewide average funding ratio, all courts would receive some portion of the funding. Under this approach, all courts would benefit from additional funding, though courts below the statewide average funding ratio would receive a greater share of the funding. Since all courts would be receiving some funding, this approach would slow improvements in fiscal equity among the trial courts.

Other Priorities Could Be Considered. The Legislature could also determine that other funding priorities are more important. In particular, to the extent the pandemic continues to impact court operations and delay court proceedings, it may want to prioritize funding to address backlogs and delays in the short term in order to minimize impacts on court users. For example, social distancing guidelines could mean that selecting and maintaining a jury for jury trials requires more in-person space, staff, and resources, which in turn could result in fewer jury trials moving forward at any given time, resulting in backlogs. Funding could be targeted to address such impacts—such as leasing space or hiring temporary staff. Examples of other priorities outside the pandemic could include prioritizing funding for technology modernization as well as physical or remote infrastructure to help ensure that individuals have similar access—physical, remote, or electronic—across all trial courts.

LAO Recommendation on Fiscal Equity Funding.

Ensure Funding Reflects Legislative Priorities. We recommend the Legislature ensure the amount of funding provided, as well as how the funding is allocated, reflects its funding priorities for trial court operations. This can include specifying how funding must be allocated to improve fiscal equity among trial courts (as proposed by the Governor) or addressing other priorities. In particular, the Legislature could provide some, or all, of the requested funding to address pandemic-related impacts in 2022-23 in order to minimize impacts (such as backlogs or delays) on courts users statewide. This could help address equity in terms of public access to the courts and how quickly cases can be resolved. To provide assistance with this, the Legislature could direct the judicial branch to report in budget hearings on pandemic-related impacts on court operations and identify where the greatest needs are. In future years, the funding could be allocated to ensure that all trial courts have at least 84.5 percent of their workload formula identified need. While this would mean that only a subset of trial courts received funding, it would narrow the fiscal inequity among trial courts more quickly.

Staff Recommendation. Hold Open.

Issue 3: Various Facilities and Capital Outlay Proposals

Governor's Budget. The proposed budget includes:

- \$40 million one-time to backfill the State Court Facilities Construction Fund (SCFCF) and maintain existing service levels. The SCFCF, which covers a range of costs including facility modifications, repairs, and debt service, has a structural deficit due to a decline in fine and fee revenues.
- \$15.4 million ongoing for critical building repairs in the trial courts.
- \$263 million in construction projects, including \$132 million in General Fund for five new trial court projects, and \$3.9 million General Fund and \$127.2 million in lease revenue bond authority to continue three previously approved projects.

Background.

Judicial Branch Facility Needs. 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, 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). Additionally, in August 2021, the judicial branch identified 22,743 deferred maintenance projects totaling \$5 billion.

Construction Account Insolvent. 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. (We note a second construction account was consolidated into the SCFCF as part of the 2021-22 budget.) Specifically, state law increased certain criminal and civil fines and fees and deposited the revenues into the SCFCF to finance trial court construction and other facility-related expenses. The amount of revenue deposited has steadily declined over time, largely due to declining criminal fine and fee revenue. This has resulted in SCFCF expenditures—including debt service, facility modifications, and trial court operations—routinely exceeding revenues. (Currently, a total of \$55.5 million is redirected annually from the SCFCF to support trial court operations. Such transfers were initially implemented to mitigate the impacts of budget reductions on trial court operations.) To support this level of spending, the judicial branch has been expending funds from the SCFCF fund balance. As a result, the SCFCF faces insolvency in 2022-23.

New Construction Supported by General Fund. Given the insolvency of the SCFCF, the 2021-22 budget shifted support for the construction of any future courthouses to the General Fund. The 2021-22 budget also included funding to start the construction or renovation of six of the highest ranked immediate need projects identified in Judicial Council's 2019 reassessment of facilities.

The judicial branch is requesting funding for the capital outlay projects listed below. All of these are categorized as immediate need projects. According to JCC's Five Year Infrastructure Plan, work will begin on critical need projects in 2024-25.

\$263 Million Proposed by Governor for Trial Court Construction Projects

(In Millions)

Construction Project	General Fund	Lease Revenue Bond Authority
New Projects		
New Santa Clarita Courthouse	\$53.1	—
New San Luis Obispo Courthouse	29.2	—
New Solano Hall of Justice	21.4	—
New Fresno Courthouse	21.2	—
New Quincy Courthouse	7.1	—
Subtotals	(\$131.8)	(—)
Previously Approved Projects		
New Ukiah Courthouse	—	\$127.2
Butte Juvenile Hall Addition and Renovation	\$3.2	—
San Bernardino Juvenile Dependency Courthouse Addition and Renovation	0.7	—
Subtotals	(\$3.9)	(\$127.2)
Totals	\$135.8	\$127.2

Source: LAO.

The status of projects funded starting in fiscal year 2018-19 is listed below. There are 15 active capital outlay projects being managed by the facilities program.

Tab	Project Name	City	Courtrooms	Square feet	Current Phase	Phase % Complete	Approved Project Budget	Forecast Project Completion
1	New Yreka Courthouse	Yreka	5	67,459	Completed	100%	\$ 77,186,179	6/2/2021
2	New Sonora Courthouse	Sonora	5	60,800	Completed	100%	\$ 71,316,000	10/15/2021
3	New Redding Courthouse	Redding	14	166,887	Construction	83%	\$ 184,753,394	6/22/2022
4	New El Centro Courthouse	El Centro	4	46,810	Construction	65%	\$ 67,096,000	6/29/2022
5	Renovations and Addition to Willows Historic Courthouse	Willows	3	41,867	Construction	48%	\$ 58,423,967	8/3/2022
6	Neveda City Study	Neveda City	6	NA	Study	27%	\$ 972,000	9/30/2022
7	LA Master Plan Study	Los Angeles	NA	NA	Study	27%	\$ 2,347,000	5/7/2023
8	New Sacramento Courthouse	Sacramento	53	543,437	Construction	23%	\$ 514,792,000	11/15/2023
9	New Santa Rosa Courthouse	Santa Rosa	15	167,147	Construction	11%	\$ 204,803,000	12/13/2023
10	New Indio Juvenile and Family Courthouse	Indio	5	53,047	Construction	1%	\$ 80,873,800	2/16/2024
11	Menifee Justice Center	Menifee	9	85,010	Construction	3%	\$ 95,253,100	3/21/2024
12	Butte County Juvenile Hall Addition & Renovation	Oroville	1	610	Preliminary Plans	5%	\$ 3,384,899	11/30/2024
13	New Modesto Courthouse	Modesto	27	309,284	Construction	1%	\$ 345,355,000	12/12/2024
14	San Bernardino Juvenile Dependency Courthouse Addition & Renovation	San Bernardino	2	5,000	Acquisition	29%	\$ 8,981,910	12/21/2024
15	New Lakeport Courthouse	Lakeport	4	46,000	Performance Criteria	60%	\$ 73,134,139	9/22/2025
16	New Ukiah Courthouse	Mendocino	7	82,000	Performance Criteria	15%	\$ 118,125,538	11/2/2026
17	New Fort Ord Courthouse	Monterey	7	83,000	Acquisition	15%	\$ 154,255,918	4/6/2028

LAO Comment.

Insolvency Requires Ongoing General Fund Resources. As noted above, the SCFCF faces insolvency in 2022-23. The Governor's proposed one-time SCFCF backfill would only address the insolvency in the budget year—effectively leaving the SCFCF with a zero fund balance. SCFCF revenues are estimated to be around \$200 million and expenditures to be around \$425 million in 2022-23. While both amounts are estimated to decline slightly in the future, this trend continues into future years—which means that ongoing General Fund resources will be needed to backfill the difference in revenues in order for the state to meet financing payments for completed projects as well as other obligations. As shown in Figure 6, absent any changes in expenditures, this could mean that at least \$200 million would be needed annually for nearly a decade. The amount would then decline as the state ends debt service payments on completed construction projects.

LAO Recommendation.

Shift Full Responsibility for Trial Court Construction to the General Fund. In order to permanently address the insolvency of the SCFCF, we recommend the Legislature shift full responsibility for trial court construction to the General Fund. This includes (1) shifting all financing obligations for completed projects to the General Fund, (2) appropriating \$160 million General Fund annually (declining to \$145 million in 2024-25) to support all non-construction-related expenditures currently supported by the SCFCF, and (3) depositing all SCFCF revenues into the General Fund to partially offset the shifted costs. This approach would ensure that all construction-related obligations are fully accounted for and considered when evaluating the state's overall fiscal condition and determining General Fund priorities. It would also maintain existing levels of support for all non-construction-related expenditures—such as facility modification projects and trial court operations. Finally, it allows the Legislature to fund future trial court construction projects based on its priorities.

Appropriate Funding for Facility Modification and Construction Based on General Fund Priorities. Regardless of whether the Legislature adopts the recommendation to shift full responsibility for trial court construction to the General Fund, we recommend the Legislature appropriate funding for facility modification projects and construction based on its General Fund priorities. While the Governor's proposals are generally reasonable, the judicial branch has identified significant facility needs. If a priority, the Legislature could consider additional one-time funding—such as for facility modification projects or deferred maintenance. We note that such spending is excludable under the state appropriations limit (SAL). (The California Constitution imposes a limit on the amount of revenue the state can appropriate each year. The state can exclude certain spending—such as on capital outlay projects, as well as for certain kinds of emergency spending—from the SAL calculation.)

Staff Recommendation. Hold Open.

Issue 4: Branchwide IT Modernization

Governor’s Budget. The proposed budget includes \$34.5 million and 27 positions in 2022-23 growing to \$40.3 million and 50 positions in 2024-25 and ongoing to support and expand the branch’s modernization efforts. This includes:

- \$6.2 million for a new Judicial Branch Information Security Office.
- \$3.1 million for modernization of the Appellate and Supreme Courts, which have not been included in previous modernization funding.
- \$4.2 million for ongoing support and maintenance for modernization of Trial Courts.
- \$14.1 million for branch-wide modernization initiatives.
- \$12.5 million to fund court-specific modernization projects.

Background. Over the last seven years, the Judicial Branch has focused significant time and resources building and implementing a comprehensive plan to modernize the Judicial Branch. The guiding documents for the modernization effort are the Judicial Council approved Strategic Plan for Technology and Tactical Plan for Technology. The focus of those plans has been to align the branch with the Chief Justice’s vision for Access 3D, introduced in 2013, to expand physical, remote, and equal access, by enhancing our existing court services and creating new digital court services. Priorities include enhancing remote appearance technology, digitizing court records, implementing case management systems, expanding cloud services, and improving digital services such as e-filing and notification systems. The key guiding documents are outlined below:

- *Governance and Funding Model.* This document provides broad guidance on the judicial branch’s vision and principles related to technology and lays out the process for the approval and oversight of projects. Specifically, this includes specifying criteria for assessing statewide versus local projects; the roles and responsibilities of all key stakeholders (such as specific Judicial Council committees, as well as individual courts); and processes by which projects are identified, justified, approved, and monitored.
- *Strategic Plan.* This document provides the judicial branch’s strategic goals, objectives, and metrics to measure success of technology projects over a four-year period. The 2019-22 Strategic Plan identifies three guiding principles: access, reliability, and innovation. Based on these principles, the plan specifies four key goals: (1) promoting the digital court, (2) innovating through the technology community, (3) advancing technology security and infrastructure, and (4) promoting rule and legislative changes that impact the use of technology. Each goal has prioritized objectives. For example, ensuring secure, reliable, and sufficient data network connectivity throughout the judicial branch is the first of six objectives to meet the goal of advancing technology security and infrastructure.
- *Tactical Plan.* This document provides the individual steps or areas of focus identified by the judicial branch to achieve Strategic Plan goals over a two-year period. The 2021-22 Tactical Plan lays out 18 specific areas of focus tied to the goals in the Strategic Plan. For example, case management system migration and deployment is one area of focus to address the goal of promoting the digital court. The Tactical Plan then lays out specific goals and objectives within each area of focus. For example, an identified goal and

objective related to the case management system migration and deployment area of focus is to continue implementation of new systems for all case types across the branch.

- *California Courts Connected Framework.* This document provides a framework to help individual courts assess their progress in meeting the goals identified in the Strategic Plan and the Tactical Plan. This allows courts to identify their existing technology capacities as well as potential areas of need. According to the judicial branch, a July 2021 inventory assessing court needs using this framework resulted in the identification of 201 projects—totaling to \$43.6 million—across 20 technology categories (such as technology infrastructure).

Using the above documents in concert with one another helps Judicial Council identify and prioritize the judicial branch's technology needs. It also helps Judicial Council identify those specific projects where funding needs to be requested through the annual state budget process. Finally, following its approval of projects, Judicial Council generally receives regular updates to monitor the use of funding and ensure that the intended outcomes are reached.

Previous Resources. The JCC has been provided a total of \$149.4 million in one-time funding over the last seven years, which has enabled the branch to begin implementing many new modernization initiatives required to achieve Access 3D. The 2020-21 and 2021-22 budgets each included \$25 million for projects to modernize trial court operations that were selected by Judicial Council. The 2020-21 funding went towards both court-specific and branch-wide projects related to remote appearance technology (\$6.5 million), cloud solutions (\$5 million), digital services (\$3.3 million), digitizing documents (\$2.2 million), digital ecosystems (\$1.6 million), virtual customer service (\$1.5 million), and data governance (\$1.5 million), among others. Each trial court received at least \$40,000 for modernization projects in 2020-21.

As part of the 2021-22 funding, JCC established the California Courts Connected framework and asked courts to complete a technology inventory to assist courts in modernizing their courts and help identify and prioritize projects. 201 projects totaling \$43.6 million were requested by the trial courts. The most common project categories were courthouse (38 requests), electronic records management (37), infrastructure (24), case management systems (16), cyber security (15), and remote appearances (13). In addition, the state of implementation varies significantly across the state. Some courts need assistance with basic connectivity and infrastructure, many are working on implementing core systems including case management systems and electronic records management, and others are working on enhanced services.

Details of proposed resources. The Judicial Branch is asking for ongoing resources to address these outstanding projects and future needs, and sustain the modernization program in the long-term. In addition, the previous funding has focused on the trial courts and has not included the Courts of Appeals or the Supreme Court. Specifically, this request includes five initiatives:

1. *Implementation of the Judicial Branch Information Security Office* – \$6.2 million. Current statewide systems do not monitor the Judicial Branch's networks for suspicious activity or cyberattacks. This funding will create a centralized office for cybersecurity to support the

Trial, Appellate, and Supreme Courts, and the JCC, in cooperation with the California Office of Information Security.

2. *Modernization of Appellate and Supreme Courts* – \$3.1 million. Previous funding for trial court modernization did not include the Courts of Appeals or the Supreme Court. This funding will help those courts update their case management, e-filing, and other digital services, as well as upgrade general IT and software systems.
3. *Modernization of Trial Courts* – \$4.175 million. This funding would provide ongoing resources including staffing and IT support to allow courts to maintain their technology initiatives.
4. *Judicial Branch Modernization Initiatives* – \$14.1 million. This funding will help fund branch-wide initiatives such as Voice to Text Translation, Live Chat, and other self-help digital services, as well as software licenses, other language access and remote appearance support, and electronic access to court records and other digital services, among other projects.
5. *Modernization Program Annual Project Allocation* – \$12.5 million. This funding will allow JCC to continue to provide funding for specific projects identified by courts in their technology inventories. This would include projects at the Trial, Appellate and Supreme Courts. Projects range from basic infrastructure to core systems including case management and electronic record systems to enhancements and other new digital services.

The Judicial Council plans to continue to track the progress of courts, including the status of core programs such as case management systems (CMS) and electronic records management (ERM). Currently, 45 percent of courts have fully implemented and 51 percent have partially implemented CMS, and 5 percent have fully implemented and 83 percent have partially implemented ERM.

Electronic Filing for Restraining Orders. In addition to the above resources, the proposed budget includes \$2.6 million General Fund in 2022-23 and \$1.7 million in 2023-24 and ongoing to implement, support, and maintain electronic filing interfaces for domestic violence restraining orders (DVRO), domestic temporary restraining orders (TRO), and gun violence restraining orders (GVRO) at all trial courts. AB 887, Chapter 681, Statutes of 2021 and SB 538, Chapter 686, Statutes of 2021 require courts to accept electronic submissions of those restraining orders. However, as described above, many courts do not have fully implemented CMS or ERM. By the date these bills take effect, the Judicial Council expects 28 courts to lack the capability to accept these filings online. Therefore, JCC will use this funding to implement a central electronic delivery portal that the courts could use to satisfy the requirements of AB 887 and SB 538.

Expected outcomes of branch wide Modernization program:

Projected Outcomes

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
Implementation of Core Solutions						
CMS	45 Courts	58 courts	60 Courts	62 Courts	64 Courts	65 Courts
Digital Court Records	10% digitized	15% digitized	20% digitized	25% digitized	30% digitized	35% digitized
Public Partner Services						
Web Solutions-enhanced ADA and Mobile accessibility	15 Courts	25 Courts	35 Courts	45 Courts	55 Courts	65 Courts
Remote Payments	TBD					
Notification Systems	5 courts	10 courts	15 courts	20 courts	25 courts	30 courts
Remote Records and Search (State Index)	3 courts	5 courts	10 courts	15 courts	20 courts	25 courts
Electronic Filing (one case type)	25 courts	35 courts	45 courts	58 courts	Remaining court upgrades	
Remote Appearance	10% courtrooms	20% courtrooms	30% courtrooms	40% courtrooms	50% courtrooms	60% courtrooms
Online Dispute Resolution	1 court	3 courts	5 courts	8 courts	12 courts	15 courts

Source: DOF

LAO Comments.

Two Proposals Appear Reasonable. Two of the Governor's proposals appear reasonable. First, the proposal for a new Judicial Branch Information Security Office seems reasonable. Court operations are increasingly reliant on technology to operate effectively. Additionally, the courts receive, access, and process information that can be confidential or private. Accordingly, it is reasonable for the judicial branch to have an office dedicated to addressing information security issues across the state, particularly since this minimizes the need for such expertise at each individual court.

Second, the proposal requesting direct allocations to and related staffing for the state courts and trial courts seems reasonable. The requested funding would provide individual courts with a small amount of annual resources that could help address more routine and/or smaller modernization efforts. These allocations recognize that each court's modernization needs may not be the same. Additionally, the funding provides a certain amount of flexibility to individual courts to adjust to address the most immediate needs as they arise (such as sudden equipment failure). The staffing would also provide the state courts with sufficient capacity and expertise to oversee the effective completion of modernization projects.

Judicial Branch Modernization Program Reduces Legislative Oversight, but Could Have Some Benefits as Well. The proposed Judicial Branch Modernization Program reduces legislative

oversight of technology projects. This is because it lacks the same oversight mechanisms that exist when funding is allocated by the Legislature to specific projects through the annual budget process. Allocating funding through the budget process to specific projects or providing limited-term funding for specified purposes allows the Legislature to ensure that funded projects are of high priority and reflect statewide policies and priorities for court processes and procedures. This approach also allows the Legislature to assess whether each budget request accurately identifies a problem or need and presents a cost-effective solution, clear outcome expectations, complete and accurate costs, a comprehensive and reasonable implementation plan, and clear metrics to monitor the implementation of the solution. In addition, this approach allows the Legislature to take certain steps—such as requiring a project be piloted first, approving only partial funding, or requiring the reporting of certain information on a regular basis—to ensure it has sufficient oversight of projects. Such steps can be tailored specifically to individual projects.

As proposed by the Governor, this level of oversight would not occur over the projects that would be funded through the proposed Judicial Branch Modernization program. This is because Judicial Council would have full discretion to allocate funding to branchwide projects and court-specific projects based on its priorities. While Judicial Council has developed a fairly robust process for identifying, approving, and conducting oversight of technology projects, those processes do not generally allow for legislative oversight or input unless the request is submitted for consideration through the budget process. We note that the level of annual funding proposed by the Governor for the new program would likely result in most of the funded projects being smaller in scope. However, because this funding is ongoing, it could enable the funding of multiyear projects—including projects whose total costs could reach into the millions of dollars.

While the specific structure of the Governor’s proposal raises concerns, we acknowledge that there are a few advantages to providing some amount of discretionary funding for branchwide modernization projects selected by Judicial Council during the course of a fiscal year. For example, such an approach would give Judicial Council the flexibility to respond quickly as needs arise across the branch. We note that the discretion provided to Judicial Council to allocate \$25 million in modernization funding in 2020-21 likely helped courts more rapidly change their business practices to operate during the pandemic. Additionally, such an approach could eliminate the need for the Legislature to consider budget requests each year for relatively small technology projects.

LAO Recommendations.

Approve Proposals for New Judicial Branch Information Security Office (\$3.7 Million) and Direct Allocations to State and Trial Courts (\$7.3 Million). We recommend the Legislature approve the proposals for the new Judicial Branch Information Security Office as well as the direct allocations to the state and trial courts. As discussed above, the Judicial Branch Information Security Office would address an important judicial branch information security need while the direct allocations to the state and trial courts would provide a small amount of ongoing, flexible funding for technology modernization efforts at each individual court based on their needs.

Modify Proposed Judicial Branch Modernization Program to Ensure Appropriate Legislative Oversight (\$23.5 Million). To the extent that providing some discretionary funding for branchwide modernization projects to be selected by Judicial Council is a legislative priority, we recommend

that the Legislature modify the proposed Judicial Branch Modernization Program to increase legislative oversight. Specifically, we recommend the Legislature specify limits on the types of projects that can be funded or set a total per-project cost limit on projects that can be funded. This would limit the number or types of projects that could be pursued without legislative oversight through the annual state budget process. We also recommend requiring annual reporting from Judicial Council on what projects are expected to receive funding through the program each year and how program funds were actually used in the prior year. This would allow the Legislature to conduct regular oversight of the program, provide input prior to allocation of program funds, and identify areas where legislative action could be merited. Depending on the specific modifications made to the Governor's proposal, the Legislature will want to adjust the amount of funding accordingly.

Staff Recommendation. Hold Open.

Issue 5: Judicial Branch Data and Information Governance

Governor's Budget. The Judicial Council of California (JCC) requests 11.0 positions and \$15 million General Fund in 2022- 23 and \$3.75 million General Fund ongoing beginning in 2023-24 to establish and implement branch data and information governance and expand the technology platform needed to improve and expand Judicial Branch data access, use, and sharing.

Background.

JCC is required to collect and compile a significant amount of data from the courts, which is used to make policy decisions and distribute judgeships and workload-based funding. Currently, JCC maintains several separate databases, including jury and case management datasets maintained as part of the Judicial Branch Statistical Information System (JBSIS), and financial information stored in Phoenix. JBSIS requires the courts to submit monthly reports, and any changes to the data collected require significant recoding both at the branchwide and individual court levels. In addition, the information stored in JBSIS is not very detailed, and the Judicial Branch often relies on surveys to collect more specific data about the courts, which is a time-consuming process.

The 2019-20 Budget included \$4.7 million one-time for a statewide data management platform pilot, which integrates court workload and other JBSIS data with appellate case management system data and with data from the pretrial pilot program, the statewide index project, and the statewide ability to pay program. The JCC anticipates that additional data could also be integrated into this system, including jury management and self-help service data. Additional resources from the modernization funding described in the previous item were used to help implement data governance and trainings at individual courts, and JCC anticipates similar funding will be needed at all courts moving forward.

However, there are no dedicated, ongoing resources for data governance and analytics at the branch level. In addition, the significant modernization efforts described in the previous item will improve the ability to collect information from individual courts. This funding will allow Judicial Council to establish and maintain a new, unified data system for tracking the data provided by the courts.

Staff Recommendation. Hold Open.

Issue 6: Remote Access to Court Proceedings (AB 716)

Governor's Budget. The Judicial Council of California (JCC) requests four positions and \$33.2 million General Fund in FY 2022-2023 and FY 2023-2024, and a total of four positions and \$1,632,000 ongoing funding to implement, support and maintain remote access to courtroom proceedings as required by AB 716 (Bennett), Chapter 526, Statutes of 2021. These one-time funds over two years will be used to upgrade courtroom audio and video solutions to allow for remote access to all courtroom proceedings through the use of internet or telephonic access.

Background. Throughout the pandemic, courts worked to improve their audio and visual systems to allow for remote proceedings. However, many courtrooms, especially older ones, lack the fundamental infrastructure to enable for modern audio-visual systems and integration with remote technologies like Zoom. One of the major issues in these old courtrooms is sound quality – remote participants are not able to clearly hear the sound from all of the in-person participants. In addition, many systems lack more advanced features like digital evidence sharing.

With the use of the one-time trial court modernization money, the Judicial Council and trial courts have been able to begin to upgrade some of the courtrooms to enable this patchwork of solutions allowing for remote access. In FY 2020-2021, 500 or approximately 25 percent of the 2030 courtrooms were retrofitted to included remote appearance technology to provide basic remote appearance proceedings. Note many courtroom retrofits only provided the basic ability to allow proceedings; however, the courtrooms still require retrofitting to allow full remote access to justice – for example integrated digital evidence sharing.

The Judicial Council also invested in branchwide Zoom licenses for courts to utilize over the next three years, which includes a free 'call-in' phone line for courtroom proceedings. These initial investments totaled \$6,476,000. However, these enhancements do not address the ability to optimally hear and see all participants in a proceeding. This one-time funding was only enough to provide a patchwork of solutions that provides basic access, but it is inconsistent across the state. AB 716 also requires all courts to provide remote access to courtroom proceedings either by audio or telephonic means.

This request addresses the courtrooms with the most critical needs for audio and video system upgrades, specifically focusing on courthouses that are 20+ years and older. Other courtrooms will need to be upgraded over time as their equipment ages, but these are the most critical needs today. Many of these courthouse's analog audio and video solutions are 30 years or older and have no capability to integrating into the modern digital solutions. As of March 2021, 1775 courtrooms (more than 85 percent of the state's 2030 courtrooms) within the state are older than 20 years and have had minimal upgrades to courtroom technology. Based on initial estimates, the Judicial Council estimates it will cost an average of \$35,000 per courtroom.

Staff Comment. Some courts charge fees for some remote appearance services. It is not clear if any courts are charging fees for any of the remote appearance technology implemented during or due to the pandemic, but the Legislature should consider an explicit prohibition.

Staff Recommendation. Hold Open.

Issue 7: Court of Appeals Appointed Counsel

Governor’s Budget. The Judicial Council of California (JCC) requests \$8.3 million ongoing General Fund in 2022-23 to support the Courts of Appeal Court Appointed Counsel Program. This total amount includes \$6.4 million ongoing General Fund for a \$15 rate increase for non-capital appeal appointments, and \$1.9 million for a permanent 10.5 percent increase in the Project Offices annual contracts.

Background. California’s Court-Appointed Counsel Program fulfills the constitutional mandate of providing adequate representation for indigent appellants in the Courts of Appeal in non-capital cases (capital cases are typically handled by the State Public Defender). The objectives of California’s appellate court-appointed counsel system are to: (1) ensure the right of indigent clients to receive the effective assistance of appointed appellate counsel as guaranteed them by the U.S. Constitution; and (2) provide the Courts of Appeal with useful briefings and arguments that allow the Courts to perform their functions effectively and efficiently.

Each district of the California Courts of Appeal contracts with a Court Appointed Counsel Project Office to manage the court-appointed counsel system in that district and to perform quality control functions. Each Project Office oversees a panel of attorneys who receive appointments in that district. The Project Offices are responsible for work with the panel attorneys to ensure that effective legal assistance is provided. The contracts between the Courts of Appeal and the Project Offices require each Project Office to supervise and assist appointed counsel, so that the People of California can satisfy their obligation of providing competent legal representation to indigent clients in California’s Courts of Appeal and, when appropriate, the Supreme Court.

Retention Challenges. The overall number of panel attorneys is at 751, down from 927 in 2013. The Administration reports that several more qualified attorneys have left for more lucrative contracts, and that they are not retaining junior attorneys (“assisted attorneys”) long enough for them to gain experience and become more qualified senior attorneys (“independent attorneys”). On average, it takes an attorney four to five years to move to an independent appointment status. Many of the senior attorneys will also be retiring soon.

Proposal Details.

This request reflects a 10.5 percent increase in 2022-23 in amounts budgeted for the Project Offices, so they may meet their obligations to ensure justice through competent and qualified defense counsel for indigent defendants. This funding will be used to fund cost increases for rent, employer health benefit costs, and training, and other service costs that have been cut due to a lack of funding. The 2017-18 Budget Act provided a \$786,000 General Fund increase for the Project Offices. Prior to 2017-18 the Project Offices had not received an increase to their contracts since 2007-08. The 2017-18 increase provided funding that may be used to address only three of the ten years of increased costs for contractual services, causing structural underfunding to remain.

The request also includes a \$15 increase in the hourly appointment rate for the statewide panel attorneys. From 1989 to 1995, the hourly rate for all appointed cases was \$65 per hour. In 1995 a second tier was added at \$75 per hour to differentiate compensation in assisted and independent cases. A third tier at \$85 per hour was added in 1998 for the most serious and complex matters.

Effective October 1, 2005, the rates increased by \$5 per hour; a \$10 per hour increase was put in place July 1, 2006; and one final \$5 per hour increase effective July 1, 2007. That same rate that was in place until July 1, 2016, when there was a \$10 increase. The Judicial Council is requesting a \$15 per hour increase to raise these 2016 rates to \$110, \$120, and \$130 per hour, respectively. Even with the approval of this requested rate increase of \$15 per hour, the statewide panel attorneys' highest hourly compensation rate (\$130 per hour) is under the Department of General Services 2020-21 Price Book of \$170 per hour for external legal advice.

Staff Recommendation. Hold Open.

7870 CALIFORNIA VICTIM COMPENSATION BOARD (CALVCB)**Issue 8: Victim Services Consolidation**

Victim services are currently spread across four state departments with most grants and programs residing in the Victim's Compensation Board (CalVCB) and the Office of Emergency Services (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).

OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, 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. Most recently, 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. More details on the VCB process are provided later in this item.

In 2015, the LAO published a report titled “Improving State Programs for Victims of Crime.”⁸ This report highlighted the fragmentation of victim services across the state, including a lack of coordination between OES and CalVCB. 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 CalVCB and restructuring the board membership.

The 2018-19 Budget Act required the VCB and 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 2018⁹. The 2019-20 budget directed the Administration to develop a plan to consolidate the victim programs housed at OES and CalVCB within a new state department under the Government 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 have been 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 that the limited resources allocated for these programs are done so efficiently.

This is an informational item to hear an update from the Administration on victim services and plans for consolidation.

⁸ <https://lao.ca.gov/Publications/Detail/3215>

⁹ <https://victims.ca.gov/uploads/2021/02/FinalConsolidationReport.pdf>

Background.

CalVCB. 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. CalVCB 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. CalVCB 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. CalVCB 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. CalVCB'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:

- CA 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 filing 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 is 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

Currently, CalVCB provides materials in 13 languages as required by state law. They have in-house Spanish speakers and have contracts with interpretation and translation service providers. CalVCB's website is also integrated with Google Translate so that each page can be automatically translated.

During the COVID-19 pandemic, CalVCB worked to improve its digital outreach, updated and translated publications that are mailed to organizations that assist victims/survivors. In May of 2021, CalVCB overhauled its website to create an easier interface that is also accessible on mobile devices. They also worked with law enforcement agencies and victim witness centers to provide resources to victims/survivors. CalVCB assesses the efficacy of these efforts based on the number of contacts made and the resulting application trends. At this time, CalVCB has not used any user surveys to collect feedback from applicants who utilize the website and other services provided by the board.

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

	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 CalVCB to approve and process a claim. In 2021, it took 32 days on average to approve a claim. The time it takes CalVCB to then process the claim depends on the category of the claim, with the slowest being 62 days on average to process is income/support loss claims.

LAO Comment.

Victim Program Consolidation Not in the Budget. As part of the 2019-20 budget package, the Governor and Legislature agreed in concept to consolidate the victim services programs currently operated by CalVCB and the Governor's Office of Emergency Services (OES) into a new victim services department under the Government Operations Agency. In order to allow the administration time to work out the details of the consolidation, the implementation of the new department was deferred until the 2020-21 budget when the administration agreed to bring forward

a detailed proposal. However, the administration did not submit the proposal for consideration as part of the 2020-21 budget, citing the onset of the COVID-19 pandemic and OES's workload related to pandemic response as the reason for delaying the proposal. Notably, the pandemic did not prevent the administration, however, from proposing to increase OES's responsibilities by transferring the Seismic Safety Commission to it as part of the 2020-21 budget.

The agreement to consolidate the programs under a new department was the result of multiple years of interest from the Legislature and legislative staff in making this change. For example, a 2015 report by our office found inefficiencies and missed opportunities with the current structure of the programs being housed in two different departments. In our report, we recommended moving victim programs out of OES and consolidating them with CalVCB's programs. The same concerns that lead to our findings and recommendations in 2015 generally continue to apply today.

Given the agreement between the Legislature and the administration as part of the 2019-20 budget, we want to highlight the continued absence of a proposal to create a new victims department that would consolidate the programs currently managed by OES and CalVCB. The Legislature may want to consider asking the administration for an update on when the agreed upon consolidation plan will be provided for the Legislature's review.

Staff Comment. In addition to the challenge of consolidation, there are several challenges that victims face while trying to receive assistance. These include:

- It often takes weeks or months to get a claim approved, and then additional time to get reimbursed. This leaves victims with significant financial burdens in the immediate aftermath of the crime.
- California is one of only eight states that denies victim compensation to people based on past conviction or their status on probation or parole.
- Claims typically require the victims to cooperate with law enforcement and file police reports. California allows alternatives to police reports for certain victims/survivors (typically human trafficking, domestic violence, sexual assault) but not all victims/survivors. The federal VOCA Fix Act, which passed in July of 2021, clarified that states are not required under federal rules to deny victims/survivors compensation for noncooperation with law enforcement, providing the opportunity for states to change their policies. Some states, like Hawaii and Vermont have already removed their cooperation requirement. Illinois changed its policy such that if a victim/survivor seeks medical care, this alone qualifies as cooperation.

In addition, the ongoing solvency of the Restitution Fund is a concern as it is currently funded by fine and fee revenue, which is declining.

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

Issue 9: Erroneous Conviction Proposals

Governor's Budget. The proposed budget includes:

- \$535,000 General Fund and 2 positions in 2022-23 and \$471,000 in 2023-24 and ongoing to meet the anticipated workload pursuant to SB 446 (Glazer), Chapter 490, Statutes of 2021, which changes existing procedures related to wrongful conviction compensation claims and shifts the burden on the state to prove that the claimant is not entitled to compensation in specified cases.
- \$7 million General Fund in 2022-23 and ongoing and statutory changes to make payments to erroneous conviction claims that are approved pursuant to Penal Code sections 4900 et seq. This proposal also includes provisional language that authorizes the Director of Finance to augment the appropriation if funds are insufficient to cover claims.

Background. People who are falsely imprisoned on felony charges, and are later exonerated, are entitled to \$140 per day incarcerated. These claims are handled by CalVCB, and must be filed no earlier than 60 days and no later than ten years after the exoneration. Each claim requires a response from the Attorney General (AG) within 60 days. If the AG opposes the claim, there is an informal hearing. CalVCB determines the outcome, although they are bound by the facts established in the relevant legal proceedings. No hearings are necessary for individuals who have obtained a declaration of factual innocence from a court. Currently, CalVCB has one attorney working part-time on these claims.

Prior to SB 446, the burden of proof in these hearings was on the claimant. They had to meet a higher legal standard (preponderance of the evidence) than for the court reversal of their conviction (reasonable doubt). SB 446 changes existing procedures related to wrongful conviction compensation claims and shifts the burden on the state to prove that the claimant is not entitled to compensation in specified cases. Specifically, the Attorney General, who responds to these claims, must provide clear and convincing evidence in the hearing that the claimant committed the crime.

Due to this shift, CalVCB expects the workload to more than triple. CalVCB expects the number of claims to increase, as SB 446 makes it more favorable to seek the claim in a CalVCB hearing, rather than through a finding of factual innocence in a court or not filing a claim at all. In addition, the administrative hearings will become longer and more complex as the AG seeks to present evidence to meet the new burden of proof.

In addition, CalVCB estimates that if this law had been in place over the past three years, CalVCB may have been compelled to grant an additional \$3.7 million in compensation, increasing the average annual appropriation by \$1.23 million. CalVCB expects to pay out \$5.67 million dollars in the current fiscal year. Based on their estimates, if SB 446 had been in effect, they would have had to pay out \$6.9 million. Over the past three fiscal years, CalVCB has approved 17 claims at a total appropriation of \$14.2 million, an average of \$4.3 million per year. In the 2021 Legislative Session, appropriations have been made for five claims with a sixth claim pending in the Legislature, at a total of \$6.84 million. However, these historical numbers do not account for the potential impacts of SB 446.

Workload History

Workload Measure	PY – 4	PY – 3	PY – 2	PY-1	PY	CY
Erroneous Conviction Payout	\$4,666,000	\$6,941,000	\$92,000	\$3,447,000	\$5,087,000	\$5,676,000

Currently, each approved claim requires CalVCB to make a recommendation to the Legislature to make an appropriation to pay out the claim. The appropriation is included in a claims bill that must pass through the legislative process, meaning the claimant usually doesn't receive the funds until summer or fall. If a claim is made in fall, they will not receive funds until the next fall. The requested \$7 million would be used to pay out these claims immediately.

Staff Recommendation. Hold Open.

Issue 10: Federal Appropriation and Benefit Limit Adjustment

Governor's Budget. CalVCB requests \$7 million Federal Trust Fund in 2022-23 and ongoing to reflect the Federal Victims of Crime Act reimbursement rate increase from 60 percent to 75 percent. The additional federal funding will be used, in part, to support an increase in benefit limits for crime scene cleanup costs (\$1,000 to \$1,700), funeral/burial costs (\$7,500 to \$12,800), and relocation claims (\$2,000 to \$3,400) to adjust for inflation since these limits were set in the early 2000's.

Background. CalVCB's primary funding source consists of revenue from restitution fines and orders, fees and penalty assessments levied on persons convicted of crimes in California. In addition, CalVCB receives an annual grant from the federal Victims of Crime Act, which reimburses state compensation programs by matching a percentage of the annual amount paid to reimburse crime victims for losses they incur as a result of violent crime. The change to the VOCA formula results in an estimated \$7 million per year additional reimbursement for CalVCB.

Over the last three years, CalVCB has processed an average of 49,180 applications per year and provided \$57.7 million in compensation to victims annually. There is a per claim statutory maximum of \$70,000, and over the last five years CalVCB has awarded less than 1% of all claims at the maximum level. The additional federal funding will be used, in part, to support an increase in benefit limits for the following: crime scene cleanup costs (\$1,000 to \$1,700), funeral/burial costs (\$7,500 to \$12,800), and relocation claims (\$2,000 to \$3,400) to adjust for inflation since these limits were set in the early 2000's.

- *Crime Scene Clean-up Costs from \$1,000 to \$1,700:* This benefit limitation was established 20 years ago and CalVCB receives approximately 40 requests for crime scene cleanup annually. CalVCB estimates that 36 percent of claims will reach this limit, compared to 50 percent of claims under the old limit.
- *Funeral/Burial Costs from \$7,500 to \$12,800:* The funeral and burial benefit was added in 1974 and the limit has not been increased since 2003. An average of 1,900 applicants per year received funeral/burial reimbursement. In California, the average cost for funerals/burials is approximately \$12,000. CalVCB estimates that 8 percent of claims will reach this limit, compared to 34 percent of claims under the old limit.
- *Relocation Claims from \$2,000 to \$3,400:* This benefit, which has not been changed since the year 2000, pays for moving costs such as the first and last month's rent, security, and pet deposits, moving trucks, temporary housing, utility deposits, etc. CalVCB estimates that 11 percent of claims will reach this limit, compared to 48 percent of claims under the old limit.

Those benefit limits had not been adjusted since they were established approximately 20 years ago. The funeral/burial and relocation limits are frequently cited by advocates as insufficient to meet the needs of victims. The only other benefits with statutory limitations were residential security (currently at \$1,000 and vehicle modifications currently at \$30,000) which have not been the source of many claims or feedback regarding additional needs. Over the last three years, there

have been less than 40 total vehicle modification claims and less than a quarter of those with unmet needs. In the same timeframe, there have been only 3,500 residential security claims with a little over a quarter of those with unmet needs. The following table summarizes the unmet need due to these statutory limitations and overall \$70,000 lifetime benefit maximum across all benefit types.

Total Unmet Needs Due to Benefit Caps, By Category				
	2018	2019	2020	2021
<i>Crime Scene Cleanup</i>	\$99,420.66	\$25,779.45	\$91,660.12	\$47,645.77
Dental	\$0.00	\$0.00	\$94,456.00	\$103,611.75
<i>Funeral/Burial</i>	\$2,981,932.68	\$2,940,356.44	\$4,134,788.14	\$6,582,997.55
Home Modification	\$0.00	\$0.00	\$0.00	\$80,000.00
Medical	\$214,801.41	\$1,128,654.10	\$833,425.57	\$1,531,422.39
Mental Health	\$344,249.50	\$860,537.78	\$1,199,048.91	\$988,868.98
Rehabilitation	\$0.00	\$0.00	\$0.00	\$0.00
<i>Relocation</i>	\$2,591,083.69	\$3,243,571.62	\$3,775,319.82	\$5,250,386.70
Residential Security	\$191,237.86	\$265,188.77	\$372,177.69	\$397,916.85
Vehicle Purchase/Mod	\$134,764.40	\$217,892.78	\$347,610.19	\$194,388.38
Total Unmet Needs	\$6,557,490.20	\$8,681,980.94	\$10,848,486.44	\$15,177,238.37

Source: CalVCB

Staff Recommendation. Hold Open.

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

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. Specifically, 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.

The Governor's January budget proposes a total of \$110.2 million to operate POST in 2022-23, including \$63 million from the General Fund, with most of the remainder coming from criminal fines and fees. This amount represents an increase of \$23.3 million (27 percent) from the revised 2021-22 level. The budget proposes a total of 263 positions for POST in 2022-23, an increase of 127 positions (93 percent) above the revised 2021-22 level. The proposed increase in resources is largely related to the two proposals described below.

Issue 11: Peace Officer Certification (SB 2)

Governor's Budget. The Commission on Peace Officer Standards and Training (POST) requests \$22.7 million General Fund in 2022-23, \$20.6 million in 2023-24 and ongoing, and 127 positions to support implementation of SB 2 (Bradford and Atkins), Chapter 409, Statutes of 2021, which makes significant reforms to increase peace officer accountability and creates a process by which peace officer certification can be suspended or revoked in instances of misconduct.

Specifically, the Governor's budget proposes the following:

- ***Additional Staffing (\$19.5 Million).*** The proposed budget includes 127 positions to staff the Peace Officer Standards and Accountability Division and provide POST with increased administrative staff. The positions for the new division include 51 decertification staff, 20 certification staff, 14 legal staff, 16 intake and disposition staff, 4 support staff, and a Deputy Director position to oversee the new division. The additional administrative staff include six human resources positions, six information technology positions, five positions for accounting and procurement, and four positions for communications and Public Records Act requests. In addition, the budget includes certain one-time and ongoing operating expenses to support these positions such as travel costs, startup equipment, storage for confidential information, and training.
- ***Allegation Intake Software System (\$2 Million).*** The budget includes \$2 million one time and \$900,000 ongoing for POST to procure a software system to facilitate and manage the intake of allegations of serious misconduct submitted by law enforcement agencies, which will likely include lengthy supporting documentation, such as documents related to internal investigations. (We note that POST has already developed a system for accepting allegations of serious misconduct from the public.)

- ***Lease Costs (\$1 Million).*** The budget includes \$1 million ongoing for POST to lease additional office space to accommodate the expanded workforce.
- ***Peace Officer Standards Accountability Advisory Board Costs (\$179,000).*** The budget includes \$158,000 ongoing and \$21,000 one time to support the new Standards and Accountability Advisory Board for costs such as travel, per diem, and training for the board members.

Background.

Most peace officers are required to receive a basic certificate from POST when they have completed basic training, passed a background check, and completed a probationary period, among other requirements. Prior to the enactment of SB 2, POST lacked the authority to suspend or revoke an officer's basic certificate. SB 2 establishes a process for POST to suspend or permanently revoke a peace officer's basic certificate for serious misconduct.

Under SB 2, POST must receive and review event reports and allegations from agencies employing peace officers and from members of the public. POST can also independently review allegations it becomes aware of in other ways, such as through the media. POST anticipates receiving hundreds of reports weekly, amounting to thousands of reports and investigations needed annually. SB 2 requires POST to establish the Peace Officer Standards Accountability Division (Division) within the Commission to review serious misconduct investigations conducted by law enforcement agencies, conduct follow up investigations if necessary, and make findings on matters that may lead to grounds for suspension or revocation of an individual's peace officer certification

For cases in which the division recommends decertification and the officer agrees with the recommendation, the case ends and the officer's certificate or proof of eligibility is suspended or revoked. If the officer contests a decertification recommendation, the case is referred to a new nine-member board within POST—the Peace Officer Standards Accountability Advisory Board. (The members of the new board will be appointed by the Governor and Legislature.) If the board determines decertification is warranted, the case is referred to the full 18-member POST commission, who will then vote whether to decertify the officer. If the commission votes for decertification, the case is referred to an administrative law judge who will render the final decision.

LAO Comments.

Resources for Certain Aspects of SB 2 Implementation Not Requested. The proposal does not include the staffing necessary to address workload associated with the one-time surge in reports expected for allegations of serious misconduct occurring prior to January 1, 2023. This is because POST indicates that its workload estimates and staffing requests are based on assumptions only about ongoing workload. Moreover, POST has not provided estimates of the expected size of this one-time surge in workload. The Governor's proposal also does not include staffing for the one-time certification workload to issue proof of eligibility certificates to officers who do not have a basic certificate, including approximately 4,400 officers who are still in the probationary period with their employing agency and 2,000 reserve officers who do not have a basic certificate.

Without resources for this workload, it will be difficult for POST to fully implement the decertification program as envisioned by the Legislature, which could result in individuals who have engaged in serious misconduct serving as peace officers longer than they otherwise would.

POST Faces Significant SB 2 Implementation Challenges. POST will likely face significant challenges implementing SB 2, primarily due to the fact that the commission's staffing will need to roughly double by January 1, 2023—only six months after receiving funding in the budget if the Governor's proposal is approved. This challenge is compounded by the fact that POST will first need to fill the requested human resources positions before having the capacity to scale up the hiring of a large number of staff, particularly staff for classifications it does not currently employ (such as the attorneys who will handle the cases when an officer contests a decertification). In addition, POST's current office space is insufficient to accommodate the proposed expansion in its workforce and POST has been informed by the Department of General Services that it will likely take a year or more to secure additional office space. It is unclear how POST will accommodate the increase in its staff in the meantime. Lastly, POST will need to procure an allegation intake software system to receive reports from law enforcement agencies and have the system operational by January 1, 2023. While it is feasible that POST can address these challenges, the Legislature will want to understand POST's implementation plans and any contingency plans that POST has to ensure it implements the SB 2 program on time. Effective implementation in the early stages of the program will be important for instilling public trust in the program and meeting program goals in a timely manner.

LAO Recommendation.

Direct POST to Present Revised Proposal in Spring. We recommend that the Legislature direct POST to submit an updated proposal in the spring that addresses the above concerns. Specifically, the proposal should provide additional workload estimates on the number of reports POST anticipates receiving related to alleged serious misconduct occurring before January 1, 2023 and how POST plans to accommodate this one-time surge in workload, as well as the one-time workload to issue proof of eligibility certificates. Lastly, the revised proposal should include a plan for addressing the implementation challenges we have identified, such as how POST will hire sufficient staff and house them in its existing office space to implement SB 2 in a timely manner.

Issue 12: Officer Wellness Funding

Governor's Budget. The Governor's budget proposes \$5 million one-time from the General Fund available over three years for POST to develop a law enforcement officer wellness program. The proposal identifies various categories of wellness the program would seek to improve, including individual officer wellness, organizational wellness, and community wellness. The proposal also identifies numerous potential wellness activities that might be developed or conducted with the requested funds, such as creating a podcast, holding workshops, improving training, developing videos, and other activities.

Background. In recent years, greater attention has been placed on the wellness of first responders such as peace officers. The job requirements of a peace officer can be physically, mentally, and emotionally taxing. This is because officers can face dangerous situations, work late night shifts, and have repeat exposure to violent situations. The overall wellness of officers is important for their ability to effectively carry out their duties, such as responding to and deescalating dangerous situations. For example, studies have noted significant rates of Post Traumatic Stress Disorder (PTSD) among peace officers with at least one study finding a correlation between PTSD and excessive use of force.

POST began the development of an officer and organizational wellness initiative in earnest in March of 2020. At that time, POST developed an internal working group of practitioners and interested parties to assist in the development of a wellness collaborative. This group began the process of identifying the status of officer and organizational wellness programs in the state, where any gaps existed, and the role POST should take in supporting those programs. In November 2020, POST conducted a survey available to all peace officers and public safety dispatchers to solicit feedback about the current state of wellness initiatives as law enforcement agencies and to further assist in identifying how POST could support initiatives.

The results of the survey were used during subsequent wellness workshops hosted by POST, where a wide range of stakeholders were invited to provide feedback about current and future needs in officer and organizational wellness. These experts included clinicians serving directly with or under contract with California law enforcement agencies, agency representatives with expertise in the development and implementation of sustainable wellness programs, legal representatives with expertise in agency and labor issues relevant to wellness programs, and agency personnel who have been personally impacted by the availability, or lack of availability, of wellness programs. The feedback received from the internal collaborative, the survey, and the wellness workshops inform the current project proposal.

While the funding is limited-term in nature, POST indicates that it intends the effect to be ongoing through the development of permanent resources (such as the podcast), training to help agencies set up ongoing local or regional wellness programs, and the implementation of officer wellness in peace officer training. POST plans to provide training to at least 100 agencies over the three-year funding period. In addition, POST plans to use university and research partners in both the development and evaluation of the program.

POST anticipates using the funding as follows:

- Year 1- \$1,250,000 for initial development of academy programs, identification of multi-media vendors and development, identification of subject matter experts in agency wellness integration, and for the first series of agency wellness workshops.
- Year 2- \$1,550,000 for the development of academy wellness instructors, completion of the wellness podcast series, identification and evaluation of university and research partner organizations, and the continuation of agency wellness workshops.
- Year 3- \$2,200,000 for the continuation of agency wellness workshops, development of multimedia resources for officer and organizational wellness, the development and implementation of research and evaluation programs with the university and research partners, and the dissemination of best practices and evidence-based programs to all law enforcement agencies throughout the state.

LAO Comments.

Key Questions About Proposal Remain Unanswered. While the general concept of improving officer wellness has merit, the administration has not been able to provide detailed information about the proposal at this time to determine whether the proposed program would in fact improve officer wellness. Specifically, the administration has been unable to adequately respond to the following key questions:

- *What Are the Primary Goals of the Program?* While it is clear the program is intended to improve officer wellness, the more specific, primary goals of the program remain unclear. For example, POST has not provided information on the type of wellness—mental, physical, or emotional—the program is intended to improve.
- *What Problem Would the Program Solve?* POST has not identified what the highest-priority needs for improving officer wellness are or whether there are gaps in existing wellness programs offered by law enforcement agencies that it is attempting to fill.
- *What Activities Would Be Funded?* While the proposal identifies numerous potential activities, it is unclear whether the proposal would fund all of the listed activities or just some of them and how much funding would be allocated to each.
- *What Outcomes Are Expected?* POST has not described the outcomes it expects to achieve, such as the number of officers that it will reach or the number of trainings it intends to offer.
- *How Will SB 2 Implementation Affect the Program?* As discussed above, POST faces considerable SB 2 implementation challenges, including the need to roughly double its workforce by January 1, 2023. It is unclear how POST will be able to effectively implement SB 2 and the officer wellness program simultaneously.

We note that POST staff have indicated that many of the above questions cannot be answered until the program is more fully developed, which they indicate will take about 12 months. However, without answers to these questions, it is difficult for the Legislature to evaluate the merits of the proposal.

LAO Recommendation.

Direct POST to Provide Key Details Regarding Proposal. While the proposed program could have some merit, given the significant unanswered questions about the proposal, it is difficult at this time to assess whether it would be effective at improving officer wellness. Accordingly, we recommend that the Legislature direct the administration to provide sufficient details about how the program would be implemented. Until such information is provided, we recommend the Legislature withhold action on the Governor's proposal. If such information is provided demonstrating that the program is consistent with legislative priorities, would be likely to improve officer wellness, and would not interfere with the timely implementation of the SB 2 decertification program, we would recommend the Legislature approve the proposal. Otherwise, we would recommend the Legislature reject the proposal without prejudice to allow POST to more fully develop a proposal to improve officer wellness for consideration as part of the 2023-24 budget.

Staff Recommendation. Hold Open.

8140 OFFICE OF THE STATE PUBLIC DEFENDER (OSPD)**Issue 13: Support General Workload**

Governor's Budget. The proposed budget includes \$442,000 ongoing General Fund and 3.5 positions to manage OSPD's increased workload.

Background. The State Public Defender requires these positions to fulfill its statutory responsibilities to provide effective representation of individuals sentenced to death and to carry out its new mandate to provide training and technical assistance to defenders across California.

The Office of the State Public Defender (OSPD) is a long-established criminal appellate agency with a new mission to assist the counties in the provision of constitutionally mandated public defense services. OSPD was established in 1976 to provide appellate representation to indigent defendants across the state. With the rise in death penalty sentences, in 1997, OSPD began to focus primarily on death penalty appeals. For the past 25 years, OSPD attorneys have largely represented men and women sentenced to death on the appeal of their convictions in the California Supreme Court. OSPD took a few cases from the courts of appeal. OSPD appellate attorneys continue to represent over 100 people in fulfillment of that responsibility.

Since 2016, OSPD has taken a larger state-wide role in death penalty defense and has assumed responsibilities for litigating issues that affect multiple death penalty cases across the state. This new cross-case role required OSPD to collect and synthesize data regarding systemwide application of the death penalty as it relates to mental health issues, race and ethnicity, poverty, and geography. Additionally, OSPD has assisted other state entities, for example, the Committee on the Revision of the Penal Code, in its assessment of the problems of the administration of the death penalty. The OSPD appellate attorneys have also taken an active role in assisting trial counsel in capital cases in litigating targeted issues at trial. OSPD also occasionally acts as expert in area of criminal legislation.

In 2020, OSPD an additional mandate from the Legislature. OSPD now has the responsibility to train and offer technical assistance to county level public defenders and other private attorneys representing the indigent. (Cal. Gov. Code, §§ 15420-21.) In response to that legislative mandate, OSPD has created a new division, the Indigent Defense Improvement Division (IDID), which has the responsibility for implementing the new legislative mandate. This fiscal year, the IDID is hiring staff and is in the process of refining its mission.

As part of the new mandate OSPD also assumed responsibilities for assisting the Board of State and Community Corrections (BSCC) in administering two grant programs. The first is a pilot program of \$10 million dollars to small and medium size counties with public defender offices for the purposes improving defense in those counties (Budget Act of 2020). The second is a \$150 million program to be administered over three years for the workload costs of public in every county in the State associated with four ameliorative criminal defense statutes, Penal Code sections 1170(d)(1), 1473.7, 3051, and 1170.95. (Budget Act of 2021, section 189.) These funds can go to defense for public defender offices, alternative public defender offices, and other alternative offices providing indigent criminal defense service.

Additionally, the OSPD appellate unit has taken on responsibilities for supporting and training county individuals in the area of three new pieces of legislation, AB 3070 (a bill which limits the ability of the prosecution to exercise certain kinds of jury challenges against disadvantaged groups), AB 2542 (the “Racial Justice Act” which prohibits discrimination against racial, national and ethnic groups, in charging and sentencing, and SB 1437 (a bill that makes radically redefined who could be held accountable for the crime of murder, and providing a mechanism for people convicted of murder to challenge their conviction in the trial court.) The appellate unit now has an active amicus program in the California Supreme Court and the courts of appeal.

Currently, OSPD does not have sufficient staff to support the administrative/human resource, information technology, and business services related work needed to assure that OSPD is able to fulfill its statutory mandate effectively.

OSPD is requesting \$442,000 ongoing General Fund and 3.5 positions (1.5 Associate Governmental Program Analysts (AGPA), 1.0 Associate Personnel Analyst (APA), and 1.0 Information Technology Specialist I (ITS I)) to effectively manage OSPD’s increased workload due to an increased staff and additional responsibilities. The State Public Defender requires these positions to fulfill its statutory responsibilities to provide effective representation of individuals sentenced to death and to carry out its new mandate to provide training and technical assistance to defenders across California.

Staff Recommendation. Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, February 15, 2022
9:00 a.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS.....	2
Issue 1: Staff Complaint Process.....	2
0552 OFFICE OF THE INSPECTOR GENERAL (OIG).....	13
Issue 2: Additional Resources	15
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)	18
Issue 3: Americans with Disabilities Act (ADA) Facilities Improvements and Staffing	18
Issue 4: Mental Health Data Analysis and Informatics	21
Issue 5: Hepatitis C Virus Treatment Funding Augmentation.....	22
Issue 6: Integrated Substance Use Disorder Treatment Program Expansion.....	24
Issue 7: CalAIM Justice-Involved Initiative	33
Issue 8: Returning Home Well.....	35
Issue 9: California Prison Industry Authority Janitorial Expansion	37

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

0552 OFFICE OF THE INSPECTOR GENERAL (OIG)

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 1: Staff Complaint Process

Governor's Budget. The proposed budget includes the following resources for CDCR and the OIG to implement and oversee a new process for handling allegations of staff misconduct:

- CDCR requests \$35.6 million General Fund and 175.0 positions in fiscal year 2022-23, scaling to 192.0 positions ongoing and \$37.0 million General Fund in fiscal year 2023-24, \$34.9 million General Fund in 2024-25, \$35.0 million General Fund in 2025-26, and \$34.2 million General Fund in 2025-26 and ongoing, to restructure the department's staff misconduct allegation complaint screening, referral, investigative, and disciplinary processes. Key changes include:
 - Establishing a Centralized Screen Team (CST) in the Office of Internal Affairs (OIA) to receive, screen, and route grievances from the incarcerated population.
 - Expanding the Allegation Investigation Unit (AIU) at OIA to handle more investigations into allegations of staff misconduct.
- OIG requests \$2.3 million General Fund and 16 positions in 2022-23, and \$3.6 million and 24 positions ongoing, to review approximately 30 percent of the complaints filed by incarcerated persons to determine if CST is routing complaints involving allegations of staff misconduct for the appropriate level of review, and to monitor approximately 10 percent of the staff misconduct investigations handled by the AIU.

Panelists.

- Amy Miller, Director, Division of Internal Oversight and Research, CDCR
- Amarik Singh, Inspector General, OIG
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, LAO

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

As detailed below, CDCR has made several changes to its process for handling allegations of staff misconduct, also known as the staff complaints process. These changes are largely in response to a series of reports from the OIG and recent court orders in the *Armstrong* case. The process was updated in April 2020, and then updated again effective January 1, 2022.

Staff Complaint Process. 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 standard¹. Generally, CDCR receives these through the general grievance 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. An initial screening process identifies allegations of staff misconduct, and routes them for further inquiry, investigation, or action.

Historically, allegations of staff misconduct were handled within the prison. Specifically, staff were responsible for screening claims to identify those that contained allegations of staff misconduct. Staff then conducted inquiries into those allegations and reported 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.

Employee Discipline. If the hiring authority believed adverse action was 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 the *Madrid* case, 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.

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.
- **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.

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 was removed in the most recent regulations.

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.

Reforming the Staff Complaint Process. 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 issues². 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.

In February 2021, the OIG released a special review on the implementation of the new process³. 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 lawsuits⁴.

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 in 1994 on behalf of prisoners with disabilities that has resulted in continued court oversight and litigation. Recently, 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.

² https://www.oig.ca.gov/wp-content/uploads/2019/05/2019_Special_Review_-_Salinas_Valley_State_Prison_Staff_Complaint_Process.pdf

³ <https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-Staff-Misconduct-Process-Report-2021.pdf>

⁴ <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>

New Regulations. In response to the concerns raised by the OIG report and the *Armstrong* court orders, CDCR is amending its staff misconduct processes statewide. The new emergency regulations⁵, which went into effect January 1, 2022, were developed with feedback from OIG and the *Armstrong* plaintiffs (although ongoing concerns are discussed later). The major changes include:

- *Centralized Screening Team.* Grievances will be submitted directly to OIA and routed by a newly established Centralized Screening Team (CST). CST will review a wider range of grievances. These include CDCR Form 602-1 (Custody Grievance; part of existing process), CDCR Form 602-HC (Health Care Grievance; new to process), and CDCR Form 1824 (Reasonable Accommodation Request; new to process). In addition, CST will accept grievances filed by third parties, including from or on behalf of *Armstrong* plaintiffs, and from anonymous parties, CDCR staff, and families.
- *Allegation Decision Index.* CST staff will use a newly developed Allegation Decision Index (ADI) to route allegations. The index includes allegations that were previously returned to prisons, including UOF, PREA, and sexual misconduct and harassment, in addition to serious allegations including destruction of evidence, discrimination and harassment, and others. It also includes the minimum staff level (i.e. special agent, lieutenant, or sergeant) that should be assigned to the investigation.
- *Allegation Investigation Unit.* Allegations on the ADI, considered the most serious, will be retained at OIA for investigation by a new Allegation Investigation Unit (AIU), which will absorb the existing AIMS staff. This unit will only conduct full investigations, rather than inquiries, which typically ended when reasonable belief was established. In addition, legal representation and advice will be provided in these cases by the EAPT attorneys, as these investigations may be used as the basis for taking direct adverse action or have other implications on employee discipline.
- *Local Inquiries.* The new process retains the use of local inquiries for allegations not listed on the ADI, which are considered less serious. However, these can be escalated directly to AIU without going through the hiring authority first. In addition, the Locally Designated Investigator (LDI) will be required to be at least one rank above the highest-ranking officer in the allegation.
- *Elimination of 30-day requirement.* 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.
- *Determinations.* The new process requires a hiring authority to render a determination in every allegation and follow through with corrective or adverse action when an allegation of staff misconduct is sustained.

⁵ https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2021/12/Staff_Misconduct_Emergency_Reg_Approval_ADA-12.31.21.pdf

- *Tracking Database.* OIA will establish a database for tracking allegations of staff misconduct and employee discipline, called the Allegation Against Staff Tracking System (AASTS). CDCR indicates that this database will be used as an early warning system, to identify concerning patterns at institutions or with certain staff, but the details have not been finalized. OIG will have access to this database. The database will also include other sources of information, including data about the employee discipline process.
- *Removal of the “likely to lead to adverse action” requirement.* Previously, CDCR’s definition of staff misconduct specified that the act not only had to violate policy or law, but also had to be likely to lead to adverse action. This was a subjective criterion, and its use has largely been eliminated in the new process.

Specifically, the new process will work as follows:

1. *Intake, Screening, and Routing.*

- Grievances will be 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.
- Grievances will be sent to the new CST and processed within three to five business days. There, staff will decide a course of action:
 - If it is a routine grievance, it will be returned to the prisons to be handled.
 - If it contains an allegation of misconduct that is included on the ADI, it will be routed to the appropriate staff in AIU for a full investigation.
 - If it contains an allegation of misconduct not on the ADI, it is returned to the prison for a local inquiry. However, CST staff have the discretion to elevate these to AIU rather than return them to the prison if deemed appropriate. In addition, hiring authorities can return cases to AIU if they feel that a local inquiry would be insufficient.
 - CST staff may also follow up with the person who submitted the grievance for more information if needed to determine the correct routing.
- CST staff will log the grievance in the new database.

2. *Investigation, Inquiry or Other.* Depending on the decision of CST, AIU will perform an investigation within 120 days, or an 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. Finally, either the AIU Investigation Report or the LDI Inquiry Allegation Report is returned to the hiring authority for review and disposition.

3. *Resolution.* Once the report is back with the hiring authority, the process remains largely the same as before. Hiring authorities must order some action if an allegation of staff misconduct is sustained (although they are the ones that make that decision – as before, the reports only contain a finding of facts, not a determination about the allegation). In addition, the outcome is recorded in the new database.

Estimated Workload. CDCR expects CST to review 220,000 complaints. Of these, they expect 21 percent (46,000) will contain allegations of staff misconduct, and the rest will be returned to the prisons as routine claims. Of the allegations of staff misconduct, CDCR expects 8,424 to be directed to AIU for investigation, and 37,576 to be returned to the institutions for local inquiries.

The implementation schedule for the new process is:

- January 2022 – Statewide implementation of CST screening for all CDCR Form 602-1 Inmate/Parolee Grievances.
- March 2022 through January 2023 – Phased implementation of the new inquiry and investigation processes, for CDCR Form 602-1 Inmate/Parolee Grievances.
- February 2023 through March 2023 – Statewide Implementation of the new processes for CDCR Form 602-HC Healthcare Grievances.
- April 2023 – Statewide Implementation of the new processes for CDCR 1824 Reasonable Accommodation Requests.
- May 2023 through June 2023 – Statewide Implementation of the new processes for staff misconduct complaints made outside of the grievance and CDCR 1824 processes (e.g., third party complaints, citizen complaints, ombudsman, advocacy letters and any related interviews, etc.) received either electronically, telephonically, or in writing.

Previously Allocated Resources. The initial resources for AIMS were included in the 2019 Budget. CDCR received \$9.8 million General Fund and 47 positions in 2019-20 and ongoing. The new process went into full effect on April 1, 2020. In addition, CDCR requested \$80.5 million General Fund and 152.1 positions in 2021-22 and \$28 million General Fund in 2022-23 and ongoing to implement new requirements for expanded video surveillance and to reform the staff complaint process to comply with the *Armstrong* court order.

Requested Resources. The 2022-23 Governor's Budget includes the following additional resources for the new staff misconduct process:

- **CDCR Staff Misconduct Funding.** CDCR requests \$35.6 million General Fund and 175.0 positions in fiscal year 2022-23, scaling to 192.0 positions ongoing and \$37.0 million General Fund in fiscal year 2023-24, \$34.9 million General Fund in 2024-25, \$35.0 million General Fund in 2025-26, and \$34.2 million General Fund in 2025-26 and ongoing. This funding is in addition to the previously allocated ongoing resources. Under the proposal, CDCR would receive 175 additional positions in 2022-23 (increasing to 192 positions in 2023-24).

This will result in 179 staff in AIU (including 133 existing AIMS staff and 46 new staff) and 45 staff in CST (including 9 existing positions and 36 new positions). It also includes 61 new positions for EAPT, 34 new positions for the Division of Adult Institutions staff

for on-site support, and other support and administrative staff. The funding also covers the new database and related IT and data storage costs.

In addition, because the new regulations took effect partway through the current fiscal year, CDCR requested an additional \$5,354,000 General Fund in 2021-22 to cover the January through June period. This funding will be used to stand up CST and provide some resources to OIA and OLA.

Current Level of Resources (CDCR)	Proposed 2022-23	Proposed 2023-24	Total at Full Implementation
\$28.52 million	\$35.6 million	\$37 million	\$65.52 million
142 positions	175 positions	192 positions	334 positions

- ***OIG Staff Misconduct Oversight Funding.*** OIG requests \$2.3 million General Fund and 16 positions in 2022- 23, and \$3.6 million and 24 positions ongoing to:
 - Review approximately 30 percent (44,937/152,372 annually) of the 602-1s filed by incarcerated persons to determine if CST is correctly routing complaints. The proposal does not include resources for OIG to monitor the remaining 72,500 claims consisting of health care grievances, requests for reasonable accommodation, and third-party claims. OIG indicates that it plans to focus on regular grievances, rather than other types of claims, because it believes they are more likely to contain allegations of staff misconduct.
 - Monitor approximately 10 percent (842/8,424 annually) of the staff misconduct investigations handled by the new AIU.

Current Level of Resources (OIG)	Proposed 2022-23	Proposed 2023-24 and Ongoing	Total at Full Implementation
\$555,000	\$2.3 million	\$3.6 million	\$4.15 million
5 positions	16 positions	24 positions	29 positions

Employee discipline resources. The 2022-23 proposed budget also includes a request for \$6.2 million General Fund and 33 positions in 2022-23 growing to \$11.8 million General Fund and 62.0 positions in 2024-25 and ongoing for OIA to conduct timely and thorough investigations through the 989 process and the CIU, and to strengthen the department's disciplinary processes. This funding will also help create the Performance and Corrective Action Unit, to support supervisors and help them effectively deliver corrective actions.

LAO Comments.

Funding Proposed for CDCR to Implement New Process Appears Reasonable. We find that the funding proposed for CDCR to align its process for handling inmate and parolee allegations of staff misconduct to its current emergency regulations appears reasonable and would likely help address concerns that have been raised over the years.

Proposed Level of OIG Monitoring May Not Meet Legislative Expectations. The goal of monitoring is typically to be able to draw conclusions about an entire system by focusing on an adequately sized sample of cases processed in the system. There is no universally agreed upon percentage of cases that constitutes a sample size adequate to carry out effective monitoring. Under the Governor’s proposal, OIG would be monitoring a relatively small sample size of investigations—and not monitoring the screening of certain claims or quality of local inquiries at all. As such, it is possible that the Governor’s proposal may not meet legislative expectations.

Specifically, under the Governor’s proposal:

OIG Would Not Monitor Certain Types of Claims Received by CST. As previously mentioned, under the proposal, CST screening of the annual estimated 68,000 health care grievances, requests for reasonable accommodation, and third-party claims would not be monitored by OIG, based on the assumption that they are less likely to contain allegations of staff misconduct than regular grievances. According to CDCR, based on three months of data, about 22 percent of regular grievances contain allegations of staff misconduct, whereas CDCR estimates that about 19 percent of all other claims will contain allegations of staff misconduct. Accordingly, the frequency with which misconduct allegations are expected to be found in other claims is not substantially lower than for regular grievances.

OIG Would Monitor Lower Percent of Investigations Than Under 989 Process. Under the Governor’s proposal, OIG would monitor about 10 percent of investigations conducted by AIU. In comparison, OIG reports that it typically monitors about 15 percent of investigations under the 989 process. It is unclear why OIG would monitor a lower percentage in this case.

OIG Would Not Monitor Local Inquiries. CDCR expects that CST will annually identify 37,600 claims that contain allegations of less serious misconduct that would not be investigated by AIU. These claims will be sent by CST back to the referring prison or parole staff for a local inquiry into the matter. Reports prepared based on these inquiries will be reviewed for completeness by OIA staff. However, the Governor’s proposal does not include resources for OIG to monitor these reports or the quality of review performed by OIA staff. This is notable because concerns about the quality of local inquiries were a key driver for creation of CDCR’s new process.

Staff Comments.

Concerns of *Armstrong* plaintiffs. The *Armstrong* plaintiffs indicated that the emergency regulations largely reflect the agreed upon remedial plans. However, they have raised two primary concerns about implementation of the new staff complaint process⁶. The first is the length of the proposed investigations, which allow 120 days for AIU to complete. The plaintiffs would like to see this reduced to 90 days. The second is the lack of a post-investigation review panel, which the plaintiffs had anticipated as the court had also ordered CDCR to improve its post-investigation review process. In the most recent Joint Case Status Statement, filed January 18, 2022, the plaintiffs also indicated that the implementation timeline, which goes through June 2023, is too

⁶ https://rbgg.com/wp-content/uploads/Armstrong-Order-Re-Plaintiffs-Objections-to-Defrs-Proposed-RJD-Plan-and-5-Prisons-Plan_-12-13-2021.pdf

long. They are requesting that the full process be implemented in the six prisons that are the focus of the *Armstrong* lawsuit on an accelerated timeline.

Use of local inquiries. CDCR has indicated that 81 percent of allegations of staff misconduct will be returned to the institutions for local inquiries, resulting in 37,576 local inquiries annually. These local inquiries will be performed in a similar manner as past processes, which may give rise to similar issues and concerns, namely that LDIs are not adequately trained or sufficiently independent. Second, while the local inquiries may be directly escalated to OIA, the threshold for escalation is reasonable belief that staff misconduct occurred that it is likely to lead to adverse action. Thus, it still relies on this subjective judgement. In addition, as noted by the LAO, the OIG request does not have resources to monitor these local inquiries. The OIG indicated that they would need 52 additional monitoring staff to monitor 10 percent of local inquiries (and would need additional supervisory, managerial, and support positions on top of that).

OIG Oversight. Considering the complicated changes to the staff misconduct process, the role of OIG in uncovering past issues, and developments in the *Armstrong* case and other cases, it is critical to ensure that OIG is properly staffed and provided with sufficient authority to conduct meaningful oversight of the prison system. There are few key considerations, outlined below:

- **Resources for Staff Complaint Oversight.** As noted above, the requested resources would allow OIG to monitor 10 percent of AIU investigations. However, that may not be enough to get a full understanding of the system and any challenges. The Legislature could consider funding OIG to monitor 20 to 30 percent of investigations. In addition, resources should be provided to OIG to monitor at least 10 percent of local inquiries. Finally, expanded oversight of these processes may lead to more instances in which the OIG needs to work with the department to fix issues. It is not clear whether the requested funding would be enough to cover this additional work.
- **Restoration of Investigative Authority.** Currently, the OIG can only monitor internal CDCR investigations and provide non-binding feedback. They may also conduct general reviews but cannot investigate specific complaints. The Legislature should consider whether the OIG should be allowed to initiate investigations in response to complaints received through their complaint intake or if OIA declines to investigate or does not investigate thoroughly.

This was one of the authorities revoked in the restructuring of the OIG in 2011, but it is typical authority of IGs. Creating independent and objective entities to conduct investigations was one of the three central tenets of United States Inspector General Act of 1978, which created inspectors general at the federal level (92 Stat. 1101, section 2). The Inspector General for the United States Department of Justice has authority to investigate allegations of misconduct by employees of the Federal Bureau of Prisons. Florida and New York (among other states) have independent Inspector Generals who can investigate complaints about the corrections systems⁷.

In addition, the Legislature should consider if restoring peace officer status is appropriate for investigators in OIG. While this classification was highly scrutinized in the 2011 report

⁷ <https://ig.ny.gov/offices/inspectorgeneral/>; <http://www.dc.state.fl.us/ig/index.html>

and resulting restructuring of the OIG, it puts OIG investigators on equal footing with correctional staff and the OIA, and provides them equal access to critical incidents and to the incarcerated population.

Additional resources would be required to support the restoration of this authority. The 2021 Budget Act included \$7 million ongoing General Fund, contingent upon the passage of Legislation, but no agreement has been reached.

Use of the new tracking data. CDCR is developing methods for using the new tracking system to identify problems at certain institutions or with certain staff, but those processes are still under development. The Legislature may wish to get more information about this system, such as how alerts will be triggered. In addition, the Administration indicated a willingness to provide aggregated information to the Legislature and the public, and the Legislature could consider including specific reporting requirements.

Further integration of all allegations of staff misconduct and employee discipline. The new process still leaves a complicated system for handling staff issues at CDCR. CDCR could consider how it could further integrate and streamline these processes, including the 989 and employee discipline processes, allegations of staff misconduct against non-incarcerated persons (such as other staff), and allegations of staff misconduct received by the OIG through its complaint intake process. While these changes include the process for third parties to submit allegations, CDCR is still refining that, and it is not clear if there will be any exclusions. The OIG has recommended that all allegations, regardless of source, should be handled through the same process, which should include clear deadlines, thorough investigations, and clear documentation.

LAO Recommendation.

Ensure Level of Monitoring Resources Meets Legislative Expectations. As noted above, in recent years, the Legislature has expressed interest in OIG oversight of CDCR's handling of staff misconduct allegations arising out of the grievance and request for reasonable accommodation processes. In reviewing the Governor's proposal, we recommend that the Legislature determine its specific expectations and adjust the level of resources proposed by the Governor as needed to ensure its expectations are met. Specifically, the Legislature will want to consider the following:

- ***Should OIG Monitor All Types of Claims Received by CST?*** Under the proposal, OIG would monitor 30 percent of regular grievances screened by CST but would not monitor screening of health care grievances, requests for reasonable accommodation, and third-party claims. If the Legislature wants OIG to monitor 30 percent of *all* types of claims submitted to CST, we estimate that an additional five positions and about \$600,000 annually above the Governor's proposal would be required.
- ***Should OIG Monitor a Larger Portion of AIU Investigations?*** Under the proposal, OIG would monitor about 10 percent of AIU investigations. If the Legislature wants OIG to monitor a higher percent of AIU investigations it would need to provide additional resources. For example, we estimate that having OIG monitor 15 percent of AIU investigations—the same as the portion of investigations that OIG monitors in the

989 process—would require an additional seven positions and \$1 million annually at full implementation.

- *Should OIG Monitor Local Inquiry Reports?* The Legislature could consider funding OIG so that it would be able to monitor a portion of the estimated 37,600 local inquiry reports. For example, we estimate that requiring OIG to monitor 20 percent of these reports—similar to the portion of investigations that OIG monitors in the 989 process—would require an additional four positions and \$500,000 above the Governor’s proposed resources. We note, however, that the Legislature could make this change in a relatively cost neutral manner by reducing the portion of these reports monitored by CDCR OIA staff from 100 percent to 80 percent and redirecting savings from CDCR to pay for the increased OIG staff.

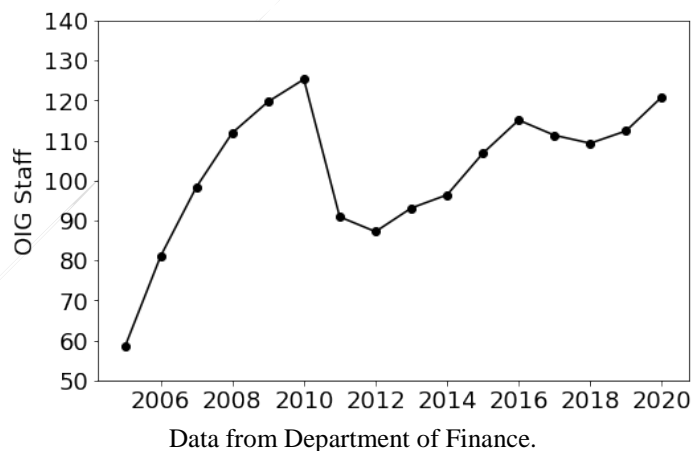
Staff Recommendation. Hold open.

0552 OFFICE OF THE INSPECTOR GENERAL (OIG)

The Office of the Inspector General (OIG) provides independent oversight of California's prison system, run by the California Department of Corrections and Rehabilitation (CDCR). The proposed 2022-23 budget includes \$36.3 million and 175.8 positions for the OIG, a significant increase over the resources provided in the current year (\$29.9 million and 139.8 positions).

History of the OIG. The OIG was established by statute in 1994 as an office within the Youth and Adult Correctional Agency (which no longer exists) and was responsible for basic oversight of the correctional system. In 1998, in response to reports of widespread abuse in the prisons, the Legislature expanded the OIG's role and established it as an independent entity with discretionary authority to conduct audits and investigations. The OIG faced extreme budget cuts in 2003, but funding was restored in 2004 in response to ongoing oversight related to the *Madrid* litigation. A new Bureau of Independent Review was created within the OIG, and additional staff and resources were provided. Its duties were also expanded to include monitoring the employee discipline process and warden vetting and audits.

However, the office was restructured in 2011, largely in response to a report from the Senate Office of Oversight and Outcomes⁸. This report focused on the peace officer status of OIG staff and highlighted unnecessary expenditure on firearms and state cars. It also criticized OIG for establishing a Bureau of Criminal Investigation in 2009, even though very few cases from OIG were criminal. In response, the Legislature removed the office's discretionary audit and investigation authority, limited the oversight to specific areas, and required that special reviews be approved by the Governor or the Legislature. During this time, the staffing and resources provided to the office were also reduced.



In 2019, the Legislature reinstated the office's authority to conduct discretionary audits and required the office to monitor CDCR's handling of allegations of staff misconduct. The 2019 Budget agreement included \$3.5 million General Fund and 21 positions, primarily for the audit and review teams.

⁸ https://sooo.senate.ca.gov/sites/sooo.senate.ca.gov/files/gun_toting_auditors_attorneys_report.pdf

Current duties. OIG's responsibilities are established in Penal Code Sections 2641 and 6125-6141, and include:

- Monitoring CDCR's processes for employee discipline, handling allegations of staff misconduct, and use-of-force reviews.
- Providing immediate, on-site responses to critical incidents, including riots, use of deadly force, and unexpected inmate deaths.
- Monitoring CDCR's implementation of the reforms outlined in the *Blueprint*⁹.
- Evaluating the quality of medical care.
- Conducting audits (discretionary) and special reviews (requested by the Governor, Assembly or Senate).
- Maintaining a hotline to receive complaints about CDCR from any source.
- Acting as an ombudsperson for sexual abuse complaints and reviewing allegations of mishandled sexual abuse investigations.
- Vetting wardens and superintendents.

⁹ <https://www.cdcr.ca.gov/wp-content/uploads/2019/12/an-update-to-the-future-of-california-corrections-january-2016-1.pdf>

Issue 2: Additional Resources

Governor's Budget. In addition to the resources requested for monitoring the staff complaint process, the OIG is requesting additional resources for two other units:

- \$3,262,000 General Fund annually for three years to support additional staffing for the Medical Inspection Unit to complete medical inspections of CDCR institutions every two years, rather than the three or more years it takes currently. Additionally, the OIG requests \$589,000 ongoing General Fund for two additional editors to facilitate timelier medical inspection reports and a Nursing Supervisor position to support general unit operations.
- \$232,000 ongoing General Fund to fund 2.0 permanent positions to address the increased workload of the OIG's Oversight, C-ROB, and Intake (OCI) Unit.

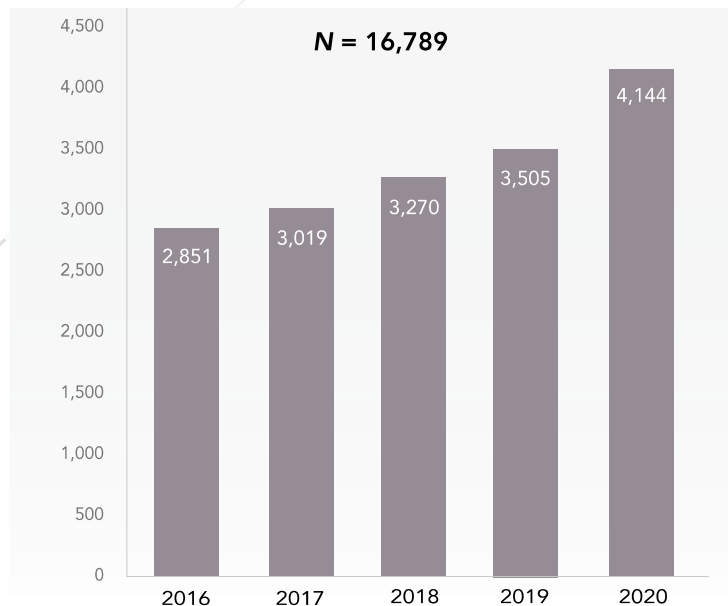
Panelists.

- Amarik Singh, Inspector General, OIG
The Department of Finance and LAO are available for questions.

Background.

OCI Unit. The OCI Unit currently vets warden and superintendent candidates, receives and reviews complaints from incarcerated persons and members of the public, reviews CDCR's adherence to its 2012 *Blueprint*, and performs duties that inform and support the work of the California Rehabilitation Oversight Board (C-ROB). These additional resources are necessary to ensure the OIG can meet its mandated functions, particularly considering an increase in the number of complaints filed with the OIG over the past six years (below).

Complaints Received by the OIG



Source: The Office of the Inspector General.

CDCR Complaint Intake. The OIG maintains a statewide complaint intake process. In 2020, OIG received 4,144 complaints, an increase of 30 percent from 2019¹⁰. Most of these complaints (83 percent) come from incarcerated adults, but the OIG also receives complaints from the public, department employees, Department of Juvenile Justice wards, parolees, and anonymous complainants. While incarcerated individuals may also submit grievances through the staff complaint process that was the focus of the previous item, they may also submit complaints to OIG for advice or fear of retaliation.

In 2020, the largest categories of complaints included prison conditions (26 percent), allegations of staff misconduct (25 percent), and the appeals and grievance process (17 percent). OIG also received 350 complaints related to CDCR's handling of COVID-19. OIG staff review each complaint (within their jurisdiction, as they sometimes receive complaints about federal prisons or other entities). The typical result is that the OIG provides the complainant with advice and guidance. The OIG may also contact or visit the prison to conduct a general inspection. OIG does not have the authority (nor the resources) to initiate investigations based on these complaints.

The OCI Unit current has 7 staff, unchanged since 2011. The increased volume of complaints during this period have led OIG to redirect staff from other units and use student assistants and temporary staff, and have reduced the ability of the OCI Unit to perform its other duties. Accordingly, the OIG is requesting two permanent positions to handle the increased volume of complaint-related workload.

Medical Inspection Unit.

The *Plata* case is a class action lawsuit that includes all prisoners. The lawsuit alleged that CDCR inflicted cruel and usual punishment by being deliberately indifferent to serious medical needs. A settlement agreement was reached in 2002, but a lack of progress led a federal judge to place California's prison medical care system under the control of a court-appointed Receiver in 2005¹¹.

In 2007, OIG began inspecting CDCR's medical care at the suggestion of the Receiver and in coordination with the parties in *Plata*. In 2011, the legislature amended the OIG's authority in Penal Code section 6126(f) to require that "the Inspector General shall conduct an objective, clinically appropriate, and metric-oriented medical inspection program to periodically review delivery of medical care at each state prison."

Currently, it takes the OIG approximately three to three and a half years to complete a full cycle of medical inspections for every CDCR institution. One contributing factor is that the system has developed significantly since 2011, expanding to include substance use disorder treatment and hepatitis C treatment (both discussed in later items), as well as increased telehealth services, external eConsult services, an electronic health reporting system, and palliative and hospice care.

The OIG estimates that these resources will allow them to complete a full cycle in two years. However, the level of resources needed is not entirely clear, so the Administration is requesting primarily limited-term positions while additional data can be collected.

¹⁰ <https://www.oig.ca.gov/wp-content/uploads/2021/04/OIG-2020-Annual-Report.pdf>

¹¹ https://prisonlaw.com/post_case/plata-v-brown/

Staff Comment. As noted in the previous item, the Legislature may wish to consider whether these resources are sufficient to provide the level of oversight desired.

In addition, the Legislature may wish to consider whether providing limited-term positions is necessary for the medical oversight unit. CDCR's health care systems have been under federal oversight for nearly 15 years. However, 19 prisons have been delegated back to the state by the Receiver. As more institutions are delegated back to the state, and when federal receivership eventually concludes, the need for the OIG's oversight will become even more critical. The Legislature should ensure that the OIG has adequate resources for continued oversight.

Staff Recommendation. Hold Open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**Issue 3: Americans with Disabilities Act (ADA) Facilities Improvements and Staffing**

Governor's Budget. The proposed budget includes the following resources to improve CDCR's ADA compliance:

- \$22.2 million one-time General Fund for ADA accessibility improvements at the California Institution for Men, California Institution for Women, California State Prison – Los Angeles County, and Richard J. Donovan Correctional Facility.
- \$2.6 million General Fund and 20 positions in 2022-23 and \$2.7 million ongoing for staffing to support court mandated ADA remedial measures for disabled incarcerated persons at various institutions.

Panelists.

- Chris Lief, Deputy Director, Facilities, Planning, Construction and Management, CDCR
- Jared Lozano, Deputy Director, Facility Support, Division of Adult Institutions, CDCR
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

The Department of Finance is available for questions.

Background. In a series of Federal Court orders stemming back to the 1990s, the court found that CDCR's treatment of incarcerated persons violated basic rights related to developmentally disabled incarcerated persons (*Clark v. California*) and incarcerated persons covered by the ADA (*Armstrong v. Newsom*). CDCR, the court, and plaintiffs agreed upon remedial plans, the Clark Remedial Plan (CRP) and the Armstrong Remedial Plan (ARP). CDCR developed policy and procedures to achieve compliance, including the Disability Placement Program (DPP) and the Development Disability Program (DDP). Together, the DPP, DDP, ARP, and CRP ensure that incarcerated persons with disabilities have access to programs, services, and activities, consistent with the ADA.

Although the prison population is declining, the population is aging, leading to an increase in incarcerated persons in DPP and DDP. Throughout the 34 CDCR institutions currently operating, as of August 10, 2021, there were 11,314 incarcerated persons requiring disability accommodations at one of the DDP/DPP designated CDCR institutions.

The institutions with the highest numbers of Reasonable Accommodation requests are:

- California Health Care Facility (CHCF)
- California Institute for Women (CIW)
- California Medical Facility (CMF)
- California State Prison, Corcoran (COR)
- Kern Valley State Prison (KVSP)
- California State Prison, Los Angeles County (LAC)

- Mule Creek State Prison (MCSP)
- Richard J. Donovan Correctional Facility (RJD)
- Substance Abuse Treatment Facility (SATF)

Five institutions (CHCF, MCSP, RJD, SATF, and CMF) have a population of 700 or more with a designated DPP and DDP code that impacts placement. In September 2020, the court ordered additional remedial measures at RJD. In March 2021, the court issued another order for additional remedial measures at CIW, COR, KVSP, LAC, and SATF.

Facilities. CDCR has several programs to improve ADA compliance at its institutions. CDCR designates specific institutions as DPP to address accessibility issues and facilitate placements. CDCR used survey data to develop an ADA Transition Plan for each DPP institution, which identified accessibility deficiencies to be completed through Health Care Facility Improvement Projects (HCFIP), ADA Modification projects, or locally by institution staff. CDCR completed the Correctional Facility Program Accessibility Plan in January 2015 and identified 21 institutions most suitable for housing incarcerated persons with disabilities. Of these, 19 were selected to receive accessibility modifications.

Previous resources. Previously appropriated funding is supporting current and phased construction of improvements at 11 prisons, and includes:

- The 2008 Budget Act contained ongoing funding of \$1.9 million General Fund intended for maintenance and repair of existing accessibility features.
- The 2014 Budget Act appropriated \$17.5 million General Fund to begin making improvements identified by an ADA accessibility survey. Of this funding, \$13.5 million was for construction improvements at four prisons that had completed design plans (including CIW), and \$4 million was to complete design activities at 14 prisons identified by the survey.
- The 2015 Budget Act included \$12.7 million General Fund in 2015-16 and \$12.4 million in 2016-17 for the phased construction of accessibility improvements at 13 prisons.
- The 2019 Budget Act included \$4.2 million General Fund in 2019-20 and 2020-21 for improvements related to ADA accessibility at CIW and Mule Creek State Prison.

Proposed improvements at four institutions. This proposal will allow construction of required accessibility improvements at four institutions (California Institute for Men or CIM, CIW, LAC and RJD).

Specifically, this funding will enable the following improvements: ADA modifications to electrical outlets, grab bars, water closets, and ramps in ADA housing and dorm units across all facilities at each institution; accessibility upgrades to doors, gates, holding modules, and pathways in program, health care, kitchen, dining, and visiting areas as well as the Prison Industry Authority and warehouse buildings and spaces site-wide at each institution. This proposal also includes resources to provide custody escorting for the duration of these projects.

The design phase for ADA improvements at CIM, CIW, LAC, and RJD commenced prior to the 2015 completion of the ADA Transition Plans and is anticipated to be completed in 2021-22; therefore, construction funding is requested for 2022-23. The estimated construction costs of the ADA improvements at are as follows:

Prison	Cost Estimate
California Institution for Men	\$8,032,000
California Institution for Women	\$4,227,000
California State Prison – Los Angeles County	\$4,549,000
Richard J. Donovan Correctional Facility	\$5,346,000
Total	\$22,154,000

Staffing.

ADA Coordinators (5 positions). Per *Armstrong* court orders, each DPP-designated institution must have an ADA Coordinator to meet with stakeholders and monitor ADA, ARP, and CRP compliance. This request includes additional staff at SATF and California State Prison, Solano (which is slated to become DPP-designated in January 2023) for ADA compliance, as well as additional headquarters staff in the Class Action Management Unit.

Health Care Compliance (15 positions). Health Care Compliance Analysts (HCCA) and related staff manage and review accommodation requests, document health care related allegations of noncompliance, work with stakeholders, and ensure that people receive appropriate, functioning medical equipment. This proposal includes 15 staff to assist with this workload: six to provide each of the six institutions in the recent orders with a second HCCA, and nine to provide each ADA Office with an addition staffer to assist the Office of Grievances in tracking Reasonable Accommodation requests that come through the grievance process and conducting the required quarterly interviews of a random selection of disabled incarcerated persons at the six prisons to inquire about ADA and ARP compliance.

Staff Recommendation. Hold Open.

Issue 4: Mental Health Data Analysis and Informatics

Governor's Budget. CDCR requests 22.0 positions and \$3.1 million from the General Fund in fiscal year 2022-23 and ongoing to support additional mental health reporting tasks, a new data validation project related to the *Coleman* court, and to address increased reporting requests.

Panelists.

- Dr. Steven Cartwright, Deputy Director, Mental Health Services, Health Care Services, CDCR

The Department of Finance and the LAO are available for questions.

Background. The *Coleman* case is a class action lawsuit filed in 1990 on behalf of all California state prisoners with serious mental illness. The case alleges that CDCR provides inadequate mental health care that places prisoners at serious risk of death, injury, and prolonged suffering. In 1995, the federal court found that prison officials violated the cruel and unusual punishment clause of the Constitution by not providing adequate mental health care. The court issued an injunction requiring major changes in the prison mental health system, and approved CDCR's remedial plan for providing mental health care. The court also appointed a Special Master who, among other things, monitors and reports on CDCR's compliance with the plan.

In 2009, the *Coleman* court directed CDCR to institute new policies regarding mental health treatment and monitoring, in compliance with the Mental Health Program Guide (MHPG). CDCR began implementing new quality management tools, including the Continuous Quality Improvement Tool (CQIT). In December 2020, the *Coleman* court directed CDCR to identify key indicators for tracking compliance, to update policies to reflect the 2018 MHPG, and to use CQIT to measure performance¹². The judge subsequently issued an order adopting a CQIT Key Indicator list proposed by the Special Master. Examples of key indicators include the percentage of health care staff with suicide prevention training, measures of timely access to care, mental health screenings, and the development and content of patient treatment plans. Discussions regarding how key indicators should be defined and what constitutes compliance are ongoing and will involve negotiations between CDCR, the *Coleman* plaintiffs, the Special Master, and the court.

CDCR is requesting resources to implement and validate the indicators required by the court. In addition, the *Coleman* court directed that these indicators need to be updated as the MHPG and other guiding documents are updated, leading to an ongoing verification and validation workload. Validation is a time-consuming process where staff ensure that accurate data is being collected and that the indicators are measuring performance as desired. The funding would primarily go towards 22 positions for the Statewide Mental Health Program Quality Management Team. These include 7 research track positions for the research and data analytics team, 4 IT positions to work on the mental health data base, and other analysts and support staff to track projects, participate in workgroups, and prepare documentation and reports, among other responsibilities.

Staff Recommendation. Hold Open.

¹² <https://cases.justia.com/federal/district-courts/california/caedce/2:1990cv00520/83056/6996/0.pdf>

Issue 5: Hepatitis C Virus Treatment Funding Augmentation

Governor's Budget. California Correctional Health Care Services (CCHCS) requests an augmentation of \$47.1 million General Fund in 2022-23, \$76.3 million in 2023-24, and \$40.4 million in 2024-25 for the Hepatitis C Virus (HCV) treatment program. This supplemental funding will result in a total budget for treatment of HCV of \$107.1 million in 2022-23, \$136.3 million in 2023-2024, and \$100.4 million in 2024-25. These funds will allow CDCR/CCHCS the ability to treat an estimated 8,580 patients in 2022-23 and 2023-24, and 6,300 patients in 2024-25.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management, California Correctional Health Care Services, CDCR

The Department of Finance and the LAO are available for questions.

Background.

Chronic HCV infection is a major causal factor in the development of end-stage liver cirrhosis, which is a leading cause of hospitalizations and death in the incarcerated patient population, including in CDCR's adult institution population. Prevalence of HCV among CDCR/CCHCS' patient population is estimated to be 16.4 percent, which is significantly higher than for the non-justice-involved population (1 percent). CCHCS recorded 32 deaths related to HCV in 2020, making it the fifth leading cause of death in the inmate population, following deaths from COVID-19 (141), cancer (83), cardiovascular disease (54), and non-COVID-19 infectious diseases such as pneumonia (46)¹³. HCV is a bloodborne virus, primarily spread through sharing personal equipment that with traces of blood, such as needles, razors, nail clippers, or toothbrushes. It can also be spread through sex (although this is uncommon), and it can be passed from mother to infant¹⁴.

The 2018 budget included \$105.8 million General Fund annually from 2018-19 through 2020-21 to CCHCS to expand the HCV treatment program, in response to newly available antiviral medications and in alignment with new guidelines from the American Association for Study of Liver Diseases (AASLD). In that request, CDCR/CCHCS estimated that it would treat roughly 1800 people per year through this program, and that the prevalence of HCV in the population would reach a steady state by 2021-22.

However, that has not been the case, and the number of individuals who need treatment is higher than CDCR/CCHCS anticipated, and includes:

- People with HCV entering CDCR (4,128 patients per year).
- Recurrent infections in roughly 10 to 15 percent of the patient population (roughly 1,000 patients treated per year).
- Spread within the population (roughly 1,000 new infections per year).

¹³ <https://cchcs.ca.gov/wp-content/uploads/sites/60/MS/2020-CCHCS-Mortality-Review.pdf>

¹⁴ <https://www.cdc.gov/hepatitis/hcv/cfaq.htm>

The large number of incarcerated people entering with HCV infections reflects conditions outside the prisons, and drives continued spread within the incarcerated population. In addition, COVID-19 has disrupted the ability of CDCR/CCHCS to deliver HCV treatment, leading to a delay in providing treatment to the current population of HCV infected incarcerated people.

CDCR/CCHCS treated 8,102 patients in 2019-20 and was on track to treat 9,750 patients in 2020-21 pre-pandemic but was only able to treat 3,674 patients. CDCR/CCHCS expects to treat 7,280 patients in 2021-22 and 8,580 patients in 2022-23 and 2023-24. CDCR/CCHCS expects the untreated HCV patient population to be close to zero and an estimated 6,300 patients will need to be treated in 2024-25. CDCR/CCHCS anticipate that the number of patients needing treatment annually will decrease over time as recurrent viremia and new infections should decline.

Staff Recommendation. Hold Open.

Issue 6: Integrated Substance Use Disorder Treatment Program Expansion

Governor’s Budget. The Governor proposes \$126.6 million General Fund and 310 positions in 2022-23 (increasing to \$163 million and 418 positions annually in 2023-24) to expand and modify the Integrated Substance Use Disorder Treatment Program (ISUDTP) in four key ways:

- First, the proposal extends assessment to all inmates, and—when necessary—treatment and release planning services, as originally intended by CDCR when the program was established.
- Second, the proposal adds to the types of treatment available through ISUDTP. Specifically, it would provide a new aftercare program to inmates who have completed treatment but remain incarcerated and additional programs for inmates who are not improving or are worsening following treatment.
- Third, the proposal makes various modifications to existing ISUDTP services. For example, it would shorten from 12 months to 9 months the duration of certain cognitive behavioral therapy (CBT) programs to allow the department to serve more inmates.
- Finally, the department plans to modify the way it assesses inmates for SUD treatment. For example, to assess inmates more rapidly, the department plans to use the American Society of Addiction Medicine (ASAM) Co-Triage—a condensed version of the full ASAM diagnostic tool currently used.

According to the administration, it plans to adjust the level of resources for ISUDTP annually based on changes in the inmate population beginning in 2023-24.

Panelists.

- Lisa Heintz, Director, Legislation and Special Projects, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst’s Office

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

A report from the National Drug Intelligence Center estimated that the cost to society for drug use was \$193 billion in 2007, a substantial portion of which—\$113 billion—was associated with drug related crime, including criminal justice system costs and costs borne by victims of crime¹⁵. The same report showed that the cost of treating drug use (including health costs, hospitalizations, and government specialty treatment) was estimated to be \$14.6 billion, a fraction of these overall societal costs. It is estimated that the cost to society has increased significantly since the 2007 report, given the growing costs of prescription drug misuse.

¹⁵ <https://www.hsd1.org/?abstract&did=4814>

The National Institute on Drug Abuse (NIDA) at the National Institutes for Health (NIH) emphasizes the use of comprehensive substance use disorder (SUD) treatment programs for incarcerated individuals. Comprehensive programs include medication-assisted treatment (MAT), behavioral therapies, and other supportive services during and after incarceration¹⁶. Numerous studies have demonstrated the effectiveness of such programs at reducing SUD and related health issues and at reducing recidivism rates¹⁷.

Before 2016, California prisons did not use any MAT for inmates with opioid use disorder. Senate Bill 843 (Committee on Budget and Fiscal Review), Chapter 33, Statutes of 2016, required CDCR, under the direction of the Undersecretary of Health Care Services, to create a three-year MAT pilot program at one or more institutions. CDCR worked with CCHCS to develop a MAT pilot program within the California Institution for Men (CIM) that started on January 1, 2017. On September 5, 2017, an MAT program opened at the California Institution for Women (CIW).

Upon analysis of U.S. and California overdose death rates in prisons, the three court experts in the *Plata* litigation recommended the expansion of a statewide MAT program to treat SUD. In October 2018, the federal receiver for California's Correctional Health Care Services (CCHCS), Clark Kelso announced a plan for comprehensive substance use disorder treatment (SUDT), including MAT, to reduce the substantial number of patients within CDCR who have SUD.

The 2019-20 Budget Act provided \$71 million from the General Fund and 280 positions (increasing to \$165 million and 431 position in 2021-22 and ongoing) for CDCR to implement an Integrated Substance Use Disorder Treatment Program (ISUDTP). When fully implemented, the program is intended to provide a continuum of care to inmates to address their SUD treatment and other rehabilitative needs. To accomplish this, ISUDTP changed the way CDCR assesses inmates' need for SUD treatment, provides SUD treatment and rehabilitation programs, and conducts the inmate release planning process. An overview of ISUDT and MAT was included as part of the Committee's Overview of the 2019-20 Budget¹⁸.

At the time ISUDTP was established, CDCR indicated that its goal was to make the program available to all inmates in need of treatment upon full implementation. In its current phase of implementation, ISUDTP targets inmates who (1) are entering prison having already started MAT, (2) have a history of SUD-related hospitalizations or overdoses, or (3) are within 15 to 18 months of release from prison. The level of resources initially provided in the 2019-20 budget for this phase of the implementation was based on the estimated number inmates in this target population. However, the overall level of resources has generally not been adjusted each year since then to account for changes in the target population.

¹⁶ <https://nida.nih.gov/publications/drugfacts/criminal-justice>; <https://nida.nih.gov/publications/principles-drug-abuse-treatment-criminal-justice-populations-research-based-guide/principles>; <https://www.cdc.gov/drugoverdose/pdf/pubs/2018-evidence-based-strategies.pdf>; <https://drugpolicy.org/issues/MAT>

¹⁷ <https://pubmed.ncbi.nlm.nih.gov/24513717/>; <https://pubmed.ncbi.nlm.nih.gov/30878228/>; <https://www.samhsa.gov/medication-assisted-treatment>; <https://www.nap.edu/catalog/25310/medications-for-opioid-use-disorder-save-lives>; <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-matusecjs.pdf>

¹⁸ https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/Final_Overview_of_the_2019-20_Budget_Bill_Report.pdf

ISUDTP Changed Process for Assessing Need for SUD Treatment. Prior to ISUDTP, CDCR generally assigned inmates to SUD treatment based on whether they had a “criminogenic” need for the program—meaning the inmate’s SUD could increase their likelihood of recidivating (committing a future crime) if unaddressed through rehabilitation programs. In contrast, ISUDTP is designed to transform SUD treatment from being structured as a rehabilitation program intended to reduce recidivism into a medical program intended to reduce SUD-related deaths, emergencies, and hospitalizations. Accordingly, inmates who are part of ISUDTP are assigned to SUD treatment based on whether they are assessed to have a medical need for such treatment. To identify a medical need for SUD treatment, health care staff screen inmates for SUD with the NIDA Quick Screen. The NIDA Quick Screen consists of a series of scored questions about prior substance use. The total points accrued indicate whether a treatment plan needs to be developed to address an inmate’s need.

Treatment plans are developed utilizing the American Society of Addiction Medicine (ASAM) Criteria. The ASAM Criteria is a diagnostic tool that allows clinicians to assess various dimensions—such as the presence of other related medical and behavioral health conditions—that research has found can impact the effectiveness of SUD treatment types. By using the ASAM Criteria, medical staff can assess what treatment options are most appropriate for each patient.

ISUDTP Modified Existing Cognitive Behavioral Treatment (CBT) Programs. CBT programs are designed to help individuals change negative patterns of behavior. For example, the CBT programs CDCR offers as part of SUD treatment are intended to help individuals identify and adjust their thought processes regarding substance use to avoid future use. In addition to CBT programs designed for SUD treatment, the department offers CBT programs designed to address rehabilitative needs such as criminal thinking and anger management. As part of ISUDTP, CDCR revised and modified CBT programs in ways intended to better address inmates’ SUD treatment and rehabilitative needs. For example, the amount of SUD treatment inmates in ISUDTP receive through CBT programs is based on their level of medical need. In addition, the department began requiring the contractors who deliver CBT programs to use uniform, evidence-based curricula. CDCR also began requiring that counselors delivering CBT programs be certified Alcohol and Other Drug counselors, a requirement that was often waived before ISUDTP was implemented.

ISUDTP Expanded Availability of MAT. People who are addicted to certain substances (such as opioids or alcohol) can develop a chemical dependency. This can result in strong physical cravings, withdrawal that interferes with treatment, and/or medical complications. MAT is intended to combine SUD treatment services (such as CBT) with medications designed to reduce the likelihood of inmates relapsing while undergoing SUD treatment. Prior to 2019-20, CDCR had operated MAT pilot programs at three prisons. Under ISUDTP, MAT was made available at all prisons for inmates involved in the program. CDCR estimates that 25,000 individuals will be served with MAT annually.

Some doctors have raised concerns about the MAT component of the ISUDT program, arguing that CDCR was not taking steps to prevent the medications provided from being abused or redistributed¹⁹. However, while the types of medications provided typically prevent withdrawal

¹⁹ <https://www.sacbee.com/article251600583.html>

symptoms, they typically do not provide a narcotic effect²⁰. For example, a commonly used medication combines the opioid buprenorphine, which prevents withdrawal symptoms and reduce cravings, with naloxone, which rapidly reverses the effects of opioids. Naloxone (known under the brand name Narcan) is well-known for its effectiveness at quickly reversing opioid overdoses. CDCR is also exploring the use of injectable buprenorphine²¹. A summary of the medications commonly used for MAT is included below.

FDA-approved medications for opioid addiction, overdose, and withdrawal work in various ways.

- O Opioid Receptor Agonist**
Medications attach to opioid receptors in the brain to block withdrawal symptoms and cravings.
- O Opioid Receptor Partial Agonist**
Medications attach to and partially activate opioid receptors in the brain to ease withdrawal symptoms and cravings.
- O Opioid Receptor Antagonist**
Medications block activity of opioid receptors in the brain to prevent euphoric effects (the high) of opioids and alcohol and help reduce cravings.
- O Adrenergic Receptor Agonist**
A medication that attaches to and activates adrenergic receptors in the brain and helps alleviate withdrawal symptoms.

REDUCES OPIOID USE AND CRAVINGS

- Methadone**
Daily liquid or tablet
Dolophine®, Methadose®
Generics available
- Naltrexone**
Monthly Injection
Vivitrol®
- Buprenorphine**
Daily tablet
Monthly injection
Sublocade®
Generic tablets available
- Buprenorphine/Naloxone**
Daily film under the tongue or tablet
Zubsolv®, Suboxone®
Generics available

TREATS WITHDRAWAL SYMPTOMS

- Lofexidine**
As-needed tablet
Lucemyra®

REVERSES OVERDOSE

- Naloxone**
Emergency nasal spray or injection
Kloxxodo®, Narcan®, Zimhi™
Generics available

Source: NIDA²²

²⁰ <https://nida.nih.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/frequently-asked-questions/use-medications-methadone-buprenorphine-simply-replacing>

²¹ https://cchcs.ca.gov/wp-content/uploads/sites/60/TR/T49_20220201_TriAnnualReport.pdf

²² https://nida.nih.gov/sites/default/files/images/NIDA_MOUD-Infographic_1.jpg

The use of MAT is growing nationwide, including in incarcerated settings²³. A recent study comparing two jails in Massachusetts found that offering buprenorphine reduced recidivism rates by 32 percent²⁴. However, the most successful programs also include wraparound support services, as well as training and support for both medical and custody staff as the program is implemented²⁵.

ISUDTP Changed Release Planning Process. As part of ISUDTP, CDCR has taken steps to modify the release planning process to better connect inmates to programs in the community based on their assessed need. For example, for inmates in MAT near their release date, a multidisciplinary team—including nursing staff and social workers—help ensure treatment continues after their release, such as by scheduling and arranging transportation to initial health appointments, securing records, and coordinating with service providers in the community. The Administration indicated that the use of MAT has increased at the county level, and they are working on the post-release transition to county services. They are also coordinating with the implementation of the CalAIM Justice-Involved Initiative (discussed in the next item).

Initial ISUDTP Data. The number of participants in MAT and CBI are listed below, illustrating the expansion of the ISUDTP.

Workload Measure	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Q2 2021
Number of MAT participants at end of Quarter	1,152	3,564	5,137	7,275	9,386	11,250
Number of participants enrolled in CBI at end of Quarter*	997	895**	938**	3,393	4,839	6,141

*All assigned to one of the CBI Programs who have attended at least one class or completed at least one Program Packet in the past 30 days. CBI Programs include: Intensive Outpatient (ISI), Outpatient (ISO), and Life Skills (CB2).

** CBIs were paused due to COVID movement restrictions.

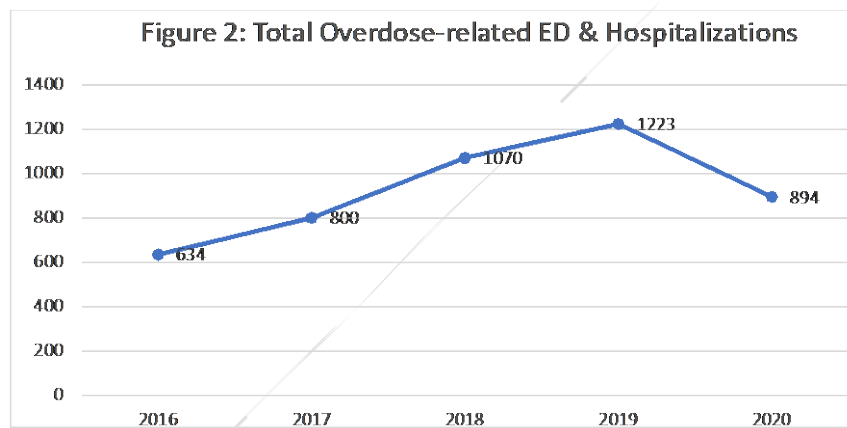
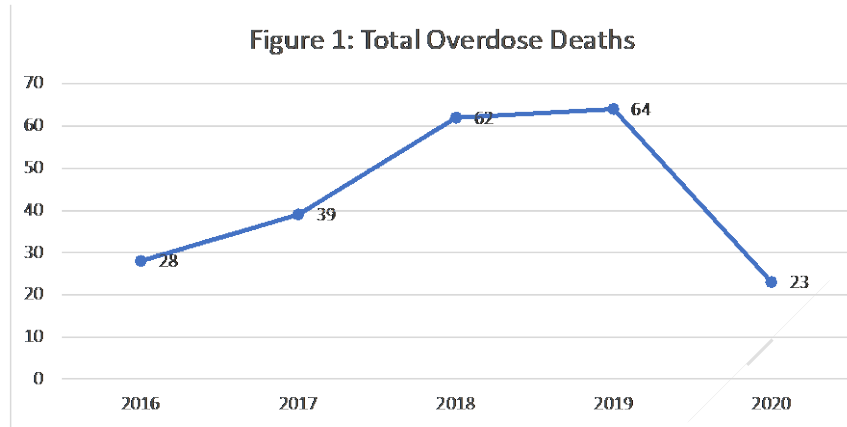
²³ <https://drugpolicy.org/press-release/2021/04/statement-hhs-new-guidelines-removing-barriers-medical-practitioners>; ; <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/02/26/this-state-has-figured-out-how-to-treat-drug-addicted-inmates>

²⁴ <https://www.nih.gov/news-events/news-releases/offering-buprenorphine-medication-people-opioid-use-disorder-jail-may-reduce-rearrest-reconviction>; E.A. Evans, *et al.* Recidivism and mortality after in-jail buprenorphine treatment for opioid use disorder. *Drug and Alcohol*

Independence. DOI: <https://doi.org/10.1016/j.drugalcdep.2021.109254>(link is external) (2022).

²⁵ <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-matusecjs.pdf>

According to CDCR/CCHCS, current data shows that overdose deaths have decreased by approximately 64 percent between 2019 and 2020, correlating with the expansion of ISUDTP. In addition, the department has experienced nearly a 27 percent decrease in overdose-related emergency department (ED) send-outs and hospitalizations during the same time period.



*ED = Emergency Department Send-Outs. Source: DOF and CDCR

It is impossible to attribute this decline directly or solely to the implementation of ISUDTP. However, historically, the rate of overdose deaths within CDCR/CCHCS was higher than rates of other prisons in the U.S., and was much higher than in the community. Recently, those rates have risen, while CDCR's have fallen.

ISUDTP Facility Needs. Concerns have been brought up about adequate programming and other spaces for this program. According to the CDCR Master Plan Annual Report²⁶, space surveys were conducted at all institutions to determine whether existing spaces can be converted and used for treatment, or if new space is needed. CDCR is working to identify if capital improvements are needed at any institutions.

²⁶ <https://www.cdcr.ca.gov/fpcm/wp-content/uploads/sites/184/2022/02/MasterPlanAnnualReportforCalendarYear2021.pdf>

Requested Resources. CCHCS is requesting \$162.5 million ongoing for ISUDTP. Of this amount, the major expenses include medications and materials (\$131.8 million, some of which will be funded with existing ongoing resources) and staffing (\$61.3 million). The staffing request consists largely of nurses, counselors, licensed clinical social workers, doctors, lab and pharmacy technicians, analysts, data researchers, and other support positions in various units at CDCR and CCHCS. These resources will be used to:

- Expand ISUDTP to serve the entire incarcerated population and assess all inmates upon intake to CDCR.
- Add to the types of treatment available through ISUDTP, including:
 - A new aftercare program to inmates who have completed treatment but remain incarcerated, currently estimated at 13,260 people. This includes expanding supportive housing, which was impacted by COVID-19.
 - Additional programs for inmates who are not improving or are worsening.
 - Expanding trauma screening and CBT.
 - Offering programming for individuals with between 7 and 14 months to serve, which was previously too short to participate in ISUDTP.
- Make various modifications to existing ISUDTP screening and services, including:
 - Shorten from 12 months to 9 months the duration of certain CBT programs to allow the department to serve more inmates.
 - Modify the screening tools used to assess SUD. For example, to assess inmates more rapidly, the department plans to use the ASAM Co-Triage—a condensed version of the full ASAM diagnostic tool currently used.
- Serve more program participants with MAT (estimated 25,445 per year at full implementation) and integrate MAT into primary care.
- Coordinate with the CalAIM initiative (discussed in the next item) to improve pre- and post-release transition services and continue the provision of Naloxone at release.
- Adjust some of the population-dependent program funding (such as the budget for medications for MAT) through the annual population adjustment.

LAO Comment.

Proposed Expansion and Modifications Merit Consideration. We find that the Governor's proposal to expand ISUDTP to the entire inmate population has merit. While the effectiveness of the program is not clear, initial data show that SUD-related deaths, emergencies, and hospitalizations have decreased since the program began. Specifically, the department reports that overdose-related deaths declined by 64 percent and overdose-related emergencies and hospitalizations declined by 27 percent. We note that it is possible that other factors (such as fewer drugs entering the prisons due to pandemic-related restrictions on prison visiting) could have contributed to the reduction in overdose-related deaths, emergencies, and hospitalizations.

The department intends to contract with the University of California to evaluate various aspects of ISUDTP in the future.

In addition, we find that the proposed modifications to the program merit consideration. For example, the new services the department plans to offer will be evidence-based and therefore likely to be effective if implemented as designed. Also, by shortening the duration of certain CBT programs and employing less time intensive ASAM assessment tools, the department would be able to serve more inmates at a lower cost than otherwise.

Level of Resources Requested Likely Too High. The projection of the inmate population for 2022-23 as assumed in the Governor's budget is likely to be revised downward at the May Revision. This is notable because the overall level of funding being requested for ISUDTP is closely connected to the size of the inmate population. For example, the department estimates it needs \$114 million for medication and other materials based on its estimate that 25,445 inmates will require MAT. Similarly, estimates for the amount of resources necessary to assess inmates' SUD treatment needs assume that 3,000 inmates will be admitted each month. Accordingly, to the extent the inmate population or admissions are lower than projected, it would reduce the level resources necessary for the program under the Governor's proposal. While the administration indicates it plans to adjust the resources for ISUDTP based on changes in the inmate population beginning in 2023-24, no adjustment is currently planned for 2022-23.

Various Factors Could Limit Ability to Expand ISUDTP. There are various factors that could limit the department's ability to expand ISUDTP as proposed by the Governor. For example, it could take CDCR longer than anticipated to fill the requested 310 positions. We note that in 2020-21—one year after ISUDTP was implemented—169 of the 431 positions approved for the program in that year were vacant. (The department reports only 43 of the 431 positions are currently vacant.) To the extent there are similar difficulties in initially filling the requested positions, it would correspondingly reduce the level of funding needed for ISUDTP in the budget year.

In addition, to expand ISUDTP beyond those it is currently serving, it will be necessary for CDCR to identify adequate space within its facilities, such as classroom space for CBT programs, to accommodate all inmates in need of treatment. However, in recent years, CDCR has increasingly had difficulty having adequate classroom space. For example, last year, as part of its justification to provide inmates with laptops to facilitate remote participation in academic programs, the department noted the challenge of physical space limitations at the prisons due to a lack of sufficient classrooms. We note that the department has initiated an analysis of its space needs, which is currently in the process of being revised to account for the impacts of COVID-19-related restrictions (such as limits on the number of people who can occupy the same room). However, it is unclear when this analysis will be completed. Accordingly, it is questionable whether CDCR can accommodate the level of space necessary for the proposed expansion. To the extent that the department is unable to expand ISUDTP as envisioned by the Governor, the department would not utilize all of the proposed \$126.6 million in 2022-23 for the program. Under the proposed budget, CDCR would have discretion on how to reallocate any unused ISUDTP funds, which could include funding programs and services outside of ISUDTP.

LAO Recommendation.

Direct CDCR to Revise the Proposal at the May Revision to Reflect Updated Population Projections. Given the possibility that the inmate population—and corresponding need for ISUDTP funding—may be lower than currently projected, we recommend the Legislature direct CDCR to provide a revised ISUDTP proposal at the May Revision that is adjusted to reflect updated projections of the inmate population.

Approve Provisional Budget Language Requiring Unspent ISUDTP Funds to Revert to the General Fund. To the extent the Legislature chooses to approve additional funding for ISUDTP, we recommend the approval of provisional budget language requiring that any budgeted funds not spent on the program revert to the General Fund. This would help facilitate legislative oversight of the planned ISUDTP expansion and allow the Legislature to reallocate any unused funds towards its General Fund priorities.

Require CDCR to Provide Planned Assessment of ISUDTP. As previously mentioned, CDCR intends to contract with the University of California to evaluate various aspects of ISUDTP. We recommend that the Legislature require CDCR to provide the final evaluation report resulting from this effort. This would allow the Legislature to determine whether ISUDTP is effectively achieving its goals of reducing SUD-related deaths, emergencies, and hospitalizations.

Staff Recommendation. Hold Open.

Issue 7: CalAIM Justice-Involved Initiative

Governor's Budget. CDCR/CCHCS request \$10.4 million (\$5.2 million General Fund and \$5.2 million in reimbursement authority) in fiscal year 2022-23 and ongoing for 81.2 positions to support the implementation of the California Advancing and Innovating Medi-Cal (CalAIM) initiative. Additionally, CDCR/CCHCS request to shift \$5.5 million in 2022-23, growing to \$25.6 million in fiscal year 2026-27 and ongoing, from the General Fund to reimbursements to reflect increased federal funding that is anticipated to become available to the state for covered services under CalAIM.

Panelists.

- Lisa Heintz, Director, Legislation and Special Projects, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

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 2021-22, the state approved California Advancing and Innovating Medi-Cal (CalAIM). CalAIM is a large package of reforms intended to achieve various goals including:

- reducing health disparities by focusing attention and resources on Medi-Cal's high risk, high-need populations.
- rethinking mental health and SUD treatment service delivery and financing.
- extending federal funding opportunities.

CDCR is requesting a net increase \$10.4 million in 2022-23 (\$10.7 million increase in reimbursement authority partially offset by a reduction of \$300,000 General Fund) to implement the CalAIM Justice-Involved Initiative, which is one aspect of the Governor's overall package of CalAIM-related initiatives. (Under the proposal, the proposed net increase would remain at \$10.4 through 2026-27, however, resulting from a \$30.8 million increase in reimbursement authority partially offset by a reduction of \$20.4 million General Fund.)

These funds would be used to enhance CDCR's pre-release planning process to better connect inmates with providers of medical, mental health and SUD services upon their release from prison. Under the proposal, inmates would be provided pre-release planning services, such as medical and mental health consultations and linkages to community service providers. They could also receive medications and durable medical equipment for use post-release. In addition, California is seeking to implement Medi-Cal coverage 90 days pre-release.

CCHCS is requesting the following positions:

- 39.6 nurse positions to review patient treatment plans, provide pre-release services, and assist patients in Medi-Cal enrollment, among other duties.
- 2 Research Data Manager positions to enable data sharing across multiple state departments, program areas, and stakeholders.
- 39.6 correctional officer positions to escort patients to medical screenings or pre-release appointments.

The proposal assumes that the cost of these pre-release planning services—some of which are already performed by CDCR—would be eligible for federal reimbursement through Medi-Cal. Thus, the proposal reflects reduced General Fund support and increased reimbursement authority.

LAO Comment.

The Governor's proposal is promising as it could potentially reduce the state cost of CDCR pre-release planning services and better connect individuals released from prison to community providers of medical, mental health, and SUD treatment services. In turn, this could result in improved outcomes for these individuals. However, many of the details of the proposal have not been determined. Accordingly, we recommend that the Legislature, direct CDCR to provide answers to following questions as it considers the proposal:

- What will the average federal reimbursement rate be for the pre-release planning services?
- What specific new pre-release planning activities will take place?
- What specific pre-release planning activities that CDCR already engages in will become federally reimbursable? Are the potential savings from this fully reflected in the proposal?
- Under the new pre-release planning process, will inmates released to state parole continue to be referred to CDCR-funded mental health and SUD treatment service providers in the community?
- To the extent that such inmates will not be referred to CDCR-funded providers (or will be referred to CDCR-funded providers less frequently) will the budget for CDCR-funded services be adjusted accordingly? Alternatively, to what extent would a reduction in the number of inmates referred to CDCR-funded services allow CDCR to meet the needs of currently unserved parolees?
- To the extent that such inmates will continue to be referred to CDCR-funded providers, what steps will the administration take to maximize the amount of federal reimbursement the state receives for providing such services? (We note our office has recommended in the past that the state take steps to increase the amount of federal reimbursement it receives for mental health and SUD treatment provided to parolees.)
- How will CDCR coordinate with the appropriate state and local stakeholders to ensure the success of the proposal and a smooth transition for inmates being released from prison?

Staff Recommendation. Hold Open.

Issue 8: Returning Home Well

Governor's Budget. CDCR requests \$10.6 million General Fund annually on a three-year limited term basis (total of \$31.8 million) to continue the Returning Home Well Program.

Panelists.

- Amy Casias, Deputy Director, Division of Rehabilitative Programs, CDCR
The Department of Finance and LAO are available for questions.

Background.

In 2020-21 and 2021-22, CDCR used \$21.9 million in federal COVID-19 relief funds, as well as private philanthropic funds, to implement Returning Home Well (RHW), which provides emergency housing to individuals being released from prison without housing, and potentially into homelessness.

To quickly implement RHW, CDCR utilized existing contracts with Specialized Treatment for Optimized Programming (STOP) providers. STOP providers have historically served parolees within one year of release who need SUD treatment. In addition to that treatment, STOP services include recovery and reentry housing; assistance with enrollment in health care services; general health education; anger management and criminal thinking awareness counseling; life skills; community and family reunification; employment and educational services; and individual, family, and group counseling. Prior to RHW, CDCR did not have funding dedicated to housing for people being released, regardless of SUD needs.

In RHW, participants are initially offered 90 days of housing, but that can be extended up to 180 days if there are openings available. Parolees would also be eligible, although priority will go to people being released. RHW does not directly provide wraparound services; however, the goal is that connecting them to STOP providers and having them in stable housing will help people access those services as well, and lead to more successful transitions back into the community and reduced recidivism and homelessness.

The pandemic exacerbated the need to ensure the availability of housing for the parolee population. However, the need existed prior to the pandemic and will continue to exist in the future. Accordingly, to continue the RHW Program, CDCR is requesting \$10.6 million on a three-year limited term basis (2022-23 through 2024-25) to continue RHW and provide housing to 1,065 participants. The estimated housing need comes from the average number of incarcerated individuals reporting that they needed housing at the time of release from 2016-17 through 2018-19. Older data were used as more recent data may be skewed by the pandemic.

The Administration is requesting limited-term funding to more firmly establish the program, monitor outcomes, and gather better data on ongoing housing needs in order to better estimate the ongoing resources needed. Over the next three years, CDCR will analyze participation levels to determine average usage and length of stay, which will be used to inform a potential future budget request.

Staff Comments. The Legislature may wish to consider including specific reporting requirements on the program, based on its priorities and the information it will need to assess future budget requests. For example, the Legislature may wish to know what happens after participants leave the program, and how RHW compares to other types of transitional housing programs.

In addition, the Legislature should ensure that RHW is well-integrated with other transitional programs, including STOP and the two healthcare programs discussed earlier (ISUDTP and CalAIM).

Staff Recommendation. Hold Open.

Issue 9: California Prison Industry Authority Janitorial Expansion

Governor's Budget. CCHCS requests \$8.6 million General Fund in 2022-23, and \$10.5 million General Fund in 2023-24 and ongoing for expanded contractual services with the California Prison Industry Authority (CalPIA), increasing the ongoing resources for this program from \$59 million to \$67.6 million. The additional funding will allow CalPIA to clean newly constructed health care spaces and dental areas and increase institution supervisory staffing levels. The proposal includes 54 additional custodian supervisor positions in 2022-23, increasing to 72 in 2023-24 and ongoing.

Panelists.

- Dave Lewis, Deputy Director, Facilities Planning and Activations Management, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, LAO

Department of Finance is available to answer questions.

Background.

CalPIA Provides Goods and Services to State Departments. CalPIA is a semiautonomous state agency that provides work assignments and vocational training in a range of career fields to inmate workers and is funded primarily through the sale of the goods and services produced by these inmate workers. It is managed by the Prison Industry Board, which is composed of 11 members including the Secretary of CDCR, as well as several legislative and gubernatorial appointees. State law requires state agencies to purchase products and services offered by CalPIA whenever possible. Accordingly, most goods and services produced by CalPIA are sold to state departments. CDCR is CalPIA's largest customer, accounting for over two-thirds of all sales in 2020-21. In 2021-22, CalPIA expects to generate \$248 million in revenue from the sale of its goods and services and spend \$245 million to operate its programs.

CDCR Contracts With CalPIA to Clean Health Care Facilities. The Healthcare Facility Maintenance (HFM) program within CalPIA was initiated in 2013 on a pilot basis to clean selected inmate health care facilities. As part of the 2014-15 budget, \$15 million in ongoing General Fund support was provided to CDCR to expand the program to health care facilities at all prisons statewide. Through the HFM program, CalPIA provides cleaning supplies, trains inmate custodians to clean health care facilities, and provides oversight and auditing services. The scope and funding of the HFM program has expanded since 2014-15 (such as due to the construction of new health care facilities). The 2021-22 budget includes \$59 million to support CDCR's contract with CalPIA for the HFM program.

CalPIA Trains and Pays Inmate Workers to Clean Facilities. Cleaning health care facilities requires special care; a high standard of cleanliness; and continued sanitation of medical equipment, furniture, and spaces to eliminate the possibility of transmitting illnesses between patients. Accordingly, inmate custodians participating in the program receive the training necessary to properly clean health care facilities and obtain a health care facility cleaning certification. Inmate custodians are currently paid between \$.35 and \$1.00 per hour for their work.

(We note that inmate workers employed by CDCR to carry out other work assignments were paid an average of \$.36 per hour between February 2019 and February 2020, the most recent data readily available.)

CalPIA Also Employs Civil Service Custodians. In addition to inmate custodians, CalPIA employs state civil service staff in the custodian classification as part of the HFM program. These civil service custodians work alongside the inmate custodians. CalPIA also employs state civil service custodian supervisors to oversee both the civil service and inmate custodians. Based on recent data provided by CalPIA, the HFM program maintains an average of 1 custodian supervisor per 40 civil service and inmate custodians.

Civil service custodians and custodian supervisors in the HFM program are hired through the same process as other state-employed custodian staff. Although not required to, CalPIA generally adheres to various guidelines issued by the California Department of Human Resources (CalHR) related to custodian classifications. CalHR has initiated a project to provide new guidelines related to custodian classifications. For example, CalHR is currently in the process of developing new guidelines on the ratio of custodian supervisors to custodian staff. According to CalHR, the previous guidelines, which recommended 1 custodian supervisor to oversee between 8 and 23 custodians, have expired and are no longer in effect.

Inmate Health Care Facilities Have Been Well Maintained. According to CalPIA, internal and external audits have found that the HFM program has maintained an appropriate level of sanitation and cleanliness of CDCR's health care facilities. According to CalPIA, neither the federal Receiver (who oversees the delivery of medical care in prisons) or the Office of the Inspector General (the agency responsible evaluating medical care in prisons) have raised concerns with the services provided by the HFM program.

Increases Number of Custodian Supervisor Positions. The Governor's budget proposes 54 additional custodian supervisor positions in 2022-23 (increasing to 72 in 2023-24). The additional custodian supervisors would allow the HFM program to transition from an average ratio of 1 custodian supervisor per 40 civil service and inmate custodians to an average ratio of 1 custodian supervisor per 20 civil service and inmate custodians by 2023-24. According to CalPIA, additional custodian supervisors are necessary to (1) oversee the services in the additional health care facilities that the HFM program would service under the Governor's proposal and (2) adhere with the guidelines previously issued by CalHR—and now expired—on the ratios of supervisors to custodians. In addition, CalPIA indicates that an insufficient number of custodian supervisors has led to custodian supervisors not properly keeping inventory, not providing timely evaluations to custodians, not ensuring that the frequency of sanitation is reviewed daily, and allowing over-fraternization between civil service and inmate custodians. The Administration also indicated that additional supervisory support could help address existing staff retention issues.

LAO Comment.

Expansion Reasonable, but Additional Supervisors Appear Unnecessary. Given the quality of the services provided by HFM to date, we find the proposal to expand the contract to include additional health care facilities reasonable. However, the proposal to change the ratio of custodian supervisors

to civil service and inmate custodians appears unnecessary. While CalPIA indicates that the custodian supervisors are necessary to address various problems they have identified (such as providing timely evaluations), the HFM program has been able to provide quality service without these additional positions. Accordingly, it appears that these problems are not significant enough to impact the quality of service provided by HFM. While we acknowledge that these problems could impact the program in other ways, CalPIA has not provided evidence that this is the case, including the extent to which the additional custodian supervisors proposed would in fact alleviate such impacts. For example, it is possible that other actions—such as additional training—would address the identified problems in a more effective and efficient manner.

Lack of Detail on Break Out of Proposed Resources. We note that, at the time this analysis was being prepared, CalPIA was unable to provide information on how much of the requested resources would support the expansion of the HFM program into additional health care facilities versus changing the ratio of custodian supervisors to civil service and inmate custodians. (Based on the limited data available, we estimate that several million dollars of the requested funding is related to changing the supervisor to staff ratio.)

LAO Recommendation.

Approve Funding Associated With Expansion, Reject Funding to Change Supervisor to Staff Ratio. In view of the above, we recommend that the Legislature only approve the funding necessary for the HFM program to expand into new health care facilities and reject the funding necessary to change the ratio of custodian supervisors to civil service and inmate custodians. Additionally, we recommend that the Legislature direct CalPIA to report the amount of the requested funding associated with changing the custodian supervisor ratio separately. This would help the Legislature determine how much to reduce CDCR's budget in accordance with our recommendation.

Staff Recommendation. Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, February 15, 2022
9:00 a.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS.....	2
Issue 1: Staff Complaint Process.....	2
0552 OFFICE OF THE INSPECTOR GENERAL (OIG).....	13
Issue 2: Additional Resources	15
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)	18
Issue 3: Americans with Disabilities Act (ADA) Facilities Improvements and Staffing	18
Issue 4: Mental Health Data Analysis and Informatics.....	21
Issue 5: Hepatitis C Virus Treatment Funding Augmentation.....	22
Issue 6: Integrated Substance Use Disorder Treatment Program Expansion.....	24
Issue 7: CalAIM Justice-Involved Initiative	33
Issue 8: Returning Home Well.....	35
Issue 9: California Prison Industry Authority Janitorial Expansion	37

Public Comment

ALL ITEMS HELD OPEN

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

0552 OFFICE OF THE INSPECTOR GENERAL (OIG)

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 1: Staff Complaint Process

Governor's Budget. The proposed budget includes the following resources for CDCR and the OIG to implement and oversee a new process for handling allegations of staff misconduct:

- CDCR requests \$35.6 million General Fund and 175.0 positions in fiscal year 2022-23, scaling to 192.0 positions ongoing and \$37.0 million General Fund in fiscal year 2023-24, \$34.9 million General Fund in 2024-25, \$35.0 million General Fund in 2025-26, and \$34.2 million General Fund in 2025-26 and ongoing, to restructure the department's staff misconduct allegation complaint screening, referral, investigative, and disciplinary processes. Key changes include:
 - Establishing a Centralized Screen Team (CST) in the Office of Internal Affairs (OIA) to receive, screen, and route grievances from the incarcerated population.
 - Expanding the Allegation Investigation Unit (AIU) at OIA to handle more investigations into allegations of staff misconduct.
- OIG requests \$2.3 million General Fund and 16 positions in 2022-23, and \$3.6 million and 24 positions ongoing, to review approximately 30 percent of the complaints filed by incarcerated persons to determine if CST is routing complaints involving allegations of staff misconduct for the appropriate level of review, and to monitor approximately 10 percent of the staff misconduct investigations handled by the AIU.

Panelists.

- Amy Miller, Director, Division of Internal Oversight and Research, CDCR
- Amarik Singh, Inspector General, OIG
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, LAO

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

As detailed below, CDCR has made several changes to its process for handling allegations of staff misconduct, also known as the staff complaints process. These changes are largely in response to a series of reports from the OIG and recent court orders in the *Armstrong* case. The process was updated in April 2020, and then updated again effective January 1, 2022.

Staff Complaint Process. 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 standard¹. Generally, CDCR receives these through the general grievance 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. An initial screening process identifies allegations of staff misconduct, and routes them for further inquiry, investigation, or action.

Historically, allegations of staff misconduct were handled within the prison. Specifically, staff were responsible for screening claims to identify those that contained allegations of staff misconduct. Staff then conducted inquiries into those allegations and reported 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.

Employee Discipline. If the hiring authority believed adverse action was 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 the *Madrid* case, 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.

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.
- **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.

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 was removed in the most recent regulations.

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.

Reforming the Staff Complaint Process. 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 issues². 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.

In February 2021, the OIG released a special review on the implementation of the new process³. 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 lawsuits⁴.

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 in 1994 on behalf of prisoners with disabilities that has resulted in continued court oversight and litigation. Recently, 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.

² https://www.oig.ca.gov/wp-content/uploads/2019/05/2019_Special_Review_-_Salinas_Valley_State_Prison_Staff_Complaint_Process.pdf

³ <https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-Staff-Misconduct-Process-Report-2021.pdf>

⁴ <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>

New Regulations. In response to the concerns raised by the OIG report and the *Armstrong* court orders, CDCR is amending its staff misconduct processes statewide. The new emergency regulations⁵, which went into effect January 1, 2022, were developed with feedback from OIG and the *Armstrong* plaintiffs (although ongoing concerns are discussed later). The major changes include:

- *Centralized Screening Team.* Grievances will be submitted directly to OIA and routed by a newly established Centralized Screening Team (CST). CST will review a wider range of grievances. These include CDCR Form 602-1 (Custody Grievance; part of existing process), CDCR Form 602-HC (Health Care Grievance; new to process), and CDCR Form 1824 (Reasonable Accommodation Request; new to process). In addition, CST will accept grievances filed by third parties, including from or on behalf of *Armstrong* plaintiffs, and from anonymous parties, CDCR staff, and families.
- *Allegation Decision Index.* CST staff will use a newly developed Allegation Decision Index (ADI) to route allegations. The index includes allegations that were previously returned to prisons, including UOF, PREA, and sexual misconduct and harassment, in addition to serious allegations including destruction of evidence, discrimination and harassment, and others. It also includes the minimum staff level (i.e. special agent, lieutenant, or sergeant) that should be assigned to the investigation.
- *Allegation Investigation Unit.* Allegations on the ADI, considered the most serious, will be retained at OIA for investigation by a new Allegation Investigation Unit (AIU), which will absorb the existing AIMS staff. This unit will only conduct full investigations, rather than inquiries, which typically ended when reasonable belief was established. In addition, legal representation and advice will be provided in these cases by the EAPT attorneys, as these investigations may be used as the basis for taking direct adverse action or have other implications on employee discipline.
- *Local Inquiries.* The new process retains the use of local inquiries for allegations not listed on the ADI, which are considered less serious. However, these can be escalated directly to AIU without going through the hiring authority first. In addition, the Locally Designated Investigator (LDI) will be required to be at least one rank above the highest-ranking officer in the allegation.
- *Elimination of 30-day requirement.* 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.
- *Determinations.* The new process requires a hiring authority to render a determination in every allegation and follow through with corrective or adverse action when an allegation of staff misconduct is sustained.

⁵ https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2021/12/Staff_Misconduct_Emergency_Reg_Approval_ADA-12.31.21.pdf

- *Tracking Database.* OIA will establish a database for tracking allegations of staff misconduct and employee discipline, called the Allegation Against Staff Tracking System (AASTS). CDCR indicates that this database will be used as an early warning system, to identify concerning patterns at institutions or with certain staff, but the details have not been finalized. OIG will have access to this database. The database will also include other sources of information, including data about the employee discipline process.
- *Removal of the “likely to lead to adverse action” requirement.* Previously, CDCR’s definition of staff misconduct specified that the act not only had to violate policy or law, but also had to be likely to lead to adverse action. This was a subjective criterion, and its use has largely been eliminated in the new process.

Specifically, the new process will work as follows:

1. *Intake, Screening, and Routing.*

- Grievances will be 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.
- Grievances will be sent to the new CST and processed within three to five business days. There, staff will decide a course of action:
 - If it is a routine grievance, it will be returned to the prisons to be handled.
 - If it contains an allegation of misconduct that is included on the ADI, it will be routed to the appropriate staff in AIU for a full investigation.
 - If it contains an allegation of misconduct not on the ADI, it is returned to the prison for a local inquiry. However, CST staff have the discretion to elevate these to AIU rather than return them to the prison if deemed appropriate. In addition, hiring authorities can return cases to AIU if they feel that a local inquiry would be insufficient.
 - CST staff may also follow up with the person who submitted the grievance for more information if needed to determine the correct routing.
- CST staff will log the grievance in the new database.

2. *Investigation, Inquiry or Other.* Depending on the decision of CST, AIU will perform an investigation within 120 days, or an 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. Finally, either the AIU Investigation Report or the LDI Inquiry Allegation Report is returned to the hiring authority for review and disposition.

3. *Resolution.* Once the report is back with the hiring authority, the process remains largely the same as before. Hiring authorities must order some action if an allegation of staff misconduct is sustained (although they are the ones that make that decision – as before, the reports only contain a finding of facts, not a determination about the allegation). In addition, the outcome is recorded in the new database.

Estimated Workload. CDCR expects CST to review 220,000 complaints. Of these, they expect 21 percent (46,000) will contain allegations of staff misconduct, and the rest will be returned to the prisons as routine claims. Of the allegations of staff misconduct, CDCR expects 8,424 to be directed to AIU for investigation, and 37,576 to be returned to the institutions for local inquiries.

The implementation schedule for the new process is:

- January 2022 – Statewide implementation of CST screening for all CDCR Form 602-1 Inmate/Parolee Grievances.
- March 2022 through January 2023 – Phased implementation of the new inquiry and investigation processes, for CDCR Form 602-1 Inmate/Parolee Grievances.
- February 2023 through March 2023 – Statewide Implementation of the new processes for CDCR Form 602-HC Healthcare Grievances.
- April 2023 – Statewide Implementation of the new processes for CDCR 1824 Reasonable Accommodation Requests.
- May 2023 through June 2023 – Statewide Implementation of the new processes for staff misconduct complaints made outside of the grievance and CDCR 1824 processes (e.g., third party complaints, citizen complaints, ombudsman, advocacy letters and any related interviews, etc.) received either electronically, telephonically, or in writing.

Previously Allocated Resources. The initial resources for AIMS were included in the 2019 Budget. CDCR received \$9.8 million General Fund and 47 positions in 2019-20 and ongoing. The new process went into full effect on April 1, 2020. In addition, CDCR requested \$80.5 million General Fund and 152.1 positions in 2021-22 and \$28 million General Fund in 2022-23 and ongoing to implement new requirements for expanded video surveillance and to reform the staff complaint process to comply with the *Armstrong* court order.

Requested Resources. The 2022-23 Governor's Budget includes the following additional resources for the new staff misconduct process:

- **CDCR Staff Misconduct Funding.** CDCR requests \$35.6 million General Fund and 175.0 positions in fiscal year 2022-23, scaling to 192.0 positions ongoing and \$37.0 million General Fund in fiscal year 2023-24, \$34.9 million General Fund in 2024-25, \$35.0 million General Fund in 2025-26, and \$34.2 million General Fund in 2025-26 and ongoing. This funding is in addition to the previously allocated ongoing resources. Under the proposal, CDCR would receive 175 additional positions in 2022-23 (increasing to 192 positions in 2023-24).

This will result in 179 staff in AIU (including 133 existing AIMS staff and 46 new staff) and 45 staff in CST (including 9 existing positions and 36 new positions). It also includes 61 new positions for EAPT, 34 new positions for the Division of Adult Institutions staff

for on-site support, and other support and administrative staff. The funding also covers the new database and related IT and data storage costs.

In addition, because the new regulations took effect partway through the current fiscal year, CDCR requested an additional \$5,354,000 General Fund in 2021-22 to cover the January through June period. This funding will be used to stand up CST and provide some resources to OIA and OLA.

Current Level of Resources (CDCR)	Proposed 2022-23	Proposed 2023-24	Total at Full Implementation
\$28.52 million	\$35.6 million	\$37 million	\$65.52 million
142 positions	175 positions	192 positions	334 positions

- ***OIG Staff Misconduct Oversight Funding.*** OIG requests \$2.3 million General Fund and 16 positions in 2022- 23, and \$3.6 million and 24 positions ongoing to:
 - Review approximately 30 percent (44,937/152,372 annually) of the 602-1s filed by incarcerated persons to determine if CST is correctly routing complaints. The proposal does not include resources for OIG to monitor the remaining 72,500 claims consisting of health care grievances, requests for reasonable accommodation, and third-party claims. OIG indicates that it plans to focus on regular grievances, rather than other types of claims, because it believes they are more likely to contain allegations of staff misconduct.
 - Monitor approximately 10 percent (842/8,424 annually) of the staff misconduct investigations handled by the new AIU.

Current Level of Resources (OIG)	Proposed 2022-23	Proposed 2023-24 and Ongoing	Total at Full Implementation
\$555,000	\$2.3 million	\$3.6 million	\$4.15 million
5 positions	16 positions	24 positions	29 positions

Employee discipline resources. The 2022-23 proposed budget also includes a request for \$6.2 million General Fund and 33 positions in 2022-23 growing to \$11.8 million General Fund and 62.0 positions in 2024-25 and ongoing for OIA to conduct timely and thorough investigations through the 989 process and the CIU, and to strengthen the department's disciplinary processes. This funding will also help create the Performance and Corrective Action Unit, to support supervisors and help them effectively deliver corrective actions.

LAO Comments.

Funding Proposed for CDCR to Implement New Process Appears Reasonable. We find that the funding proposed for CDCR to align its process for handling inmate and parolee allegations of staff misconduct to its current emergency regulations appears reasonable and would likely help address concerns that have been raised over the years.

Proposed Level of OIG Monitoring May Not Meet Legislative Expectations. The goal of monitoring is typically to be able to draw conclusions about an entire system by focusing on an adequately sized sample of cases processed in the system. There is no universally agreed upon percentage of cases that constitutes a sample size adequate to carry out effective monitoring. Under the Governor’s proposal, OIG would be monitoring a relatively small sample size of investigations—and not monitoring the screening of certain claims or quality of local inquiries at all. As such, it is possible that the Governor’s proposal may not meet legislative expectations.

Specifically, under the Governor’s proposal:

OIG Would Not Monitor Certain Types of Claims Received by CST. As previously mentioned, under the proposal, CST screening of the annual estimated 68,000 health care grievances, requests for reasonable accommodation, and third-party claims would not be monitored by OIG, based on the assumption that they are less likely to contain allegations of staff misconduct than regular grievances. According to CDCR, based on three months of data, about 22 percent of regular grievances contain allegations of staff misconduct, whereas CDCR estimates that about 19 percent of all other claims will contain allegations of staff misconduct. Accordingly, the frequency with which misconduct allegations are expected to be found in other claims is not substantially lower than for regular grievances.

OIG Would Monitor Lower Percent of Investigations Than Under 989 Process. Under the Governor’s proposal, OIG would monitor about 10 percent of investigations conducted by AIU. In comparison, OIG reports that it typically monitors about 15 percent of investigations under the 989 process. It is unclear why OIG would monitor a lower percentage in this case.

OIG Would Not Monitor Local Inquiries. CDCR expects that CST will annually identify 37,600 claims that contain allegations of less serious misconduct that would not be investigated by AIU. These claims will be sent by CST back to the referring prison or parole staff for a local inquiry into the matter. Reports prepared based on these inquiries will be reviewed for completeness by OIA staff. However, the Governor’s proposal does not include resources for OIG to monitor these reports or the quality of review performed by OIA staff. This is notable because concerns about the quality of local inquiries were a key driver for creation of CDCR’s new process.

Staff Comments.

Concerns of *Armstrong* plaintiffs. The *Armstrong* plaintiffs indicated that the emergency regulations largely reflect the agreed upon remedial plans. However, they have raised two primary concerns about implementation of the new staff complaint process⁶. The first is the length of the proposed investigations, which allow 120 days for AIU to complete. The plaintiffs would like to see this reduced to 90 days. The second is the lack of a post-investigation review panel, which the plaintiffs had anticipated as the court had also ordered CDCR to improve its post-investigation review process. In the most recent Joint Case Status Statement, filed January 18, 2022, the plaintiffs also indicated that the implementation timeline, which goes through June 2023, is too

⁶ https://rbgg.com/wp-content/uploads/Armstrong-Order-Re-Plaintiffs-Objections-to-Defendants-Proposed-RJD-Plan-and-5-Prisons-Plan_-12-13-2021.pdf

long. They are requesting that the full process be implemented in the six prisons that are the focus of the *Armstrong* lawsuit on an accelerated timeline.

Use of local inquiries. CDCR has indicated that 81 percent of allegations of staff misconduct will be returned to the institutions for local inquiries, resulting in 37,576 local inquiries annually. These local inquiries will be performed in a similar manner as past processes, which may give rise to similar issues and concerns, namely that LDIs are not adequately trained or sufficiently independent. Second, while the local inquiries may be directly escalated to OIA, the threshold for escalation is reasonable belief that staff misconduct occurred that it is likely to lead to adverse action. Thus, it still relies on this subjective judgement. In addition, as noted by the LAO, the OIG request does not have resources to monitor these local inquiries. The OIG indicated that they would need 52 additional monitoring staff to monitor 10 percent of local inquiries (and would need additional supervisory, managerial, and support positions on top of that).

OIG Oversight. Considering the complicated changes to the staff misconduct process, the role of OIG in uncovering past issues, and developments in the *Armstrong* case and other cases, it is critical to ensure that OIG is properly staffed and provided with sufficient authority to conduct meaningful oversight of the prison system. There are few key considerations, outlined below:

- **Resources for Staff Complaint Oversight.** As noted above, the requested resources would allow OIG to monitor 10 percent of AIU investigations. However, that may not be enough to get a full understanding of the system and any challenges. The Legislature could consider funding OIG to monitor 20 to 30 percent of investigations. In addition, resources should be provided to OIG to monitor at least 10 percent of local inquiries. Finally, expanded oversight of these processes may lead to more instances in which the OIG needs to work with the department to fix issues. It is not clear whether the requested funding would be enough to cover this additional work.
- **Restoration of Investigative Authority.** Currently, the OIG can only monitor internal CDCR investigations and provide non-binding feedback. They may also conduct general reviews but cannot investigate specific complaints. The Legislature should consider whether the OIG should be allowed to initiate investigations in response to complaints received through their complaint intake or if OIA declines to investigate or does not investigate thoroughly.

This was one of the authorities revoked in the restructuring of the OIG in 2011, but it is typical authority of IGs. Creating independent and objective entities to conduct investigations was one of the three central tenets of United States Inspector General Act of 1978, which created inspectors general at the federal level (92 Stat. 1101, section 2). The Inspector General for the United States Department of Justice has authority to investigate allegations of misconduct by employees of the Federal Bureau of Prisons. Florida and New York (among other states) have independent Inspector Generals who can investigate complaints about the corrections systems⁷.

In addition, the Legislature should consider if restoring peace officer status is appropriate for investigators in OIG. While this classification was highly scrutinized in the 2011 report

⁷ <https://ig.ny.gov/offices/inspectorgeneral/>; <http://www.dc.state.fl.us/ig/index.html>

and resulting restructuring of the OIG, it puts OIG investigators on equal footing with correctional staff and the OIA, and provides them equal access to critical incidents and to the incarcerated population.

Additional resources would be required to support the restoration of this authority. The 2021 Budget Act included \$7 million ongoing General Fund, contingent upon the passage of Legislation, but no agreement has been reached.

Use of the new tracking data. CDCR is developing methods for using the new tracking system to identify problems at certain institutions or with certain staff, but those processes are still under development. The Legislature may wish to get more information about this system, such as how alerts will be triggered. In addition, the Administration indicated a willingness to provide aggregated information to the Legislature and the public, and the Legislature could consider including specific reporting requirements.

Further integration of all allegations of staff misconduct and employee discipline. The new process still leaves a complicated system for handling staff issues at CDCR. CDCR could consider how it could further integrate and streamline these processes, including the 989 and employee discipline processes, allegations of staff misconduct against non-incarcerated persons (such as other staff), and allegations of staff misconduct received by the OIG through its complaint intake process. While these changes include the process for third parties to submit allegations, CDCR is still refining that, and it is not clear if there will be any exclusions. The OIG has recommended that all allegations, regardless of source, should be handled through the same process, which should include clear deadlines, thorough investigations, and clear documentation.

LAO Recommendation.

Ensure Level of Monitoring Resources Meets Legislative Expectations. As noted above, in recent years, the Legislature has expressed interest in OIG oversight of CDCR's handling of staff misconduct allegations arising out of the grievance and request for reasonable accommodation processes. In reviewing the Governor's proposal, we recommend that the Legislature determine its specific expectations and adjust the level of resources proposed by the Governor as needed to ensure its expectations are met. Specifically, the Legislature will want to consider the following:

- ***Should OIG Monitor All Types of Claims Received by CST?*** Under the proposal, OIG would monitor 30 percent of regular grievances screened by CST but would not monitor screening of health care grievances, requests for reasonable accommodation, and third-party claims. If the Legislature wants OIG to monitor 30 percent of *all* types of claims submitted to CST, we estimate that an additional five positions and about \$600,000 annually above the Governor's proposal would be required.
- ***Should OIG Monitor a Larger Portion of AIU Investigations?*** Under the proposal, OIG would monitor about 10 percent of AIU investigations. If the Legislature wants OIG to monitor a higher percent of AIU investigations it would need to provide additional resources. For example, we estimate that having OIG monitor 15 percent of AIU investigations—the same as the portion of investigations that OIG monitors in the

989 process—would require an additional seven positions and \$1 million annually at full implementation.

- *Should OIG Monitor Local Inquiry Reports?* The Legislature could consider funding OIG so that it would be able to monitor a portion of the estimated 37,600 local inquiry reports. For example, we estimate that requiring OIG to monitor 20 percent of these reports—similar to the portion of investigations that OIG monitors in the 989 process—would require an additional four positions and \$500,000 above the Governor’s proposed resources. We note, however, that the Legislature could make this change in a relatively cost neutral manner by reducing the portion of these reports monitored by CDCR OIA staff from 100 percent to 80 percent and redirecting savings from CDCR to pay for the increased OIG staff.

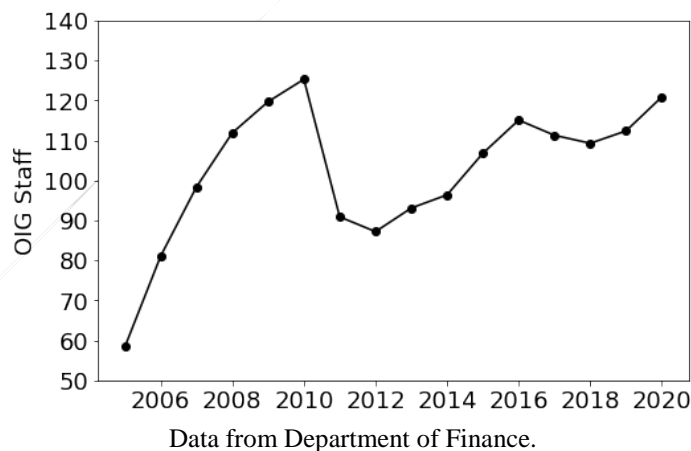
Staff Recommendation. Hold open.

0552 OFFICE OF THE INSPECTOR GENERAL (OIG)

The Office of the Inspector General (OIG) provides independent oversight of California's prison system, run by the California Department of Corrections and Rehabilitation (CDCR). The proposed 2022-23 budget includes \$36.3 million and 175.8 positions for the OIG, a significant increase over the resources provided in the current year (\$29.9 million and 139.8 positions).

History of the OIG. The OIG was established by statute in 1994 as an office within the Youth and Adult Correctional Agency (which no longer exists) and was responsible for basic oversight of the correctional system. In 1998, in response to reports of widespread abuse in the prisons, the Legislature expanded the OIG's role and established it as an independent entity with discretionary authority to conduct audits and investigations. The OIG faced extreme budget cuts in 2003, but funding was restored in 2004 in response to ongoing oversight related to the *Madrid* litigation. A new Bureau of Independent Review was created within the OIG, and additional staff and resources were provided. Its duties were also expanded to include monitoring the employee discipline process and warden vetting and audits.

However, the office was restructured in 2011, largely in response to a report from the Senate Office of Oversight and Outcomes⁸. This report focused on the peace officer status of OIG staff and highlighted unnecessary expenditure on firearms and state cars. It also criticized OIG for establishing a Bureau of Criminal Investigation in 2009, even though very few cases from OIG were criminal. In response, the Legislature removed the office's discretionary audit and investigation authority, limited the oversight to specific areas, and required that special reviews be approved by the Governor or the Legislature. During this time, the staffing and resources provided to the office were also reduced.



In 2019, the Legislature reinstated the office's authority to conduct discretionary audits and required the office to monitor CDCR's handling of allegations of staff misconduct. The 2019 Budget agreement included \$3.5 million General Fund and 21 positions, primarily for the audit and review teams.

⁸ https://sooo.senate.ca.gov/sites/sooo.senate.ca.gov/files/gun_toting_auditors_attorneys_report.pdf

Current duties. OIG's responsibilities are established in Penal Code Sections 2641 and 6125-6141, and include:

- Monitoring CDCR's processes for employee discipline, handling allegations of staff misconduct, and use-of-force reviews.
- Providing immediate, on-site responses to critical incidents, including riots, use of deadly force, and unexpected inmate deaths.
- Monitoring CDCR's implementation of the reforms outlined in the *Blueprint*⁹.
- Evaluating the quality of medical care.
- Conducting audits (discretionary) and special reviews (requested by the Governor, Assembly or Senate).
- Maintaining a hotline to receive complaints about CDCR from any source.
- Acting as an ombudsperson for sexual abuse complaints and reviewing allegations of mishandled sexual abuse investigations.
- Vetting wardens and superintendents.

⁹ <https://www.cdcr.ca.gov/wp-content/uploads/2019/12/an-update-to-the-future-of-california-corrections-january-2016-1.pdf>

Issue 2: Additional Resources

Governor's Budget. In addition to the resources requested for monitoring the staff complaint process, the OIG is requesting additional resources for two other units:

- \$3,262,000 General Fund annually for three years to support additional staffing for the Medical Inspection Unit to complete medical inspections of CDCR institutions every two years, rather than the three or more years it takes currently. Additionally, the OIG requests \$589,000 ongoing General Fund for two additional editors to facilitate timelier medical inspection reports and a Nursing Supervisor position to support general unit operations.
- \$232,000 ongoing General Fund to fund 2.0 permanent positions to address the increased workload of the OIG's Oversight, C-ROB, and Intake (OCI) Unit.

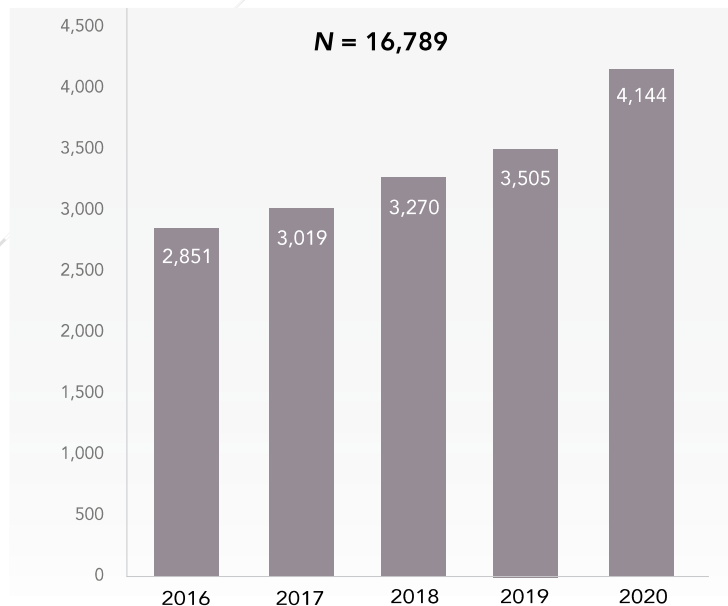
Panelists.

- Amarik Singh, Inspector General, OIG
The Department of Finance and LAO are available for questions.

Background.

OCI Unit. The OCI Unit currently vets warden and superintendent candidates, receives and reviews complaints from incarcerated persons and members of the public, reviews CDCR's adherence to its 2012 *Blueprint*, and performs duties that inform and support the work of the California Rehabilitation Oversight Board (C-ROB). These additional resources are necessary to ensure the OIG can meet its mandated functions, particularly considering an increase in the number of complaints filed with the OIG over the past six years (below).

Complaints Received by the OIG



Source: The Office of the Inspector General.

CDCR Complaint Intake. The OIG maintains a statewide complaint intake process. In 2020, OIG received 4,144 complaints, an increase of 30 percent from 2019¹⁰. Most of these complaints (83 percent) come from incarcerated adults, but the OIG also receives complaints from the public, department employees, Department of Juvenile Justice wards, parolees, and anonymous complainants. While incarcerated individuals may also submit grievances through the staff complaint process that was the focus of the previous item, they may also submit complaints to OIG for advice or fear of retaliation.

In 2020, the largest categories of complaints included prison conditions (26 percent), allegations of staff misconduct (25 percent), and the appeals and grievance process (17 percent). OIG also received 350 complaints related to CDCR's handling of COVID-19. OIG staff review each complaint (within their jurisdiction, as they sometimes receive complaints about federal prisons or other entities). The typical result is that the OIG provides the complainant with advice and guidance. The OIG may also contact or visit the prison to conduct a general inspection. OIG does not have the authority (nor the resources) to initiate investigations based on these complaints.

The OCI Unit current has 7 staff, unchanged since 2011. The increased volume of complaints during this period have led OIG to redirect staff from other units and use student assistants and temporary staff, and have reduced the ability of the OCI Unit to perform its other duties. Accordingly, the OIG is requesting two permanent positions to handle the increased volume of complaint-related workload.

Medical Inspection Unit.

The *Plata* case is a class action lawsuit that includes all prisoners. The lawsuit alleged that CDCR inflicted cruel and usual punishment by being deliberately indifferent to serious medical needs. A settlement agreement was reached in 2002, but a lack of progress led a federal judge to place California's prison medical care system under the control of a court-appointed Receiver in 2005¹¹.

In 2007, OIG began inspecting CDCR's medical care at the suggestion of the Receiver and in coordination with the parties in *Plata*. In 2011, the legislature amended the OIG's authority in Penal Code section 6126(f) to require that "the Inspector General shall conduct an objective, clinically appropriate, and metric-oriented medical inspection program to periodically review delivery of medical care at each state prison."

Currently, it takes the OIG approximately three to three and a half years to complete a full cycle of medical inspections for every CDCR institution. One contributing factor is that the system has developed significantly since 2011, expanding to include substance use disorder treatment and hepatitis C treatment (both discussed in later items), as well as increased telehealth services, external eConsult services, an electronic health reporting system, and palliative and hospice care.

The OIG estimates that these resources will allow them to complete a full cycle in two years. However, the level of resources needed is not entirely clear, so the Administration is requesting primarily limited-term positions while additional data can be collected.

¹⁰ <https://www.oig.ca.gov/wp-content/uploads/2021/04/OIG-2020-Annual-Report.pdf>

¹¹ https://prisonlaw.com/post_case/plata-v-brown/

Staff Comment. As noted in the previous item, the Legislature may wish to consider whether these resources are sufficient to provide the level of oversight desired.

In addition, the Legislature may wish to consider whether providing limited-term positions is necessary for the medical oversight unit. CDCR's health care systems have been under federal oversight for nearly 15 years. However, 19 prisons have been delegated back to the state by the Receiver. As more institutions are delegated back to the state, and when federal receivership eventually concludes, the need for the OIG's oversight will become even more critical. The Legislature should ensure that the OIG has adequate resources for continued oversight.

Staff Recommendation. Hold Open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**Issue 3: Americans with Disabilities Act (ADA) Facilities Improvements and Staffing**

Governor's Budget. The proposed budget includes the following resources to improve CDCR's ADA compliance:

- \$22.2 million one-time General Fund for ADA accessibility improvements at the California Institution for Men, California Institution for Women, California State Prison – Los Angeles County, and Richard J. Donovan Correctional Facility.
- \$2.6 million General Fund and 20 positions in 2022-23 and \$2.7 million ongoing for staffing to support court mandated ADA remedial measures for disabled incarcerated persons at various institutions.

Panelists.

- Chris Lief, Deputy Director, Facilities, Planning, Construction and Management, CDCR
- Jared Lozano, Deputy Director, Facility Support, Division of Adult Institutions, CDCR
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

The Department of Finance is available for questions.

Background. In a series of Federal Court orders stemming back to the 1990s, the court found that CDCR's treatment of incarcerated persons violated basic rights related to developmentally disabled incarcerated persons (*Clark v. California*) and incarcerated persons covered by the ADA (*Armstrong v. Newsom*). CDCR, the court, and plaintiffs agreed upon remedial plans, the Clark Remedial Plan (CRP) and the Armstrong Remedial Plan (ARP). CDCR developed policy and procedures to achieve compliance, including the Disability Placement Program (DPP) and the Development Disability Program (DDP). Together, the DPP, DDP, ARP, and CRP ensure that incarcerated persons with disabilities have access to programs, services, and activities, consistent with the ADA.

Although the prison population is declining, the population is aging, leading to an increase in incarcerated persons in DPP and DDP. Throughout the 34 CDCR institutions currently operating, as of August 10, 2021, there were 11,314 incarcerated persons requiring disability accommodations at one of the DDP/DPP designated CDCR institutions.

The institutions with the highest numbers of Reasonable Accommodation requests are:

- California Health Care Facility (CHCF)
- California Institute for Women (CIW)
- California Medical Facility (CMF)
- California State Prison, Corcoran (COR)
- Kern Valley State Prison (KVSP)
- California State Prison, Los Angeles County (LAC)

- Mule Creek State Prison (MCSP)
- Richard J. Donovan Correctional Facility (RJD)
- Substance Abuse Treatment Facility (SATF)

Five institutions (CHCF, MCSP, RJD, SATF, and CMF) have a population of 700 or more with a designated DPP and DDP code that impacts placement. In September 2020, the court ordered additional remedial measures at RJD. In March 2021, the court issued another order for additional remedial measures at CIW, COR, KVSP, LAC, and SATF.

Facilities. CDCR has several programs to improve ADA compliance at its institutions. CDCR designates specific institutions as DPP to address accessibility issues and facilitate placements. CDCR used survey data to develop an ADA Transition Plan for each DPP institution, which identified accessibility deficiencies to be completed through Health Care Facility Improvement Projects (HCFIP), ADA Modification projects, or locally by institution staff. CDCR completed the Correctional Facility Program Accessibility Plan in January 2015 and identified 21 institutions most suitable for housing incarcerated persons with disabilities. Of these, 19 were selected to receive accessibility modifications.

Previous resources. Previously appropriated funding is supporting current and phased construction of improvements at 11 prisons, and includes:

- The 2008 Budget Act contained ongoing funding of \$1.9 million General Fund intended for maintenance and repair of existing accessibility features.
- The 2014 Budget Act appropriated \$17.5 million General Fund to begin making improvements identified by an ADA accessibility survey. Of this funding, \$13.5 million was for construction improvements at four prisons that had completed design plans (including CIW), and \$4 million was to complete design activities at 14 prisons identified by the survey.
- The 2015 Budget Act included \$12.7 million General Fund in 2015-16 and \$12.4 million in 2016-17 for the phased construction of accessibility improvements at 13 prisons.
- The 2019 Budget Act included \$4.2 million General Fund in 2019-20 and 2020-21 for improvements related to ADA accessibility at CIW and Mule Creek State Prison.

Proposed improvements at four institutions. This proposal will allow construction of required accessibility improvements at four institutions (California Institute for Men or CIM, CIW, LAC and RJD).

Specifically, this funding will enable the following improvements: ADA modifications to electrical outlets, grab bars, water closets, and ramps in ADA housing and dorm units across all facilities at each institution; accessibility upgrades to doors, gates, holding modules, and pathways in program, health care, kitchen, dining, and visiting areas as well as the Prison Industry Authority and warehouse buildings and spaces site-wide at each institution. This proposal also includes resources to provide custody escorting for the duration of these projects.

The design phase for ADA improvements at CIM, CIW, LAC, and RJD commenced prior to the 2015 completion of the ADA Transition Plans and is anticipated to be completed in 2021-22; therefore, construction funding is requested for 2022-23. The estimated construction costs of the ADA improvements at are as follows:

Prison	Cost Estimate
California Institution for Men	\$8,032,000
California Institution for Women	\$4,227,000
California State Prison – Los Angeles County	\$4,549,000
Richard J. Donovan Correctional Facility	\$5,346,000
Total	\$22,154,000

Staffing.

ADA Coordinators (5 positions). Per *Armstrong* court orders, each DPP-designated institution must have an ADA Coordinator to meet with stakeholders and monitor ADA, ARP, and CRP compliance. This request includes additional staff at SATF and California State Prison, Solano (which is slated to become DPP-designated in January 2023) for ADA compliance, as well as additional headquarters staff in the Class Action Management Unit.

Health Care Compliance (15 positions). Health Care Compliance Analysts (HCCA) and related staff manage and review accommodation requests, document health care related allegations of noncompliance, work with stakeholders, and ensure that people receive appropriate, functioning medical equipment. This proposal includes 15 staff to assist with this workload: six to provide each of the six institutions in the recent orders with a second HCCA, and nine to provide each ADA Office with an addition staffer to assist the Office of Grievances in tracking Reasonable Accommodation requests that come through the grievance process and conducting the required quarterly interviews of a random selection of disabled incarcerated persons at the six prisons to inquire about ADA and ARP compliance.

Staff Recommendation. Hold Open.

Issue 4: Mental Health Data Analysis and Informatics

Governor's Budget. CDCR requests 22.0 positions and \$3.1 million from the General Fund in fiscal year 2022-23 and ongoing to support additional mental health reporting tasks, a new data validation project related to the *Coleman* court, and to address increased reporting requests.

Panelists.

- Dr. Steven Cartwright, Deputy Director, Mental Health Services, Health Care Services, CDCR

The Department of Finance and the LAO are available for questions.

Background. The *Coleman* case is a class action lawsuit filed in 1990 on behalf of all California state prisoners with serious mental illness. The case alleges that CDCR provides inadequate mental health care that places prisoners at serious risk of death, injury, and prolonged suffering. In 1995, the federal court found that prison officials violated the cruel and unusual punishment clause of the Constitution by not providing adequate mental health care. The court issued an injunction requiring major changes in the prison mental health system, and approved CDCR's remedial plan for providing mental health care. The court also appointed a Special Master who, among other things, monitors and reports on CDCR's compliance with the plan.

In 2009, the *Coleman* court directed CDCR to institute new policies regarding mental health treatment and monitoring, in compliance with the Mental Health Program Guide (MHPG). CDCR began implementing new quality management tools, including the Continuous Quality Improvement Tool (CQIT). In December 2020, the *Coleman* court directed CDCR to identify key indicators for tracking compliance, to update policies to reflect the 2018 MHPG, and to use CQIT to measure performance¹². The judge subsequently issued an order adopting a CQIT Key Indicator list proposed by the Special Master. Examples of key indicators include the percentage of health care staff with suicide prevention training, measures of timely access to care, mental health screenings, and the development and content of patient treatment plans. Discussions regarding how key indicators should be defined and what constitutes compliance are ongoing and will involve negotiations between CDCR, the *Coleman* plaintiffs, the Special Master, and the court.

CDCR is requesting resources to implement and validate the indicators required by the court. In addition, the *Coleman* court directed that these indicators need to be updated as the MHPG and other guiding documents are updated, leading to an ongoing verification and validation workload. Validation is a time-consuming process where staff ensure that accurate data is being collected and that the indicators are measuring performance as desired. The funding would primarily go towards 22 positions for the Statewide Mental Health Program Quality Management Team. These include 7 research track positions for the research and data analytics team, 4 IT positions to work on the mental health data base, and other analysts and support staff to track projects, participate in workgroups, and prepare documentation and reports, among other responsibilities.

Staff Recommendation. Hold Open.

¹² <https://cases.justia.com/federal/district-courts/california/caedce/2:1990cv00520/83056/6996/0.pdf>

Issue 5: Hepatitis C Virus Treatment Funding Augmentation

Governor's Budget. California Correctional Health Care Services (CCHCS) requests an augmentation of \$47.1 million General Fund in 2022-23, \$76.3 million in 2023-24, and \$40.4 million in 2024-25 for the Hepatitis C Virus (HCV) treatment program. This supplemental funding will result in a total budget for treatment of HCV of \$107.1 million in 2022-23, \$136.3 million in 2023-2024, and \$100.4 million in 2024-25. These funds will allow CDCR/CCHCS the ability to treat an estimated 8,580 patients in 2022-23 and 2023-24, and 6,300 patients in 2024-25.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management, California Correctional Health Care Services, CDCR

The Department of Finance and the LAO are available for questions.

Background.

Chronic HCV infection is a major causal factor in the development of end-stage liver cirrhosis, which is a leading cause of hospitalizations and death in the incarcerated patient population, including in CDCR's adult institution population. Prevalence of HCV among CDCR/CCHCS' patient population is estimated to be 16.4 percent, which is significantly higher than for the non-justice-involved population (1 percent). CCHCS recorded 32 deaths related to HCV in 2020, making it the fifth leading cause of death in the inmate population, following deaths from COVID-19 (141), cancer (83), cardiovascular disease (54), and non-COVID-19 infectious diseases such as pneumonia (46)¹³. HCV is a bloodborne virus, primarily spread through sharing personal equipment that with traces of blood, such as needles, razors, nail clippers, or toothbrushes. It can also be spread through sex (although this is uncommon), and it can be passed from mother to infant¹⁴.

The 2018 budget included \$105.8 million General Fund annually from 2018-19 through 2020-21 to CCHCS to expand the HCV treatment program, in response to newly available antiviral medications and in alignment with new guidelines from the American Association for Study of Liver Diseases (AASLD). In that request, CDCR/CCHCS estimated that it would treat roughly 1800 people per year through this program, and that the prevalence of HCV in the population would reach a steady state by 2021-22.

However, that has not been the case, and the number of individuals who need treatment is higher than CDCR/CCHCS anticipated, and includes:

- People with HCV entering CDCR (4,128 patients per year).
- Recurrent infections in roughly 10 to 15 percent of the patient population (roughly 1,000 patients treated per year).
- Spread within the population (roughly 1,000 new infections per year).

¹³ <https://cchcs.ca.gov/wp-content/uploads/sites/60/MS/2020-CCHCS-Mortality-Review.pdf>

¹⁴ <https://www.cdc.gov/hepatitis/hcv/cfaq.htm>

The large number of incarcerated people entering with HCV infections reflects conditions outside the prisons, and drives continued spread within the incarcerated population. In addition, COVID-19 has disrupted the ability of CDCR/CCHCS to deliver HCV treatment, leading to a delay in providing treatment to the current population of HCV infected incarcerated people.

CDCR/CCHCS treated 8,102 patients in 2019-20 and was on track to treat 9,750 patients in 2020-21 pre-pandemic but was only able to treat 3,674 patients. CDCR/CCHCS expects to treat 7,280 patients in 2021-22 and 8,580 patients in 2022-23 and 2023-24. CDCR/CCHCS expects the untreated HCV patient population to be close to zero and an estimated 6,300 patients will need to be treated in 2024-25. CDCR/CCHCS anticipate that the number of patients needing treatment annually will decrease over time as recurrent viremia and new infections should decline.

Staff Recommendation. Hold Open.

Issue 6: Integrated Substance Use Disorder Treatment Program Expansion

Governor’s Budget. The Governor proposes \$126.6 million General Fund and 310 positions in 2022-23 (increasing to \$163 million and 418 positions annually in 2023-24) to expand and modify the Integrated Substance Use Disorder Treatment Program (ISUDTP) in four key ways:

- First, the proposal extends assessment to all inmates, and—when necessary—treatment and release planning services, as originally intended by CDCR when the program was established.
- Second, the proposal adds to the types of treatment available through ISUDTP. Specifically, it would provide a new aftercare program to inmates who have completed treatment but remain incarcerated and additional programs for inmates who are not improving or are worsening following treatment.
- Third, the proposal makes various modifications to existing ISUDTP services. For example, it would shorten from 12 months to 9 months the duration of certain cognitive behavioral therapy (CBT) programs to allow the department to serve more inmates.
- Finally, the department plans to modify the way it assesses inmates for SUD treatment. For example, to assess inmates more rapidly, the department plans to use the American Society of Addiction Medicine (ASAM) Co-Triage—a condensed version of the full ASAM diagnostic tool currently used.

According to the administration, it plans to adjust the level of resources for ISUDTP annually based on changes in the inmate population beginning in 2023-24.

Panelists.

- Lisa Heintz, Director, Legislation and Special Projects, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst’s Office

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

A report from the National Drug Intelligence Center estimated that the cost to society for drug use was \$193 billion in 2007, a substantial portion of which—\$113 billion—was associated with drug related crime, including criminal justice system costs and costs borne by victims of crime¹⁵. The same report showed that the cost of treating drug use (including health costs, hospitalizations, and government specialty treatment) was estimated to be \$14.6 billion, a fraction of these overall societal costs. It is estimated that the cost to society has increased significantly since the 2007 report, given the growing costs of prescription drug misuse.

¹⁵ <https://www.hsd1.org/?abstract&did=4814>

The National Institute on Drug Abuse (NIDA) at the National Institutes for Health (NIH) emphasizes the use of comprehensive substance use disorder (SUD) treatment programs for incarcerated individuals. Comprehensive programs include medication-assisted treatment (MAT), behavioral therapies, and other supportive services during and after incarceration¹⁶. Numerous studies have demonstrated the effectiveness of such programs at reducing SUD and related health issues and at reducing recidivism rates¹⁷.

Before 2016, California prisons did not use any MAT for inmates with opioid use disorder. Senate Bill 843 (Committee on Budget and Fiscal Review), Chapter 33, Statutes of 2016, required CDCR, under the direction of the Undersecretary of Health Care Services, to create a three-year MAT pilot program at one or more institutions. CDCR worked with CCHCS to develop a MAT pilot program within the California Institution for Men (CIM) that started on January 1, 2017. On September 5, 2017, an MAT program opened at the California Institution for Women (CIW).

Upon analysis of U.S. and California overdose death rates in prisons, the three court experts in the *Plata* litigation recommended the expansion of a statewide MAT program to treat SUD. In October 2018, the federal receiver for California's Correctional Health Care Services (CCHCS), Clark Kelso announced a plan for comprehensive substance use disorder treatment (SUDT), including MAT, to reduce the substantial number of patients within CDCR who have SUD.

The 2019-20 Budget Act provided \$71 million from the General Fund and 280 positions (increasing to \$165 million and 431 position in 2021-22 and ongoing) for CDCR to implement an Integrated Substance Use Disorder Treatment Program (ISUDTP). When fully implemented, the program is intended to provide a continuum of care to inmates to address their SUD treatment and other rehabilitative needs. To accomplish this, ISUDTP changed the way CDCR assesses inmates' need for SUD treatment, provides SUD treatment and rehabilitation programs, and conducts the inmate release planning process. An overview of ISUDT and MAT was included as part of the Committee's Overview of the 2019-20 Budget¹⁸.

At the time ISUDTP was established, CDCR indicated that its goal was to make the program available to all inmates in need of treatment upon full implementation. In its current phase of implementation, ISUDTP targets inmates who (1) are entering prison having already started MAT, (2) have a history of SUD-related hospitalizations or overdoses, or (3) are within 15 to 18 months of release from prison. The level of resources initially provided in the 2019-20 budget for this phase of the implementation was based on the estimated number inmates in this target population. However, the overall level of resources has generally not been adjusted each year since then to account for changes in the target population.

¹⁶ <https://nida.nih.gov/publications/drugfacts/criminal-justice>; <https://nida.nih.gov/publications/principles-drug-abuse-treatment-criminal-justice-populations-research-based-guide/principles>; <https://www.cdc.gov/drugoverdose/pdf/pubs/2018-evidence-based-strategies.pdf>; <https://drugpolicy.org/issues/MAT>

¹⁷ <https://pubmed.ncbi.nlm.nih.gov/24513717/>; <https://pubmed.ncbi.nlm.nih.gov/30878228/>; <https://www.samhsa.gov/medication-assisted-treatment>; <https://www.nap.edu/catalog/25310/medications-for-opioid-use-disorder-save-lives>; <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-matusecjs.pdf>

¹⁸ https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/Final_Overview_of_the_2019-20_Budget_Bill_Report.pdf

ISUDTP Changed Process for Assessing Need for SUD Treatment. Prior to ISUDTP, CDCR generally assigned inmates to SUD treatment based on whether they had a “criminogenic” need for the program—meaning the inmate’s SUD could increase their likelihood of recidivating (committing a future crime) if unaddressed through rehabilitation programs. In contrast, ISUDTP is designed to transform SUD treatment from being structured as a rehabilitation program intended to reduce recidivism into a medical program intended to reduce SUD-related deaths, emergencies, and hospitalizations. Accordingly, inmates who are part of ISUDTP are assigned to SUD treatment based on whether they are assessed to have a medical need for such treatment. To identify a medical need for SUD treatment, health care staff screen inmates for SUD with the NIDA Quick Screen. The NIDA Quick Screen consists of a series of scored questions about prior substance use. The total points accrued indicate whether a treatment plan needs to be developed to address an inmate’s need.

Treatment plans are developed utilizing the American Society of Addiction Medicine (ASAM) Criteria. The ASAM Criteria is a diagnostic tool that allows clinicians to assess various dimensions—such as the presence of other related medical and behavioral health conditions—that research has found can impact the effectiveness of SUD treatment types. By using the ASAM Criteria, medical staff can assess what treatment options are most appropriate for each patient.

ISUDTP Modified Existing Cognitive Behavioral Treatment (CBT) Programs. CBT programs are designed to help individuals change negative patterns of behavior. For example, the CBT programs CDCR offers as part of SUD treatment are intended to help individuals identify and adjust their thought processes regarding substance use to avoid future use. In addition to CBT programs designed for SUD treatment, the department offers CBT programs designed to address rehabilitative needs such as criminal thinking and anger management. As part of ISUDTP, CDCR revised and modified CBT programs in ways intended to better address inmates’ SUD treatment and rehabilitative needs. For example, the amount of SUD treatment inmates in ISUDTP receive through CBT programs is based on their level of medical need. In addition, the department began requiring the contractors who deliver CBT programs to use uniform, evidence-based curricula. CDCR also began requiring that counselors delivering CBT programs be certified Alcohol and Other Drug counselors, a requirement that was often waived before ISUDTP was implemented.

ISUDTP Expanded Availability of MAT. People who are addicted to certain substances (such as opioids or alcohol) can develop a chemical dependency. This can result in strong physical cravings, withdrawal that interferes with treatment, and/or medical complications. MAT is intended to combine SUD treatment services (such as CBT) with medications designed to reduce the likelihood of inmates relapsing while undergoing SUD treatment. Prior to 2019-20, CDCR had operated MAT pilot programs at three prisons. Under ISUDTP, MAT was made available at all prisons for inmates involved in the program. CDCR estimates that 25,000 individuals will be served with MAT annually.

Some doctors have raised concerns about the MAT component of the ISUDT program, arguing that CDCR was not taking steps to prevent the medications provided from being abused or redistributed¹⁹. However, while the types of medications provided typically prevent withdrawal

¹⁹ <https://www.sacbee.com/article251600583.html>

symptoms, they typically do not provide a narcotic effect²⁰. For example, a commonly used medication combines the opioid buprenorphine, which prevents withdrawal symptoms and reduce cravings, with naloxone, which rapidly reverses the effects of opioids. Naloxone (known under the brand name Narcan) is well-known for its effectiveness at quickly reversing opioid overdoses. CDCR is also exploring the use of injectable buprenorphine²¹. A summary of the medications commonly used for MAT is included below.



Source: NIDA²²

²⁰ <https://nida.nih.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/frequently-asked-questions/use-medications-methadone-buprenorphine-simply-replacing>

²¹ https://cchcs.ca.gov/wp-content/uploads/sites/60/TR/T49_20220201_TriAnnualReport.pdf

²² https://nida.nih.gov/sites/default/files/images/NIDA_MOUD-Infographic_1.jpg

The use of MAT is growing nationwide, including in incarcerated settings²³. A recent study comparing two jails in Massachusetts found that offering buprenorphine reduced recidivism rates by 32 percent²⁴. However, the most successful programs also include wraparound support services, as well as training and support for both medical and custody staff as the program is implemented²⁵.

ISUDTP Changed Release Planning Process. As part of ISUDTP, CDCR has taken steps to modify the release planning process to better connect inmates to programs in the community based on their assessed need. For example, for inmates in MAT near their release date, a multidisciplinary team—including nursing staff and social workers—help ensure treatment continues after their release, such as by scheduling and arranging transportation to initial health appointments, securing records, and coordinating with service providers in the community. The Administration indicated that the use of MAT has increased at the county level, and they are working on the post-release transition to county services. They are also coordinating with the implementation of the CalAIM Justice-Involved Initiative (discussed in the next item).

Initial ISUDTP Data. The number of participants in MAT and CBI are listed below, illustrating the expansion of the ISUDTP.

Workload Measure	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Q2 2021
Number of MAT participants at end of Quarter	1,152	3,564	5,137	7,275	9,386	11,250
Number of participants enrolled in CBI at end of Quarter*	997	895**	938**	3,393	4,839	6,141

*All assigned to one of the CBI Programs who have attended at least one class or completed at least one Program Packet in the past 30 days. CBI Programs include: Intensive Outpatient (ISI), Outpatient (ISO), and Life Skills (CB2).

** CBIs were paused due to COVID movement restrictions.

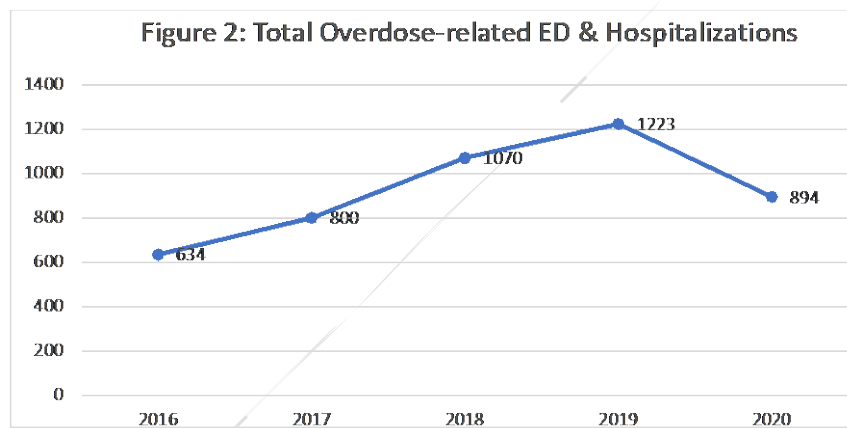
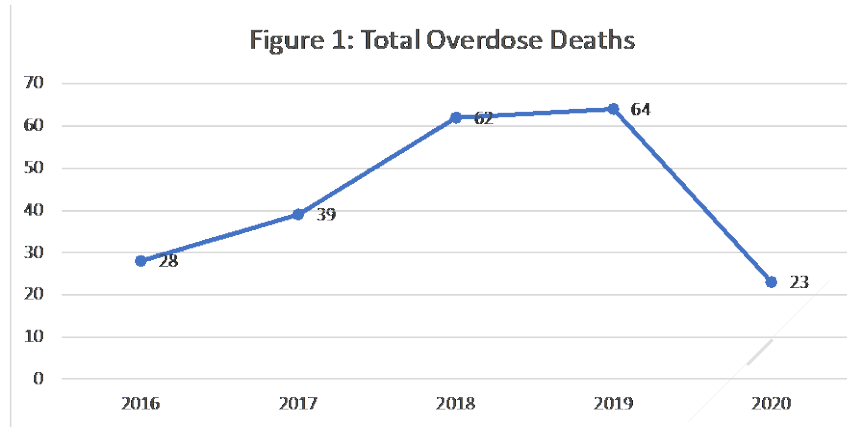
²³ <https://drugpolicy.org/press-release/2021/04/statement-hhs-new-guidelines-removing-barriers-medical-practitioners>; <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/02/26/this-state-has-figured-out-how-to-treat-drug-addicted-inmates>

²⁴ <https://www.nih.gov/news-events/news-releases/offering-buprenorphine-medication-people-opioid-use-disorder-jail-may-reduce-rearrest-reconviction>; E.A. Evans, *et al.* Recidivism and mortality after in-jail buprenorphine treatment for opioid use disorder. *Drug and Alcohol*

Independence. DOI: <https://doi.org/10.1016/j.drugalcdep.2021.109254>(link is external) (2022).

²⁵ <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-matusecjs.pdf>

According to CDCR/CCHCS, current data shows that overdose deaths have decreased by approximately 64 percent between 2019 and 2020, correlating with the expansion of ISUDTP. In addition, the department has experienced nearly a 27 percent decrease in overdose-related emergency department (ED) send-outs and hospitalizations during the same time period.



*ED = Emergency Department Send-Outs. Source: DOF and CDCR

It is impossible to attribute this decline directly or solely to the implementation of ISUDTP. However, historically, the rate of overdose deaths within CDCR/CCHCS was higher than rates of other prisons in the U.S., and was much higher than in the community. Recently, those rates have risen, while CDCR's have fallen.

ISUDTP Facility Needs. Concerns have been brought up about adequate programming and other spaces for this program. According to the CDCR Master Plan Annual Report²⁶, space surveys were conducted at all institutions to determine whether existing spaces can be converted and used for treatment, or if new space is needed. CDCR is working to identify if capital improvements are needed at any institutions.

²⁶ <https://www.cdcr.ca.gov/fpcm/wp-content/uploads/sites/184/2022/02/MasterPlanAnnualReportforCalendarYear2021.pdf>

Requested Resources. CCHCS is requesting \$162.5 million ongoing for ISUDTP. Of this amount, the major expenses include medications and materials (\$131.8 million, some of which will be funded with existing ongoing resources) and staffing (\$61.3 million). The staffing request consists largely of nurses, counselors, licensed clinical social workers, doctors, lab and pharmacy technicians, analysts, data researchers, and other support positions in various units at CDCR and CCHCS. These resources will be used to:

- Expand ISUDTP to serve the entire incarcerated population and assess all inmates upon intake to CDCR.
- Add to the types of treatment available through ISUDTP, including:
 - A new aftercare program to inmates who have completed treatment but remain incarcerated, currently estimated at 13,260 people. This includes expanding supportive housing, which was impacted by COVID-19.
 - Additional programs for inmates who are not improving or are worsening.
 - Expanding trauma screening and CBT.
 - Offering programming for individuals with between 7 and 14 months to serve, which was previously too short to participate in ISUDTP.
- Make various modifications to existing ISUDTP screening and services, including:
 - Shorten from 12 months to 9 months the duration of certain CBT programs to allow the department to serve more inmates.
 - Modify the screening tools used to assess SUD. For example, to assess inmates more rapidly, the department plans to use the ASAM Co-Triage—a condensed version of the full ASAM diagnostic tool currently used.
- Serve more program participants with MAT (estimated 25,445 per year at full implementation) and integrate MAT into primary care.
- Coordinate with the CalAIM initiative (discussed in the next item) to improve pre- and post-release transition services and continue the provision of Naloxone at release.
- Adjust some of the population-dependent program funding (such as the budget for medications for MAT) through the annual population adjustment.

LAO Comment.

Proposed Expansion and Modifications Merit Consideration. We find that the Governor’s proposal to expand ISUDTP to the entire inmate population has merit. While the effectiveness of the program is not clear, initial data show that SUD-related deaths, emergencies, and hospitalizations have decreased since the program began. Specifically, the department reports that overdose-related deaths declined by 64 percent and overdose-related emergencies and hospitalizations declined by 27 percent. We note that it is possible that other factors (such as fewer drugs entering the prisons due to pandemic-related restrictions on prison visiting) could have contributed to the reduction in overdose-related deaths, emergencies, and hospitalizations.

The department intends to contract with the University of California to evaluate various aspects of ISUDTP in the future.

In addition, we find that the proposed modifications to the program merit consideration. For example, the new services the department plans to offer will be evidence-based and therefore likely to be effective if implemented as designed. Also, by shortening the duration of certain CBT programs and employing less time intensive ASAM assessment tools, the department would be able to serve more inmates at a lower cost than otherwise.

Level of Resources Requested Likely Too High. The projection of the inmate population for 2022-23 as assumed in the Governor's budget is likely to be revised downward at the May Revision. This is notable because the overall level of funding being requested for ISUDTP is closely connected to the size of the inmate population. For example, the department estimates it needs \$114 million for medication and other materials based on its estimate that 25,445 inmates will require MAT. Similarly, estimates for the amount of resources necessary to assess inmates' SUD treatment needs assume that 3,000 inmates will be admitted each month. Accordingly, to the extent the inmate population or admissions are lower than projected, it would reduce the level resources necessary for the program under the Governor's proposal. While the administration indicates it plans to adjust the resources for ISUDTP based on changes in the inmate population beginning in 2023-24, no adjustment is currently planned for 2022-23.

Various Factors Could Limit Ability to Expand ISUDTP. There are various factors that could limit the department's ability to expand ISUDTP as proposed by the Governor. For example, it could take CDCR longer than anticipated to fill the requested 310 positions. We note that in 2020-21—one year after ISUDTP was implemented—169 of the 431 positions approved for the program in that year were vacant. (The department reports only 43 of the 431 positions are currently vacant.) To the extent there are similar difficulties in initially filling the requested positions, it would correspondingly reduce the level of funding needed for ISUDTP in the budget year.

In addition, to expand ISUDTP beyond those it is currently serving, it will be necessary for CDCR to identify adequate space within its facilities, such as classroom space for CBT programs, to accommodate all inmates in need of treatment. However, in recent years, CDCR has increasingly had difficulty having adequate classroom space. For example, last year, as part of its justification to provide inmates with laptops to facilitate remote participation in academic programs, the department noted the challenge of physical space limitations at the prisons due to a lack of sufficient classrooms. We note that the department has initiated an analysis of its space needs, which is currently in the process of being revised to account for the impacts of COVID-19-related restrictions (such as limits on the number of people who can occupy the same room). However, it is unclear when this analysis will be completed. Accordingly, it is questionable whether CDCR can accommodate the level of space necessary for the proposed expansion. To the extent that the department is unable to expand ISUDTP as envisioned by the Governor, the department would not utilize all of the proposed \$126.6 million in 2022-23 for the program. Under the proposed budget, CDCR would have discretion on how to reallocate any unused ISUDTP funds, which could include funding programs and services outside of ISUDTP.

LAO Recommendation.

Direct CDCR to Revise the Proposal at the May Revision to Reflect Updated Population Projections. Given the possibility that the inmate population—and corresponding need for ISUDTP funding—may be lower than currently projected, we recommend the Legislature direct CDCR to provide a revised ISUDTP proposal at the May Revision that is adjusted to reflect updated projections of the inmate population.

Approve Provisional Budget Language Requiring Unspent ISUDTP Funds to Revert to the General Fund. To the extent the Legislature chooses to approve additional funding for ISUDTP, we recommend the approval of provisional budget language requiring that any budgeted funds not spent on the program revert to the General Fund. This would help facilitate legislative oversight of the planned ISUDTP expansion and allow the Legislature to reallocate any unused funds towards its General Fund priorities.

Require CDCR to Provide Planned Assessment of ISUDTP. As previously mentioned, CDCR intends to contract with the University of California to evaluate various aspects of ISUDTP. We recommend that the Legislature require CDCR to provide the final evaluation report resulting from this effort. This would allow the Legislature to determine whether ISUDTP is effectively achieving its goals of reducing SUD-related deaths, emergencies, and hospitalizations.

Staff Recommendation. Hold Open.

Issue 7: CalAIM Justice-Involved Initiative

Governor's Budget. CDCR/CCHCS request \$10.4 million (\$5.2 million General Fund and \$5.2 million in reimbursement authority) in fiscal year 2022-23 and ongoing for 81.2 positions to support the implementation of the California Advancing and Innovating Medi-Cal (CalAIM) initiative. Additionally, CDCR/CCHCS request to shift \$5.5 million in 2022-23, growing to \$25.6 million in fiscal year 2026-27 and ongoing, from the General Fund to reimbursements to reflect increased federal funding that is anticipated to become available to the state for covered services under CalAIM.

Panelists.

- Lisa Heintz, Director, Legislation and Special Projects, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

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 2021-22, the state approved California Advancing and Innovating Medi-Cal (CalAIM). CalAIM is a large package of reforms intended to achieve various goals including:

- reducing health disparities by focusing attention and resources on Medi-Cal's high risk, high-need populations.
- rethinking mental health and SUD treatment service delivery and financing.
- extending federal funding opportunities.

CDCR is requesting a net increase \$10.4 million in 2022-23 (\$10.7 million increase in reimbursement authority partially offset by a reduction of \$300,000 General Fund) to implement the CalAIM Justice-Involved Initiative, which is one aspect of the Governor's overall package of CalAIM-related initiatives. (Under the proposal, the proposed net increase would remain at \$10.4 through 2026-27, however, resulting from a \$30.8 million increase in reimbursement authority partially offset by a reduction of \$20.4 million General Fund.)

These funds would be used to enhance CDCR's pre-release planning process to better connect inmates with providers of medical, mental health and SUD services upon their release from prison. Under the proposal, inmates would be provided pre-release planning services, such as medical and mental health consultations and linkages to community service providers. They could also receive medications and durable medical equipment for use post-release. In addition, California is seeking to implement Medi-Cal coverage 90 days pre-release.

CCHCS is requesting the following positions:

- 39.6 nurse positions to review patient treatment plans, provide pre-release services, and assist patients in Medi-Cal enrollment, among other duties.
- 2 Research Data Manager positions to enable data sharing across multiple state departments, program areas, and stakeholders.
- 39.6 correctional officer positions to escort patients to medical screenings or pre-release appointments.

The proposal assumes that the cost of these pre-release planning services—some of which are already performed by CDCR—would be eligible for federal reimbursement through Medi-Cal. Thus, the proposal reflects reduced General Fund support and increased reimbursement authority.

LAO Comment.

The Governor's proposal is promising as it could potentially reduce the state cost of CDCR pre-release planning services and better connect individuals released from prison to community providers of medical, mental health, and SUD treatment services. In turn, this could result in improved outcomes for these individuals. However, many of the details of the proposal have not been determined. Accordingly, we recommend that the Legislature, direct CDCR to provide answers to following questions as it considers the proposal:

- What will the average federal reimbursement rate be for the pre-release planning services?
- What specific new pre-release planning activities will take place?
- What specific pre-release planning activities that CDCR already engages in will become federally reimbursable? Are the potential savings from this fully reflected in the proposal?
- Under the new pre-release planning process, will inmates released to state parole continue to be referred to CDCR-funded mental health and SUD treatment service providers in the community?
- To the extent that such inmates will not be referred to CDCR-funded providers (or will be referred to CDCR-funded providers less frequently) will the budget for CDCR-funded services be adjusted accordingly? Alternatively, to what extent would a reduction in the number of inmates referred to CDCR-funded services allow CDCR to meet the needs of currently unserved parolees?
- To the extent that such inmates will continue to be referred to CDCR-funded providers, what steps will the administration take to maximize the amount of federal reimbursement the state receives for providing such services? (We note our office has recommended in the past that the state take steps to increase the amount of federal reimbursement it receives for mental health and SUD treatment provided to parolees.)
- How will CDCR coordinate with the appropriate state and local stakeholders to ensure the success of the proposal and a smooth transition for inmates being released from prison?

Staff Recommendation. Hold Open.

Issue 8: Returning Home Well

Governor's Budget. CDCR requests \$10.6 million General Fund annually on a three-year limited term basis (total of \$31.8 million) to continue the Returning Home Well Program.

Panelists.

- Amy Casias, Deputy Director, Division of Rehabilitative Programs, CDCR
The Department of Finance and LAO are available for questions.

Background.

In 2020-21 and 2021-22, CDCR used \$21.9 million in federal COVID-19 relief funds, as well as private philanthropic funds, to implement Returning Home Well (RHW), which provides emergency housing to individuals being released from prison without housing, and potentially into homelessness.

To quickly implement RHW, CDCR utilized existing contracts with Specialized Treatment for Optimized Programming (STOP) providers. STOP providers have historically served parolees within one year of release who need SUD treatment. In addition to that treatment, STOP services include recovery and reentry housing; assistance with enrollment in health care services; general health education; anger management and criminal thinking awareness counseling; life skills; community and family reunification; employment and educational services; and individual, family, and group counseling. Prior to RHW, CDCR did not have funding dedicated to housing for people being released, regardless of SUD needs.

In RHW, participants are initially offered 90 days of housing, but that can be extended up to 180 days if there are openings available. Parolees would also be eligible, although priority will go to people being released. RHW does not directly provide wraparound services; however, the goal is that connecting them to STOP providers and having them in stable housing will help people access those services as well, and lead to more successful transitions back into the community and reduced recidivism and homelessness.

The pandemic exacerbated the need to ensure the availability of housing for the parolee population. However, the need existed prior to the pandemic and will continue to exist in the future. Accordingly, to continue the RHW Program, CDCR is requesting \$10.6 million on a three-year limited term basis (2022-23 through 2024-25) to continue RHW and provide housing to 1,065 participants. The estimated housing need comes from the average number of incarcerated individuals reporting that they needed housing at the time of release from 2016-17 through 2018-19. Older data were used as more recent data may be skewed by the pandemic.

The Administration is requesting limited-term funding to more firmly establish the program, monitor outcomes, and gather better data on ongoing housing needs in order to better estimate the ongoing resources needed. Over the next three years, CDCR will analyze participation levels to determine average usage and length of stay, which will be used to inform a potential future budget request.

Staff Comments. The Legislature may wish to consider including specific reporting requirements on the program, based on its priorities and the information it will need to assess future budget requests. For example, the Legislature may wish to know what happens after participants leave the program, and how RHW compares to other types of transitional housing programs.

In addition, the Legislature should ensure that RHW is well-integrated with other transitional programs, including STOP and the two healthcare programs discussed earlier (ISUDTP and CalAIM).

Staff Recommendation. Hold Open.

Issue 9: California Prison Industry Authority Janitorial Expansion

Governor's Budget. CCHCS requests \$8.6 million General Fund in 2022-23, and \$10.5 million General Fund in 2023-24 and ongoing for expanded contractual services with the California Prison Industry Authority (CalPIA), increasing the ongoing resources for this program from \$59 million to \$67.6 million. The additional funding will allow CalPIA to clean newly constructed health care spaces and dental areas and increase institution supervisory staffing levels. The proposal includes 54 additional custodian supervisor positions in 2022-23, increasing to 72 in 2023-24 and ongoing.

Panelists.

- Dave Lewis, Deputy Director, Facilities Planning and Activations Management, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, LAO

Department of Finance is available to answer questions.

Background.

CalPIA Provides Goods and Services to State Departments. CalPIA is a semiautonomous state agency that provides work assignments and vocational training in a range of career fields to inmate workers and is funded primarily through the sale of the goods and services produced by these inmate workers. It is managed by the Prison Industry Board, which is composed of 11 members including the Secretary of CDCR, as well as several legislative and gubernatorial appointees. State law requires state agencies to purchase products and services offered by CalPIA whenever possible. Accordingly, most goods and services produced by CalPIA are sold to state departments. CDCR is CalPIA's largest customer, accounting for over two-thirds of all sales in 2020-21. In 2021-22, CalPIA expects to generate \$248 million in revenue from the sale of its goods and services and spend \$245 million to operate its programs.

CDCR Contracts With CalPIA to Clean Health Care Facilities. The Healthcare Facility Maintenance (HFM) program within CalPIA was initiated in 2013 on a pilot basis to clean selected inmate health care facilities. As part of the 2014-15 budget, \$15 million in ongoing General Fund support was provided to CDCR to expand the program to health care facilities at all prisons statewide. Through the HFM program, CalPIA provides cleaning supplies, trains inmate custodians to clean health care facilities, and provides oversight and auditing services. The scope and funding of the HFM program has expanded since 2014-15 (such as due to the construction of new health care facilities). The 2021-22 budget includes \$59 million to support CDCR's contract with CalPIA for the HFM program.

CalPIA Trains and Pays Inmate Workers to Clean Facilities. Cleaning health care facilities requires special care; a high standard of cleanliness; and continued sanitation of medical equipment, furniture, and spaces to eliminate the possibility of transmitting illnesses between patients. Accordingly, inmate custodians participating in the program receive the training necessary to properly clean health care facilities and obtain a health care facility cleaning certification. Inmate custodians are currently paid between \$.35 and \$1.00 per hour for their work.

(We note that inmate workers employed by CDCR to carry out other work assignments were paid an average of \$.36 per hour between February 2019 and February 2020, the most recent data readily available.)

CalPIA Also Employs Civil Service Custodians. In addition to inmate custodians, CalPIA employs state civil service staff in the custodian classification as part of the HFM program. These civil service custodians work alongside the inmate custodians. CalPIA also employs state civil service custodian supervisors to oversee both the civil service and inmate custodians. Based on recent data provided by CalPIA, the HFM program maintains an average of 1 custodian supervisor per 40 civil service and inmate custodians.

Civil service custodians and custodian supervisors in the HFM program are hired through the same process as other state-employed custodian staff. Although not required to, CalPIA generally adheres to various guidelines issued by the California Department of Human Resources (CalHR) related to custodian classifications. CalHR has initiated a project to provide new guidelines related to custodian classifications. For example, CalHR is currently in the process of developing new guidelines on the ratio of custodian supervisors to custodian staff. According to CalHR, the previous guidelines, which recommended 1 custodian supervisor to oversee between 8 and 23 custodians, have expired and are no longer in effect.

Inmate Health Care Facilities Have Been Well Maintained. According to CalPIA, internal and external audits have found that the HFM program has maintained an appropriate level of sanitation and cleanliness of CDCR's health care facilities. According to CalPIA, neither the federal Receiver (who oversees the delivery of medical care in prisons) or the Office of the Inspector General (the agency responsible evaluating medical care in prisons) have raised concerns with the services provided by the HFM program.

Increases Number of Custodian Supervisor Positions. The Governor's budget proposes 54 additional custodian supervisor positions in 2022-23 (increasing to 72 in 2023-24). The additional custodian supervisors would allow the HFM program to transition from an average ratio of 1 custodian supervisor per 40 civil service and inmate custodians to an average ratio of 1 custodian supervisor per 20 civil service and inmate custodians by 2023-24. According to CalPIA, additional custodian supervisors are necessary to (1) oversee the services in the additional health care facilities that the HFM program would service under the Governor's proposal and (2) adhere with the guidelines previously issued by CalHR—and now expired—on the ratios of supervisors to custodians. In addition, CalPIA indicates that an insufficient number of custodian supervisors has led to custodian supervisors not properly keeping inventory, not providing timely evaluations to custodians, not ensuring that the frequency of sanitation is reviewed daily, and allowing over-fraternization between civil service and inmate custodians. The Administration also indicated that additional supervisory support could help address existing staff retention issues.

LAO Comment.

Expansion Reasonable, but Additional Supervisors Appear Unnecessary. Given the quality of the services provided by HFM to date, we find the proposal to expand the contract to include additional health care facilities reasonable. However, the proposal to change the ratio of custodian supervisors

to civil service and inmate custodians appears unnecessary. While CalPIA indicates that the custodian supervisors are necessary to address various problems they have identified (such as providing timely evaluations), the HFM program has been able to provide quality service without these additional positions. Accordingly, it appears that these problems are not significant enough to impact the quality of service provided by HFM. While we acknowledge that these problems could impact the program in other ways, CalPIA has not provided evidence that this is the case, including the extent to which the additional custodian supervisors proposed would in fact alleviate such impacts. For example, it possible that other actions—such as additional training—would address the identified problems in a more effective and efficient manner.

Lack of Detail on Break Out of Proposed Resources. We note that, at the time this analysis was being prepared, CalPIA was unable to provide information on how much of the requested resources would support the expansion of the HFM program into additional health care facilities versus changing the ratio of custodian supervisors to civil service and inmate custodians. (Based on the limited data available, we estimate that several million dollars of the requested funding is related to changing the supervisor to staff ratio.)

LAO Recommendation.

Approve Funding Associated With Expansion, Reject Funding to Change Supervisor to Staff Ratio. In view of the above, we recommend that the Legislature only approve the funding necessary for the HFM program to expand into new health care facilities and reject the funding necessary to change the ratio of custodian supervisors to civil service and inmate custodians. Additionally, we recommend that the Legislature direct CalPIA to report the amount of the requested funding associated with changing the custodian supervisor ratio separately. This would help the Legislature determine how much to reduce CDCR's budget in accordance with our recommendation.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair

Senator David Cortese

Senator Shannon Grove

Senator Josh Newman



Tuesday, February 22, 2022

9:30 a.m.

State Capitol - Room 4023

Consultant: James Hacker

ITEMS FOR VOTE ONLY

2600 California Transportation Commission.....	4
Issue 1: Implementation of SB 671	4
2660 California Department of Transportation	4
Issue 2: Continuation of Proposition 1B Administrative Support.....	4
Issue 3: Net Zero Program Transfer	5
2720 California Highway Patrol	5
Issue 4: Ongoing Support of Dispatch Radio Console System	5

ITEMS FOR DISCUSSION

0521 California State Transportation Agency	6
2660 California Department of Transportation.....	6
Issue 5: Transportation Infrastructure Package	6
Issue 6: Fuel Excise Tax Proposal.....	11
0521 California State Transportation Agency	14
Issue 7: Supply Chain Resilience and Port Infrastructure	14
Issue 8: CalSTA Operational Needs.....	17

2600 California Transportation Commission.....	19
2660 California Department of Transportation.....	19
2740 California Department of Motor Vehicles.....	19
Issue 9: Implementation of SB 339.....	19
2660 California Department of Transportation.....	20
Issue 10: Advantage Management System Augmentation.....	20
Issue 11: Information Technology Proposals.....	21
Issue 12: Fleet Replacement.....	23
Issue 13: Office of Unmanned Aircraft Systems	25
Issue 14: Pedestrian and Bicyclist Safety Investigations	26
2720 California Highway Patrol.....	27
Issue 15: Capital Outlay Proposals.....	27
Issue 16: Resources and Office Space for Swing Space	29
Issue 17: Centralized Custodian of Records Unit	30
Issue 18: Highway Violence Task Force.....	31
Issue 19: Increased Funding for Recruitment Advertising.....	33
Issue 20: IT Baseline Cost Increase	34
2740 Department of Motor Vehicles	36
Issue 21: Capital Outlay Proposals.....	36
Issue 22: Supply Chain Resilience - Commercial Drivers Licenses	37

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

2600 CALIFORNIA TRANSPORTATION COMMISSION

Issue 1: Implementation of SB 671

Governor's Budget. The budget includes \$770,000 in 2022-23, and \$320,000 per year for 2023-24 and 2024-25, for two full-time, limited-term positions and for a one-time consultant contract to implement the provisions of SB 671 (Gonzalez), Chapter 769, Statutes of 2021, relating to the development of the Clean Freight Corridor Efficiency Assessment. This request is consistent with the fiscal estimate of the bill at time of enactment.

Staff Recommendation: Approve as Budgeted.

2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 2: Continuation of Proposition 1B Administrative Support

Governor's Budget. The budget includes funding for the continuation of funding for 12 positions totaling \$1,750,000 for 2022-23 and 2023-24 to continue the administration of the workload associated with Caltrans' responsibilities under Proposition 1B. This request reduces the 2021-22 Proposition 1B staffing level of 18.5 by 6.5 positions in 2022-23 and 2023-24. This proposal provides Caltrans with resources to continue Proposition 1B implementation and administration over the next two fiscal years. The request for continued resources is necessary at this time because Proposition 1B administration is funded with limited term resources set to expire June 30, 2022.

Proposition 1B was approved on November 7, 2006 and is the transportation component of the infrastructure bond package funded by four separate general obligation proposals that provide funding for roads, schools, housing, and flood control projects. Proposition 1B dedicates \$19.925 billion to fund State Transportation Improvement Program and State Highway Operation and Protection Program projects, corridor improvements, congestion relief upgrades, public transit expansion, reduction of air pollution, and enhancements to antiterrorism security at ports. Through 2020-21, approximately \$11.7 billion has been allocated to 1,100 projects by the California Transportation Commission for transportation projects through the ten Caltrans programs. Approximately \$3.6 billion has been awarded to local agencies for 1,300 local transit projects through the Public Transportation Modernization, Improvement and Service Enhancement Account.

After fourteen years of activity, the Proposition 1B program is in a period of gradual decline. Most originally programmed projects have been allocated, a majority of projects have been completed, and only a minority of projects remain in the implementation phase. This request, which is a decrease from currently-authorized levels, reflects this.

Staff Recommendation: Approve as Budgeted.

Issue 3: Net Zero Program Transfer

Governor's Budget. The Budget includes a net-zero transfer of \$542,000 from the Division of Transportation Planning to the Division of Financial Programming.

The State Planning and Research (SPR) Program is a federal program administered by the Federal Highway Administration (FHWA) that provides funding for State transportation planning and research activities. The SPR program is authorized under federal transportation legislation, and is currently sited within the Planning Program. This intra-schedule transfer of resources will provide Programming permanent authorized funding within its budget to complete SPR workload. This is a technical change that has no impact on the level of resources budgeted for the program.

Staff Recommendation: Approve as Budgeted.

2720 CALIFORNIA HIGHWAY PATROL

Issue 4: Ongoing Support of Dispatch Radio Console System
--

Governor's Budget. The budget includes a permanent augmentation of \$596,000 and position authority from the Motor Vehicle Account (MVA) to permanently retain four limited-term positions for the ongoing support of the CHP's dispatch radio console system.

Background. The CHP operates 25 emergency dispatch communications centers (CC) and two dispatch training centers. The CHP Public Safety Dispatchers provide a critical link between officers in the field and emergency services needed to minimize the toll on human life. These mission critical communications between dispatchers and officers are facilitated through radio console systems and network of radio sites that the consoles control.

Initial funding for the four limited-term positions was approved by Budget Change Proposal 2720-103-BCP-2018-GB, in Fiscal Year 2018/19, to complete replacement of obsolete dispatch consoles in CCs statewide. This request would make those positions permanent.

Staff Recommendation: Approve as Budgeted.

ITEMS FOR DISCUSSION

0521 CALIFORNIA STATE TRANSPORTATION AGENCY 2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 5: Transportation Infrastructure Package

Governor’s Budget: The budget includes \$4.9 billion General Fund for a transportation infrastructure package. The transportation infrastructure package is comprised of the following investments in the transportation system:

- \$2 billion General Fund for statewide transit and rail projects
- \$1.25 billion General Fund for Southern California transit projects
- \$750 million General Fund for active transportation and connecting communities projects
- \$500 million for high priority grade separation projects
- \$400 million for climate adaptation projects

This proposal is split over multiple years, with a large portion accelerated into the 2021-22 budget year. This breakdown is detailed below.

Transportation Funding Allocation					
Activity	Department	Type	2021-22	2022-23	Total
Transit Infrastructure	0521-CalSTA	GF	\$3,250,000,000		\$3,250,000,000
Grade Separations	0521-CalSTA	GF	\$250,000,000		\$250,000,000
Grade Separations	2660-Caltrans	GF	\$250,000,000		\$250,000,000
Active Transportation Program	2660-Caltrans	GF	\$250,000,000	\$250,000,000	\$500,000,000
Climate Adaptation	2660-Caltrans	GF	\$300,000,000	\$100,000,000	\$400,000,000
Highways to Boulevards	2660-Caltrans	GF		\$150,000,000	\$150,000,000
Bicycle & Pedestrian Safety Investments	2660-Caltrans	GF		\$100,000,000	\$100,000,000
TOTAL			\$4,300,000,000	\$600,000,000	\$4,900,000,000

Background. California has a robust and expansive transportation system that helps to move people and goods around and through the state. This system is made up of multiple interlinking components, including state highways, local streets and roads, public transit networks (including intercity rail lines), freight rail lines, airports, and water ports. This system serves many millions of travelers per year, and costs many billions of dollars to operate and maintain. There are 250 highways on the state highway system, covering roughly 15,000 centerline miles and more than 52,000 lane miles. The system also includes 13,000 bridges, and 205,000 culverts. The local road system is significantly more expansive, with more than 160,000 centerline miles. California’s mass

transportation infrastructure consists of approximately 22,000 transit vehicles serving more than 700 transit passenger stations.

In response to the COVID-19 pandemic, the federal government passed several bills that have provided states with economic relief and helped mitigate the adverse impacts of the pandemic, including the American Rescue Plan Act (ARPA), which provided California transit agencies with \$4 billion, and the Infrastructure Investment and Jobs Act (IIJA), which authorized over \$500 billion for transportation over five years. Under the IIJA, California is estimated to receive almost \$40 billion of formula-based transportation funding for the following programs over the next five years:

- Existing surface transportation, safety, and highway performance apportioned programs
- A new bridge replacement, rehabilitation, preservation, protection, and construction program
- A new program to support the expansion of an electric vehicle charging network
- Improving public transportation options across the state

The IIJA also includes over \$100 billion in new competitive grants or augmentations to existing grant programs nationwide over five years for a variety of highway, safety, transit, intercity rail, energy, and many other projects.

Staff Comments. The proposed infrastructure package includes the structure:

- \$3.25 billion for transit infrastructure projects, with \$1.25 billion specifically set aside for projects in Southern California. The Administration has indicated that this funding would be routed through the existing Transit and Intercity Rail Capital Program (TIRCP), which would require changes to program guidelines.
- \$500 million for grade separation projects. These projects separate roadways and rail lines to improve safety and throughput on both.
- \$500 million for the Active Transportation Program, which funds planning and projects to improve bicycling and pedestrian infrastructure.
- \$150 million for a new Highways to Boulevards program, which is intended to help reconnect communities separated by highways, consistent with the California Climate Action Plan for Transportation Infrastructure.
- \$100 million for bicyclist and pedestrian safety projects, split between state and local projects.
- \$400 million for climate adaptation, to provide and planning and projects that help improve the resilience of existing transportation infrastructure.

Opportunity for Significant Infrastructure Investment. Despite the ongoing global pandemic and its disparate health and economic impacts on Californians, state revenues are growing at historic rates and the LAO estimates the state will have a \$31 billion surplus (resources in excess of current law commitments) to allocate in 2022-23. This follows a historically large budget year in 2021-22.

The strong fiscal picture, coming on the heels of a historically large budget, means the state must deal with the State Appropriations Limit (SAL), also known as the Gann Limit. The SAL limits the amount that the state may appropriate over any two year period. Using the LAO estimates of

revenues and spending under current law and policy, the state would need to allocate roughly \$12 billion to meet the constitutional requirements under SAL in 2022-23.

To meet those requirements, the Legislature could reduce taxes; issue tax rebates; make additional payments to schools and community colleges; or spend more on excluded purposes, such as infrastructure. This suggests that there is room for a significant, potentially historic investment in transportation infrastructure as part of this budget cycle.

Investments could refresh or improve existing infrastructure, but won't solve long term issues. While the budgetary resources that could be directed towards transportation infrastructure are significant, they are not unlimited - nor should they be counted upon to repeat in future years. As such, they should be treated, effectively, as one-time resources that could be used to temporarily augment existing transportation funding, rather than ongoing resources that can permanently expand the amount of funding available for transportation purposes. One-time resources such as this are better suited to advancing or completing major priority projects that would otherwise take years to complete with existing resources, refreshing existing infrastructure by replacing or improving the resilience of aging assets and reducing near-term maintenance costs, or funding initial planning and design work on potential future projects.

Significant ongoing maintenance costs, required to keep roadways and other transportation assets from deteriorating, remain an issue. However, these costs are ongoing in nature, and will not be addressed by a one-time infusion of additional funding. Additionally, the IJA directed billions in new funding for roads and highways to the state, further bolstering the state's highway investments.

However, transit agencies have identified billions of dollars in new projects to expand service and increase ridership, a portion of the state's bridges are in need of expensive replacement, and climate change is exposing the state's assets to significant and increasing risks. These kinds of investments are well-suited to one-time budgetary resources, and the identified need significantly outstrips the funding proposed here. This suggests that additional funding could be useful. However, care should be taken to identify ongoing maintenance and operating costs required for new infrastructure investments, and to develop a plan for providing the needed funding once projects are complete.

Investments an opportunity to help the state reach climate goals. Roughly a third of all emissions (and 88 percent of all transportation emissions) come from on-road sources - mostly single-passenger vehicles. The state has set a number of ambitious climate targets, and will need to find ways to significantly reduce transportation-related emissions to reach them. While recent budgets have directed significant resources towards zero-emission vehicles and other decarbonizing efforts, the majority of the vehicles in the state are fossil fueled, and will remain so for the near future.

One of the most effective ways to limit vehicle emissions is to increase alternative modes of travel, including transit and active transportation. However, California's transit system is unevenly distributed and underutilized by riders across the state. Transit agencies have identified billions of dollars in potential projects to expand service and increase ridership. Should these projects be

completed and lead to more drivers deciding to take transit instead of driving, they have the potential to reduce statewide emissions and help the state achieve its climate goals. Biking and walking have also increased in recent years, though much of the state lacks dedicated biking or pedestrian infrastructure at the scale needed to make these modes viable for day to day travel for most people in the state.

Additionally, the state has identified climate change as a major risk to existing transportation infrastructure. This includes sea level rise inundating coastal roads and bridges, more concentrated storms overwhelming existing drainage systems and washing out inland roads and bridges, and wildfire burn scars leading to increased flooding and washouts. These risks could cause billions of dollars worth of damage to state and local infrastructure if they are not addressed. A significant one-time investment of funds could be used to more thoroughly identify risks, develop plans and projects to mitigate them, and advance the delivery of those projects. Doing so, while expensive, could reduce future risks and costs related to climate change.

Transportation investments could be a significant job creator. Historically, infrastructure investments have proven to be significant job creators. The proposed funding is likely to be no different. Major investments such as those contemplated here could be helpful in driving the creation of good, high-paying jobs across the state, particularly if paired with contracting or labor requirements such as are typically connected with existing state and federal transportation funding.

Funding could be used to match significant new federal funds. As noted above, the IIJA creates several major new discretionary funding programs that will be administered as competitive grant programs. These programs could provide additional funding for major intercity rail capital projects, significant bridge replacement, climate adaptation work, or other statewide priorities. While the federal government is still in the process of developing guidance for these programs, most federal grants require some form of matching funding from state or local grant recipients. Significant state investments in these priority areas could allow the state to more effectively compete for additional federal funds, further increasing the funding available for priority investments. The state should consider whether any of the new federal programs represent priority areas for the state, and how best to target and leverage state funding to better compete for these funds.

LAO Comments. Based on our initial assessment of the Governor's proposed package, we have four main findings. First, we find that the proposed spending on transportation infrastructure could complement new federal transportation funding that the state is expected to receive from the Infrastructure Investment and Jobs Act (IIJA) that was enacted in November 2021. Second, we find that it is important to consider the merits and trade-offs of using a competitive process to allocate the transit and rail funding, particularly in terms of ensuring funding allocations are distributed equitably across all regions of the state. Third, we find that although the new proposed programs have merit, the programs could benefit from evaluations to measure the extent to which they are meeting their core objectives. Finally, we note that the proposed spending is excluded from the state appropriations limit (SAL), which limits the Legislature's flexibility to reallocate funding from the Governor's transportation infrastructure package to other purposes.

As a result of the above findings, we have several recommendations for legislative consideration. In order to maximize available funding for transportation, we recommend the Legislature consider the Governor's proposed package in context of the anticipated federal funding, to ensure state funds are used strategically—supporting legislative priorities where federal funds are not as significant or absent, as well as helping California be competitive in receiving discretionary federal grants. In addition, we recommend the Legislature consider geographic equity in transit and rail funding, to the extent that the Legislature prioritizes that some level of base funding for the projects should be provided to all regions of the state. We also recommend the Legislature require evaluations of the new proposed programs to ensure the administration provides key information regarding programmatic outcomes to inform future policy and funding decisions. Lastly, we recommend the Legislature be mindful of SAL considerations in assessing the Governor's proposed package, as any reallocations of this funding will need to be for a similarly SAL-related purpose.

Staff Recommendation: Hold Open.

Issue 6: Fuel Excise Tax Proposal

Governor’s Budget: The budget proposes to forego the annual inflation adjustment to the per gallon fuel excise tax rate scheduled to occur on July 1, 2022.

Background. The state collects excise taxes from gasoline and diesel suppliers before they deliver fuel to retail stations. In 2021-22, the tax rates are 51.1 cents per gallon on gasoline and 38.9 cents per gallon on diesel. Under current law, the state adjusts its fuel excise tax rates on July 1 every year. Each adjustment reflects a 12-month change in the California Consumer Price Index (CA CPI)—a broad measure of the prices California households pay for goods and services. For example, the rate adjustment scheduled for July 1, 2022 will reflect the 12-month change in the CA CPI from November 1, 2020 to November 1, 2021.

The administration estimates that the state’s fuel excise taxes will raise \$8.8 billion in 2021-22. Roughly two-thirds of these revenues remain at the state level. Most of this funding supports state highway maintenance, rehabilitation, and improvements, with a smaller amount supporting state programs that fund both state-led and local-led highway and transit improvements. The remaining one-third goes directly to cities and counties to support local street and road maintenance and rehabilitation. In addition to state excise tax revenues, the state receives federal fuel excise tax revenue for transportation. In recent years, the state typically has received roughly \$4 billion per year for this purpose. Roughly 60 percent remains at the state level to support state highway maintenance and rehabilitation, and 40 percent goes to local governments. The 2021 federal Infrastructure Investment and Jobs Act will provide at least an additional \$2 billion per year over five years for state and local transportation projects.

Staff Comments. The administration estimates that the 2022 inflation adjustment will be 5.6 percent. As a result, under the Governor’s proposal, the gasoline excise tax would be roughly 3 cents per gallon lower than it would be under current law. The corresponding reduction in the diesel excise tax would be roughly 2 cents per gallon. The administration estimates that the resulting revenue loss would be \$523 million. The state’s fuel excise taxes raise revenues that support local transportation projects, such as local street and road maintenance and rehabilitation, as well as local-led highway and transit projects. The Governor proposes using the State Highway Account—which funds state highway projects—to backfill money to local governments and to state programs that support local projects to offset the revenue they would lose due to the proposed tax holiday. As a result, the proposal ultimately would reduce funding for state highways but not for local programs.

Additionally, the Administration has indicated that the intent is for this to be a one-year holiday, with a “true-up” occurring as part of the 2023-24 budget. Consequently, such a holiday would result in a larger tax rate increase in 2023 than what would occur under current law.

LAO Comments.

July 1st Rate Changes Would Require Early Action. Advance notice of future tax rates is very helpful for taxpayers and tax administrators. For smooth implementation, the Department of Tax

and Fee Administration (CDTFA) generally advises state and local lawmakers to enact sales and excise tax rate changes at least 90 days before they go into effect. If necessary, CDTFA likely could implement a rate change on a shorter timetable, but passing a trailer bill in June would not leave enough time. Consequently, we advise the Legislature to treat July 1st fuel tax changes as an “early action” item to resolve in advance of the main budget package.

Slightly Lower Prices at the Pump. Available evidence suggests that lower excise taxes likely would result in lower retail prices. The exact effect on retail prices is uncertain, but most of the change in the tax rate likely would be passed through to prices at the pump. For example, if the state declined to increase the excise tax by 3 cents per gallon on July 1, retail gasoline prices likely would be 2 to 3 cents per gallon lower than if the state proceeded with the increase.

Less Revenue for Future Highway Projects. Any reduction to fuel tax rates would reduce fuel tax revenues. If the Legislature backfilled local funding as the Governor proposes, then the revenue loss primarily would reduce funding for state highway projects. The California Department of Transportation (Caltrans) plans such projects well in advance, so changes in 2022-23 revenue likely would affect funding for projects around 2024-25. Due to the State Highway Account’s estimated beginning balance of \$3 billion in 2022-23, the revenue loss would not affect projects planned for 2022-23 or 2023-24.

The amount of the revenue loss depends on the amount of the rate reduction and on the number of gallons of fuel sold in 2022-23. Like all forecasts, fuel consumption forecasts are subject to uncertainty, but the administration’s forecast—and the resulting revenue loss estimate of \$523 million—is reasonable.

Effects on Fuel Consumption Likely Modest. The administration has framed many of its January budget proposals as efforts to combat climate change. In contrast, lower fuel taxes—and the lower fuel prices that would result—likely would lead to higher fuel consumption, which in turn could lead to higher greenhouse gas (GHG) emissions and other forms of pollution. That said, two factors could make the net increase in GHG emissions modest—perhaps even zero. First, a temporary price reduction of a few cents per gallon likely would result in a small increase in fuel consumption. (For example, we estimate that the Governor’s proposal would increase gasoline consumption in 2022-23 by roughly 0.1 percent to 0.2 percent.) Second, the state’s cap-and-trade program sets a limit on GHG emissions across various sectors through 2030. If this emissions cap turns out to be binding, then any increase in GHG emissions from transportation fuels will be offset by an equal reduction in GHG emissions from other sources subject to the cap. (Other aspects of the proposal—such as changes in state highway projects—also could have environmental effects.)

Key Tradeoff: Lower Fuel Prices Now or More State Highway Projects Later? As noted above, lower fuel taxes provide benefits for fuel purchasers but reduce funding for state programs (primarily state highway projects). As a rough guideline, for every \$175 million in revenue that the state forgoes, it can “buy” a one-cent per gallon reduction in gasoline tax rates (and a 0.7-cent per gallon reduction in diesel tax rates). The key question for the Legislature is what balance to strike between reducing fuel expenses and funding state highway projects. The connection between this fundamental policy choice and the annual inflation adjustment is tenuous at best, so we

encourage the Legislature to regard the Governor's proposal as just one among a wide range of options.

Who Gains, and Who Loses? Lower fuel taxes would help people who buy fuel. Future highway projects would help people who drive on highways. These two groups overlap heavily, but there are some key differences. The people who likely would gain the most from a fuel tax holiday are those who purchase a lot of fuel relative to their use of state highways—because they mostly use surface streets, or their vehicles consume a lot of fuel, or both. The people who likely would lose the most are those who use state highways extensively but purchase relatively little fuel—because they drive electric vehicles (or fuel-efficient vehicles more generally).

One-Year Holiday Would Make 2023 Increase Steeper. A one-year tax holiday would not change 2023-24 fuel tax rates. Consequently, such a holiday would result in a larger tax rate increase in 2023 than the one scheduled under current law. For example, the Governor's proposal effectively would combine the increases currently scheduled for 2022 and 2023 into a single, larger increase in 2023. Alternatively, the Legislature could consider making these adjustments in a few steps between July 2022 and July 2023.

Staff Recommendation: Hold Open.

0521 CALIFORNIA STATE TRANSPORTATION AGENCY

Issue 7: Supply Chain Resilience and Port Infrastructure

Governor’s Budget: The budget includes \$1.2 billion one-time General Fund over two years for CalSTA to invest in port, freight and goods movement Infrastructure.

Background. California’s ports are critical to the national supply chain. The Ports of Los Angeles and Long Beach move roughly 35 percent of all containers in the United States, approximately 40 percent of U.S. imports, and 25 percent of U.S. exports through the San Pedro Bay. California’s nationally significant regional supply chains and goods movement networks have been negatively impacted by global disruptions, resulting in port congestion, extended shipping container dwell times, and bottlenecks farther downstream in the supply chain.

Both the state and federal government have recently provided funding for ports and freight rail. For example, the *2021-22 Budget Act* included (1) \$160 million in General Fund for zero-emission drayage trucks and infrastructure incentives, (2) \$280 million in General Fund for infrastructure projects at the Port of Oakland, and (3) \$250 million in federal funds to help ports offset initial impacts from COVID-19. In addition, the federal Infrastructure Investment and Jobs Act (IIJA) that was enacted in November 2021 includes \$17 billion for port infrastructure and \$5 billion for freight rail nationwide.

Staff Comments. The Administration has indicated that the requested funding would be administered by CalSTA, in collaboration with Caltrans, for port-specific high priority projects that increase goods movement capacity on rail and roadways at port terminals, including railyard expansions, new bridges, and zero-emission modernization deployment p. Of this funding, \$1.188 billion is for project funding and \$12 million is for state operations costs to support these projects. Project funding would be allocated by CalSTA with 70 percent going to infrastructure projects supporting goods movement related to The Ports of Los Angeles and Long Beach, and 30 percent to other high priority projects supporting ports and goods movement infrastructure in the rest of the state, including inland ports.

The Administration has indicated that funding would potentially prioritize projects identified in the California Freight Mobility Plan or the Emerging Major Projects Agreement between the U.S. Department of Transportation and CalSTA. However, it is unclear how projects would be selected or prioritized.

This request is part of a larger freight package, which includes funding at other departments, including:

- \$110 million for the California Workforce Development Board (CWDB) for a Goods Movement Workforce Training Campus in Southern California.
- \$40 million for the California Department of Motor Vehicles (DMV) to enhance California’s capacity to issue Commercial Driver’s Licenses (CDLs).

- \$30 million for the Governor’s Office of Business and Economic Development (GO-Biz) to provide funding for operational and process improvements at ports, which includes improving data connectivity and enhancing goods movement.

LAO Comments.

Proposal Addresses Long-Term Capacity Issues. Many of the projects that this proposal would fund will take years to implement. This is in part because infrastructure projects are costly, time-intensive, and often require multiple phases of work to complete. Therefore, port improvement projects are intended to address long-term capacity issues—expanding the ability of ports and related goods movement infrastructure to move a greater number of containers than currently. In addition, these port infrastructure projects could have other benefits, such as reductions in greenhouse gas (GHG) emissions through the electrification of port vehicles and equipment. While these goals may be worthwhile, it is important to recognize that such infrastructure projects will not address the more immediate issues with the current supply chain disruptions, such as delays in goods movement, stalled ships near ports, and insufficient space for containers at ports.

Proposal Lacks Key Details. This proposal would create a new program intended to fund projects that meet certain goals, such as reduce GHG emissions, promote transportation equity, and reduce freight-related injuries and deaths. However, the Governor’s proposal lacks detail on how projects will be assessed and prioritized for funding. According to CalSTA, this is because additional stakeholder feedback is needed before determining funding guidelines. Such limited information on how the program will be implemented makes it difficult for the Legislature to assess whether the program is aligned with its priorities, or if additional legislative direction is warranted. For example, additional information on how this new program differs from existing programs that fund similar port, freight, and goods movement infrastructure would be helpful for the Legislature to determine whether a new program is needed. In addition, the proposal has few accountability measures and no reporting requirements, which in turn will make future legislative oversight of the program’s implementation and outcomes challenging.

Unclear Whether Geographic Allocations Reflect Needs. According to CalSTA, 70 percent of the funding is proposed to go towards projects related to the Ports of Los Angeles and Long Beach because the majority of the goods movement occurs in this region. However, it is unclear whether this split in funding is reflective of the infrastructure needs in ports, freight, and the goods movement system. For example, Los Angeles and Inland Empire projects (which include projects outside of the Ports of Los Angeles and Long Beach) constituted roughly one-third of estimated costs for projects included in the 2020 California Freight Mobility Plan, followed by the Bay Area (nearly one-third) and San Diego (about one-sixth).

Project Costs Range Widely. Costs for port, freight, and goods movement infrastructure vary significantly. For example, the 2020 California Freight Mobility Plan identified more than 300 freight projects that could be implemented in the next several years, and these project costs ranged from \$350,000 to \$6 billion, with the median cost at about \$50 million. The wide range of costs reflects how varied these projects can be, especially in regards to scale. Therefore, without a clearer

understanding of which types of projects will be prioritized, it is difficult to assess how many projects can be implemented with the proposed level of funding.

Federal Funding Anticipated, but Allocations Unclear. As discussed above, IIA includes several billions of dollars for port and freight rail infrastructure. However, the amount of funding California will be eligible for and ultimately receive currently is unclear. Further federal guidelines on allocation of funding is anticipated in the coming months. Without a clear understanding of how much funding the state is eligible for, and for what types of projects, it is difficult to ascertain how state funding can best complement federal funds and how state funds could be leveraged to maximize federal funds.

Funding Excluded From SAL. The Governor excludes the proposed spending from the SAL, as the funds would primarily support infrastructure projects. As a result, the Legislature has limited flexibility to reallocate funding from this proposal to other purposes. The Legislature would generally need to repurpose the associated funding for other SAL-related purposes, such as tax reductions or an alternative excluded expenditure.

Staff Recommendation: Hold Open.

Issue 8: CalSTA Operational Needs

Governor’s Budget: The budget includes 3.0 positions and \$1.156 million ongoing for multiple operational needs, including establishing an agency-level freight policy team, funding transportation research projects, and supporting increased rent costs.

Background. At the state level, efforts to reduce air pollution and address other environmental problems began in the 1990s with a series of legislation that mandated reductions in port-related congestion and eventually led to the PierPass program in 2005. The California Air Resources Board (CARB) accelerated targets for freight related emissions reductions after passage of Chapter 488, Statutes of 2006 (AB 32). In 2007, the federal government implemented the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The SAFETEA-LU formalized freight funding programs and requires states to develop a comprehensive freight management plan that describes the freight transportation system, evaluates performance, and includes an investment plan for improvements. In 2015, the federal government implemented the Fixing America’s Surface Transportation (FAST) Act, which requires states to develop a freight mobility plan as a condition of federal funding. Most recently, the Bipartisan Infrastructure Investment and Jobs Act (IIJA) created a new Office of Multimodal Freight Infrastructure and Policy at the U.S. Department of Transportation.

Prior to December 2021, CalSTA’s headquarters was located at the Jesse Unruh building at in downtown Sacramento California. However, this building is currently undergoing a renovation, which required CalSTA to move its headquarters and enter into a new lease agreement with increased costs.

Staff Comments. The Administration has indicated that this request has the following components:

- 1.0 Deputy Secretary for Freight Policy, 1.0 Senior Transportation Planner, 1.0 Associate Governmental Program Analyst (AGPA), and \$522,000 ongoing to establish a freight policy team that would oversee and coordinate freight policy across the state.
- \$500,000 ongoing to provide the agency with a baseline budget to conduct research projects that will inform transportation policy and support CalSTA in achieving its strategic priorities.
- \$135,000 to support increased rent costs from CalSTA’s move from the Jesse Unruh building to a new facility.

Currently, freight policy in California is fragmented, with multiple agencies involved and unclear lines of authority and responsibility. Responsibility and authority for freight transportation is spread among three departments: (1) The California Department of Transportation (Caltrans), (2) CARB, and (3) The Governor’s Office of Business and Economic Development (GO-Biz):

- Caltrans oversees the Office of Freight Planning (OFP), which is charged with development of the California Freight Mobility Plan and with all issues related to freight

transportation, such as conducting the studies and coordinating the projects funded under the California Proposition 1B bond program.

- CARB is responsible for regulating freight transportation, and Chapter 728, Statutes of 2008 (SB 375) extends its regulatory power to Regional Transportation Plans. CARB is also the authority for the Low Carbon Fuel Standard and the enforcement agency for the California Sustainable Freight Action Plan (CSFAP). The CSFAP establishes clear targets to improve freight efficiency, transition to zero-emission technologies, and increase competitiveness of California's freight system.
- GO-Biz administers the economic competitiveness portion of the CSFAP.

Under this system, there is no single point of management for the state's freight policy, and there is no formal mechanism for cooperation among the agencies and departments that have responsibility. CalSTA has been working in coordination with state and federal partners throughout the pandemic, including on issues affecting the recent supply chain disruptions. The Administration has indicated that the requested positions would help CalSTA adopt a leadership role in developing and administering freight policy across the state.

Additionally, the Administration has noted that CalSTA does not currently have a dedicated research budget. However, several departments that CalSTA either oversees or regularly works with, including Caltrans and the Air Resources Board, have significant research budgets. CalSTA has in the past partnered with these departments for research needs. CalSTA is frequently statutorily required to provide evaluations on pilot programs, task forces, and policies, where no funding is appropriated to the agency. Occasionally, CalSTA will contract with consultants to assist with evaluations, studies and reports to comply with statutory requirements. These instances have required CalSTA to obtain funding from departments to comply with statutory obligations.

Staff Recommendation: Hold Open.

2600 CALIFORNIA TRANSPORTATION COMMISSION
2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION
2740 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Issue 9: Implementation of SB 339

Governor’s Budget: The budget includes \$6,010,000 in State Highway Account (SHA) over two years and 6 two-year, limited-term positions for Caltrans to conduct the road charge revenue collection pilot authorize by Senate Bill 339 (Chapter 308, statutes of 2001, Wiener). Additionally, The Department of Motor Vehicles (DMV) requests \$171,000 SHA and 1 two-year, limited term position and the California Transportation Commission (CTC) requests \$200,000 in one-time funding to support the pilot.

Background. Senate Bill 1077 (Chapter 835, Statutes of 2014) formally started California’s study of a road charge tax system and required the California State Transportation Agency (CalSTA) to complete a statewide pilot to test the feasibility of charging a fee based on vehicle miles traveled. SB 1077 required the CTC, in consultation with CalSTA, to create a Road Usage Charge Technical Advisory Committee (TAC) to make recommendations to CalSTA on the design of the pilot study. Caltrans was tasked with implementing the pilot and providing technical support for the road charge research effort. Caltrans conducted this initial study with 5,000 vehicles over 9 months from July 2016 to March 2017. Results largely proved the feasibility of a road charge tax program, but the final report noted key areas of further research that were needed to ensure driver privacy, data security, and prevent tax fraud.

Senate Bill 339 (Wiener, Chapter 308, Statutes of 2021) was signed by the Governor on September 24, 2021 to continue the state’s exploration into the feasibility of transportation revenue from a fee charged per mile of vehicle travel (a road charge). SB 339 directs CalSTA to implement a pilot that assesses two different mileage rate options and collects actual road charge revenue into state funds. An interim report to the Legislature is due July 1, 2024, with the final report no later than December 31, 2026. The final report will evaluate the road charge collection effort and the potential of a road charge for sustainable and equitable transportation funding.

Staff Comments. The Administration has proposed implementing a pilot that includes 750 participants to create a sufficient sample size to meet the intent of SB 339 to study behavior changes caused by two separate mileage collection rate options. One group of participants would test a flat per mile rate and the other would test a variable per-mile rate, based on the fuel economy of the car being driven. Caltrans has indicated that they could perform a 50 vehicle pilot, using state vehicles and mileage meters that Caltrans already owns, but it is unlikely that this would meet the requirements of SB 339.

Staff Recommendation: Hold Open.

2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 10: Advantage Management System Augmentation

Governor’s Budget. The budget includes \$8,000,000 in one time funding from the State Highway Account to upgrade the department’s Financial Management System to a supported version of the CGI Advantage software.

Background. Caltrans implemented a commercial off-the-shelf (COTS) Enterprise Resource Planning (ERP) system, CGI Advantage v3.7, in July 2010. As a result of this approved enterprise financial management system effort, Caltrans was deferred from Financial Information System for California (FI\$Cal) with the understanding that Caltrans would be required to seek approval from the Department of FI\$Cal, if Caltrans needed to upgrade its software. Caltrans has not upgraded the system since the 2010 implementation, and the ERP vendor has released six versions of CGI Advantage during that time.

In 2018, Caltrans informed the Department of FI\$Cal that CGI Advantage v3.7 needed to be upgraded, because the system was no longer supported by the vendor and at end-of-life. FI\$Cal conducted a Fit/Gap Analysis in May 2020 and issued its conclusion in October 2020 identifying significant gaps. Caltrans and Fi\$Cal discussed migrating Caltrans onto the Fi\$Cal system in 2021.

Staff Comments. In 2021, Caltrans and Fi\$Cal determined that the onboarding process to bring Caltrans into the Fi\$Cal system would require a minimum of three years and the projected go-live date would be July 1, 2025. In the interim, Caltrans reiterated the need to upgrade Advantage to sustain its operations during the onboarding period through to the FI\$Cal go-live date. FI\$Cal acknowledged Caltrans’ complex financial management system and supported the need to upgrade CGI Advantage to sustain operations. The Administration has indicated that upgrading CGI Advantage v3.7 to version 4.x will provide the required system stability, functionality, and security to sustain Caltrans’ financial operations during the FI\$Cal onboarding period.

While this request is broadly reasonable, it should be considered in the context of other major IT efforts Caltrans is currently undertaking, which will be discussed later in this agenda.

Staff Recommendation. Hold Open.

Issue 11: Information Technology Proposals

Governor's Budget. The budget includes several IT-related proposals. These include:

- A one-time increase of \$535,000 State Highway Account to complete Project Approval Lifecycle stage 3 for the Enterprise Data Governance Technology Solution project.
- \$18,640,000 in 2022-23, \$16,749,000 in 2023-24, and \$937,000 in 2024-25 and ongoing from the State Highway Account for six permanent positions, contract resources, and equipment to increase data storage and protection.
- \$6,858,000 in 2022-23 for ten positions for Transportation System Network Replacement (TSNR) Year 2 project costs.
- \$8,251,000 in 2022-23, \$8,901,000 in 2023-24, and \$4,469,000 in 2024-25 and ongoing State Highway Account for 26 permanent positions and Traffic Operations Systems Network (TOSNet) cybersecurity enhancements.

Background. Caltrans instituted a formal enterprise data governance program beginning in late 2017, which included the Caltrans Data is Authoritative Trusted and Accessible (CTDATA) initiative. Currently, each business area develops processes and methods of data management, documentation, and sharing separately through an array of manual and automated approaches. Caltrans an enterprise-level data governance system allows Caltrans to adopt a consistent and comprehensive practice to how data is governed and managed.

Caltrans' Information Technology Program – Infrastructure Management Division is responsible for the management of Caltrans' Data Storage and Protection Program and works with Caltrans business programs to maintain adequate data storage and protection capacity to meet ongoing, routine business needs. Many parts of the department collect and/or utilize very large data files (ranging from hundreds of gigabytes to terabytes in size) that need to be organized and stored.

The federal government requires Caltrans to collect the roadway inventory information for all public roads. Caltrans must comply with federal mandates and avoid the loss of federal funding by developing an updated Transportation System Network system with the required capabilities. The current TSN does not meet federal requirements for data collection and coverage of all public roads and needs updating.

The Caltrans 2017-2022 Cybersecurity Roadmap Wave III plan calls for increased cybersecurity protections for California's critical infrastructure roadway operational components and the IT applications used to support the Department. The Caltrans TOSNet has over 20,000 Operational Technology (OT) elements that are part of the critical infrastructure and currently these OT systems do not have cybersecurity protections. Information from OT systems is relayed to the Caltrans' transportation management centers (TMC), co-managed with the California Highway Patrol, which serve as the nerve centers for highway operations throughout the state.

Staff Comment.

Enterprise Data Government: The Administration has indicated that the requested resources will fund activities to develop an IT project to determine an enterprise set of data governance and

management tools, which will be made available for all Caltrans staff to use. The implementation of this project will require additional funds in future years.

Enterprise Data Storage: Caltrans has indicated that there is no consistent funding in place to fund current data storage needs and enable annual expansion of storage and protection – program data volumes are increasing each year driven by more transportation projects and the increasing use of technology for data and image collection which results in higher density images and larger file sizes. Caltrans has indicated that the requested resources will allow for the establishment of a Storage Engineering and Data Protection Office as well as the expected data and storage growth over the next two years.

Caltrans plans to spend \$12.2 million to purchase 2.5 petabytes of storage in FY22-23 and \$11.8 million to purchase 2.3 petabytes in FY23-24. However, Caltrans anticipates costs in future years to continue the work of the office.

TSN: Caltrans previously submitted a request in 2020–21 for a one-time System Development and Implementation cost (over three years) plus annual ongoing maintenance and operations costs. The BCP was approved for Year 1 (of the TSNR Project) for \$5,423,000 using Caltrans redirected resources. While Caltrans internally redirected funds for the TSNR project in 2020–21, a project delay prevented the department from spending all of the funding on the actual project. Instead, Caltrans prioritized hiring inventory module staff and acquiring IT Infrastructure items, which includes pre-work for the project.

TOSNet: The Administration has indicated that, over the two year period of the TOSNet request, Caltrans will work with the Department of Finance and the California Department of Technology to evaluate resource utilization and outcomes related to this proposal, as well as to identify outstanding TOSNet cybersecurity resources needed. Caltrans anticipates a need for additional ongoing resources for TOSNet Cyber Security. Part of the new TOSNet design is the introduction of network access control (NAC) functionality which will address National Institute of Standards (NIST) and other state and federal cybersecurity guidelines and standards in the security domains of identify, protect, detect, respond and recover. The primary benefits of a NAC solution are network visibility, improved authentication and segmentation that enable rapid isolation of unusual acting devices before they can affect Traffic Operations statewide.

These requests, taken independently, correctly identify a number of issues with Caltrans' technological infrastructure and operations. However, they are all likely to increase out year costs. The Legislature may want to consider getting a better understanding of the expected out year costs of these proposals before acting.

Staff Recommendation: Hold Open.

Issue 12: Fleet Replacement

Governor’s Budget. The budget includes \$176,000,000 annually for 2 years from the State Highway Account (SHA) to begin replacing Caltrans’ aging fleet and to install zero emission vehicle (ZEV) infrastructure and fast fueling infrastructure to meet state mandates and regulations.

Background. Currently, Caltrans operates the largest and most diverse fleet in California with more than 12,000 vehicles ranging in size from light (8,500 Gross Vehicle Weight Rating [GVWR]) and below which includes half-ton pick-ups and sport utility vehicles; medium & heavy (over 8,500 GVWR) which includes F450s (class 4 truck) and heavy-duty diesel trucks; and off-road (over 25 horsepower) which includes diesel-fueled construction equipment. In 1993, Caltrans’ annual vehicle replacement budget was \$40,000,000. The annual vehicle replacement budget has not increased, and in 2020-21 was only able to replace 162 vehicles—substantially fewer than when the budget was first set almost thirty years ago.

Over 8,000 vehicles in the Caltrans fleet are eligible for replacement under current state fleet management guidelines, including approximately 600 vehicles that have been permanently removed from service and over three thousand vehicles with over 150,000 miles. In addition to the existing state fleet, Caltrans rents over 3,000 vehicles annually at a cost of more than \$20,000,000.

Currently, 50 percent of Caltrans’ medium and heavy-duty fleet continue to emit harmful emissions due to a lack of emission control technology which is available on newer fleets. 800 of the department’s medium and heavy-duty trucks are older than 2007 and 475 of its medium and heavy-duty trucks range in age between 2007 and 2010. These two years are significant because these were milestone years for federal particulate matter (PM) and nitrogen oxides (NOx) emission reduction requirements on heavy duty engine manufacturers.

Several existing state or local rules and regulations. These include:

- EO N-79-20, which set new statewide goals to phase out gasoline-powered cars and trucks in California, ordered CARB to develop ZEV purchase requirements for state agencies when replacing their fleets.
- CARB’s proposed Advanced Clean Fleet regulation, which is expected to be signed in 2022, will require public agencies like Caltrans to purchase ZEV when replacing their fleet (50 percent of purchases between 2024-2026 and 100 percent of purchases starting in 2027).
- Current CARB rules, including the In-Use Off-Road Diesel-Fueled Fleet rule and the Airborne Toxic Control Measure (ATCM) for Diesel PM from Portable Engines rule implement targets for emission levels that require Caltrans to replace 260 fleet units and 46 engines to meet compliance targets.
- DGS mandates outlined in SAM sections 4121.1 and 4121.9 require state agencies to prioritize the purchasing of ZEV in all vehicle categories where programmatically feasible when replacing their fleets.
- South Coast Air Quality Management District (SCAQMD) rules 1186.1 and 1196 require the purchasing of less-polluting sweepers and alternative fueled vehicles when replacing heavy-duty fleet by agencies who operate within their jurisdiction.

Staff Comments. The Administration has indicated that the requested funding would lead to the following outcomes:

- There will be 3,000 vehicles replaced over the two year period including 500-600 new ZEVs.
- Replace 91 to 106 fleet units annually to address CARB off Road rule.
- In year 1 Caltrans will install level 2 chargers at 148 locations and level 3 chargers at 15 locations. Year two expands beyond that and involves assessments and/or installations of an additional 300 level 2 chargers and 84 level 3 chargers.

It is worth noting that the requested funding would allow for the replacement of 3,000 units and the construction of several hundred ZEV charging locations. While this is an important start, Caltrans has identified 8,000 units in need of replacement, necessitating additional budget augmentations in the future. Additionally, even as Caltrans has identified the need to shift more aggressively towards ZEVs, this proposal still invests heavily in non-ZEV fleet units, which will likely remain in service for many years to come. Caltrans has indicated that the ZEV market does not necessarily provide enough zero-emission vehicles that meet Caltrans needs at a reasonable price, which necessitates the purchase of non-ZEVs. This is reasonable, but conflicts with existing goals around ZEV adoption. The Legislature may want to consider the extent to which it would like Caltrans to move faster on this front, and what the impact of doing so would be on cost or timing of fleet replacement and charging infrastructure construction.

Staff Recommendation: Hold Open.

Issue 13: Office of Unmanned Aircraft Systems

Governor’s Budget. The budget includes \$414,000 from the State Highway Account for two permanent positions, software, and ongoing training to establish the Unmanned Aircraft System (UAS) Program in the department.

Background. Unmanned Aircraft Systems (UAS) has been recognized as an innovation by the Department of Transportation, the Federal Highway Administration (FHWA), and by the California Transportation Commission as a source of savings and efficiency. Caltrans currently funds two studies through the University of California Merced and California State University, Fresno on UAS implementation at Caltrans.

Starting in 2017, the Division of Aeronautics has been overseeing Caltrans UAS operations and working on incorporating UAS technology into Caltrans business activities to improve safety, increase operational efficiency, and decrease project delivery and maintenance inspection costs. In 2019, FHWA provided seed money to support the acquisition of drones and training in the amount of \$50,000. Caltrans has begun testing the use of UAS for Surveyors, Construction Inspections, Bridge Inspections, Environmental Studies, and Maintenance.

Staff Comments. The Administration has indicated that the Division of Aeronautics is seeking to implement a real-time fleet management system/solution for its UAS Program for use by Caltrans employees (internal users) and consultants/contractors (external users) working for/or on behalf of Caltrans. This tool will: 1) allow both desktop and remote users (on a tablet or smartphone) to enter and submit their drone operations; and 2) allow the Aeronautics to track drone activities (users, drones, missions) in a relational database that will house the data and information that is being entered by users as well as data tracked by systems such as GPS. While Caltrans has yet to select a tool, the cost of a fleet management system is estimated \$60,000 for the first year and increasing along with number of UAS and operations each subsequent per year. Along with additional training software and other hardware and software associated with this technological advancement, it is estimated that \$100,000 is needed for the fleet management system.

This should be compared against potential cost savings from the adoption of UAS for certain Caltrans activities. North Region Surveys began limited UAS implementation, and reported savings of nearly \$500,000 in 2020-21. As UAS use expands across the state Caltrans expects these savings to increase. Given the potential savings from the use of UAS for certain Caltrans activities, it is reasonable to pursue wider adoption. However, this request should be considered in the context of potential cost savings, as no offsetting savings have been budgeted for. Additionally, care should be taken to ensure that security, privacy, and other concerns are addressed as UAS adoption expands.

Staff Comment: Hold Open.

Issue 14: Pedestrian and Bicyclist Safety Investigations

Governor’s Budget. The budget includes a two-year limited-term increase of 12 positions and \$2,256,000 State Highway Account funds for Pedestrian and Bicyclist Safety Investigation Programs consistent with the Federal Highway Safety Improvement Program (HSIP) and Caltrans’ Strategic Management Plan (SMP) pedestrian and bicyclist safety targets.

Background. Under the Caltrans Strategic Plan, Caltrans strives to eliminate all deaths and serious injuries on California’s roads by the year 2050. The Transportation System Network indicates pedestrian and bicyclist fatalities accounted for approximately 21 percent of traffic fatalities on the State Highway System (SHS) in California between 20014 and 2018. Available data indicate that these fatalities are trending higher in recent years.

The 2016 Pilot Pedestrian Collision Monitoring Program resulted in 129 traffic safety investigations. The 2018 Pilot Bicyclist Collision Monitoring Program resulted in 252 traffic safety investigations. These safety investigations resulted in recommended improvements, which will be implemented either by Maintenance staff or via traffic safety projects. The 2019 Pedestrian Safety Improvement Monitoring Program was released on July 31, 2020. It identified 150 locations for investigation. As of April 30, 2021, 72 of these investigations have been completed with 64 percent recommending improvements.

Staff Comments. Caltrans Traffic Operations routinely performs traffic safety investigations to determine whether improvements are needed in locations with high collision concentrations. A timely response to identified traffic safety concerns improves the safety of the public and reduce traffic fatalities, injuries and property damage collisions. Currently, there are six traffic safety programs for the state highway system. However, none of these programs specifically identify or address potential issues related to pedestrian and/or bicyclist safety.

The Administration has indicated that the requested positions would allow Caltrans to perform 400 investigations per year, helping the department to identify dangerous sections of highway and develop solutions to reduce pedestrian and bicyclist accidents. This request would allow Caltrans to pilot the creation of such a mechanism before deciding whether or not to make it a permanent part of the department’s budget. While the request is generally reasonable, the Legislature should consider whether the level of requested resources is sufficient to meet the need, particularly given the large increase in active transportation infrastructure funding contemplated elsewhere in the budget.

Staff Recommendation: Hold Open.

2720 CALIFORNIA HIGHWAY PATROL**Issue 15: Capital Outlay Proposals**

Governor's Budget. The budget includes a number of capital outlay proposals for the California Highway Patrol. These include:

- \$1,797,000 from the General Fund for the acquisition phase of the Antelope Valley Area Office Replacement.
- \$3,018,000 from the General Fund for the acquisition phase of the Barstow Area Office Replacement.
- \$2,167,000 from the General Fund for the performance criteria phase of the Gold Run Area Office Replacement.
- \$2,538,000 from the General Fund for the acquisition phase of the Los Banos Area Office Replacement.
- \$1,262,000 from the General Fund for the acquisition phase of the Porterville Area Office Replacement.
- \$1,764,000 from the General Fund for the acquisition phase of the Redding Area Office Replacement.
- \$5,476,000 from the Motor Vehicle Account for the relocation of the Tracy Area office to a new, build-to-suit facility.
- \$1,500,000 from the General Fund to identify suitable parcels for replacing up to five additional field offices and to develop studies for those sites.
- \$5,486,000 from the General Fund for the construction phase of one site of the California Highway Patrol Enhanced Radio System: Replace Tower and Vault, Phase 1 project, at Leviathan Peak.

Background. The Essential Services Building Seismic Safety Act (ESBSSA) of 1986 requires fire stations, police stations, emergency operations centers, CHP offices, sheriff's offices, and emergency communication dispatch centers be designed and constructed to minimize fire hazards and to resist the forces generated by earthquakes, gravity, and winds. The California Highway Patrol has a total of 111 offices (103 Area offices, eight Division offices). The majority of CHP offices were constructed prior to establishment of the ESBSSA of 1986.

In 2009, the CHP requested the Department of General Services (DGS) to review over 20 Area offices of various ages for issues, including seismic; ADA compliance, heating, ventilation, and air conditioning (HVAC), and roofing. Using the data developed by state engineers and engineering consultants, the CHP determined that approximately 75 of the 111 total offices (103 Area offices, eight Division offices) are seismically at-risk. Many of the identified offices are also older buildings that no longer meet the CHP's programmatic requirements.

The overall California Highway Patrol Enhanced Radio System (CHPERS) Phase I project includes the construction of a fully operational communications tower and associated support infrastructure at seven sites to ensure CHP has the radio coverage statewide needed to maintain operations.

Staff Comments. The CHP has a large portfolio of properties, many of which are aging and in need of replacement. The requested projects are generally reasonable, but the Legislature may want to consider whether the proposed mix of General Fund and Motor Vehicle Account is appropriate, or if another mix would be better.

Staff Recommendation: Hold Open.

Issue 16: Resources and Office Space for Swing Space

Governor’s Budget. The budget includes \$18.529 million in Fiscal Year (FY) 2022/23, \$12.927 million in FY 2023/24, \$9.963 million in FY 2024/25, and \$7.002 million in FY 2025/26, all from the Motor Vehicle Account, for the protection and security of the new State Capitol Swing Space and the new State Capitol Annex.

Background. Government Code section 14615(b) states the CHP has “jurisdiction over those matters related to the security of state officers, property, and occupants of state property.” As such, the CHP, Capitol Protection Section (CPS) is the primary law enforcement agency tasked with the protection of the State Capitol, Annex, State Capitol Swing Space, Capitol Park, the Legislative Office Building, and all other state buildings in the downtown Sacramento area.

Currently, the CHP’s CPS location houses both CPS and the CHP’s Dignitary Protection Section (DPS). The facility is approximately 14,791 square feet and costs approximately \$300,000 annually. They have been located at this facility since 1995.

The Department of General Services (DGS) conducted a review of the spacing requirements for CPS and DPS, along with the required additional CHP staffing necessary for the protection of the Capitol, Annex, and other state buildings in the downtown Sacramento area. It was determined that a new facility would need to be at least 44,781 square feet to accommodate the current and additional staffing.

Staff Comments. The CHP has located an available facility that would accommodate the space requirements for the additional staffing. The facility is located in the metropolitan Sacramento area and satisfies the CHP requirements with 47,514 square feet. It would cost the CHP an estimated \$2.877 million in the first year, or an increase of approximately \$2.577 million. CHP has indicated that this larger facility is necessary to house the staff and equipment needed to secure both the Capitol and the new Swing Space. Currently CHP is basing staff for Capitol and Swing Space security at both the existing CPS office and CHP headquarters.

Additionally, this request includes 10 additional uniformed positions to provide management and administration of CPS and related duties in and around the Capitol and Swing Space.

The Legislature may want to consider the extent to which the Motor Vehicle Account is the best funding source for this proposal, or whether the General Fund is more appropriate.

Staff Recommendation: Hold Open.

Issue 17: Centralized Custodian of Records Unit

Governor's Budget. The budget includes two-year limited-term funding of \$696,000 for six positions from the Motor Vehicle Account in Fiscal Year (FY) 2022/23 and FY 2023/24 to establish a centralized Custodian of Records (COR) Unit within the CHP headquarters.

Background. The CHP operates 25 regional Communication Centers staffed by 800 Public Safety Operators (PSO) and Public Safety Dispatchers. The CHP provides communication records relating to cases involving departmental employees and allied law enforcement agencies, city and county prosecutors, and defense counsel. The CHP also supports the right of the public to request communication records subject to the CPRA and Freedom of Information Act. In the current model, the CHP's 25 CCs are independently responsible for receiving, processing, and responding to requests for communication records.

AB 748 (Ting), Chapter 960, Statutes of 2018, and SB 1421 (Skinner), Chapter 988, Statutes of 20018, both increased the volume and complexity of CHP's work in responding to communication records requests. Due to the higher-level coordination and review of CPRA requests which reference SB 1421 or AB 748, the processing of these requests calls for specialized training.

Staff Comments. The CHP has indicated that the requested positions would focus on responding to communication records requests related to four of the larger metropolitan regional communications centers. These four centers have experienced a rising volume of records requests over the last several years. While the CHP has managed to handle most of the requests, two of the four centers have built up a backlog of requests, as detailed below.

Communications Center	Total Requests 2016	Total Requests 2017	Total Requests 2018	Total Requests 2019 ¹	Total Requests 2020 ^{1,2}	Current Backlog
Border	1,781	1,484	1,731	2,166	1,498	No
Golden Gate	NA ³	602 ⁴	577 ⁴	6,724	5,611	604
Los Angeles	NA ³	1,172	1,122	3,586	3,522	No
Orange County	1,588	1,871	2,206	2,720	1,345	434
Total	3,369	5,129	5,636	15,196	11,976	1,038

1 - Total includes CPRA, informal discovery, and subpoena requests.

2 - The local COR requests have decreased due to court closures as a result of COVID-19.

3 - Records have been purged.

4 - Insufficient records were kept during these periods.

CHP has indicated that the requested resources would centralize the processing of records requests for these four centers, ideally addressing the backlog while preventing it from expanding. CHP has further indicated that the two year nature of the request would allow the department to evaluate the effectiveness of the new unit before deciding whether to extend or expand the unit's resources.

Staff Recommendation: Hold Open.

Issue 18: Highway Violence Task Force

Governor’s Budget. The budget includes \$4.034 million in Fiscal Year (FY) 2022/23, \$3.314 million in FY 2023/24 and \$3.314 million in FY 2024/25, all from the General Fund, to address violent crime occurring on state highways through a Highway Violence Task Force.

Background. The primary mission of CHP is to ensure safety and enforce traffic laws on state highways and county roads in unincorporated areas. When a violent crime occurs on state highways, CHP officers in the near vicinity—who generally are on road patrol duty—get called to the scene. These officers often become the primary investigators of the crime that occurred, and lead in collecting evidence, investigating criminal offenses, and submitting associated reports. If the investigating officer needs additional support or resources, or if the investigation requires in-depth or lengthy examination to complete, CHP’s Investigative Services Unit can provide investigative support, depending on the circumstances. In response to the rising incidence of highway shootings, CHP has recently established the Highway Violence Task Force, aiming to deter highway violence and bolster investigative resources.

In recent years, the number of shootings occurring on state highways has increased. According to CHP, the number of highway shootings increased from 210 in 2019 to 471 in 2021. Shootings have increased in all CHP geographic divisions across the state, except the Northern division, which is a relatively rural area. (The operations of CHP are divided across eight geographic divisions throughout the state.) In 2021, CHP began collecting statewide data on other forms of violent crime on the state highway system, such as non-shooting homicides and thrown objects. CHP reported 355 of these types of crimes in 2021.

Staff Comments. Of the \$4 million proposed for 2022-23, \$2.2 million would support overtime costs to fund additional CHP officers on road patrol duty, particularly in locations where higher rates of violent crime are occurring. (As we discuss in more detail below, CHP is proposing to use overtime due to its high vacancy rate for uniformed officer positions.) The proposed amount also includes \$879,000 for seven Associate Governmental Program Analyst positions and \$995,000 for training, information technology (IT), and equipment to support criminal investigations.

Additionally, the use of law enforcement databases to catalogue evidence and cases utilizing Lexus/Nexus, Accurint, and the National Integrated Ballistic Information Network (NIBIN), enables investigators to link incidents and catalogue evidence. This request includes funds for use of these tools. These tools hold considerable promise, and could be useful to CHP beyond the scope of the proposed task force. However, care must be taken to ensure that privacy concerns are addressed before widely adopting these or similar technology solutions.

LAO Comments.

Modify Proposal if Addressing Highway Violence Is a Priority. To the extent that the Legislature considers highway violence a priority and wants to dedicate the same overall amount of resources as the Governor proposes, we recommend modifying the Governor’s proposal in ways to ensure

the funded activities will be most effective at meeting their objectives. Specifically, we recommend the following:

- ***Consider Funding Research-Based Alternatives.*** We recommend the Legislature consider options that research has found to be effective at reducing violent crime. For example, researchers have found that certain infrastructure modifications—such as installation of cameras or lighting—can reduce crime without requiring additional law enforcement presence. Accordingly, funding the installation of cameras on highway ramps to provide law enforcement with more resources to identify and apprehend suspects could be a more effective approach than that proposed by the Governor. In addition, these types of solutions might be more efficient alternatives compared to funding overtime, given that CHP is experiencing high rates of vacancies and is not fully staffed. In order to effectively weigh the trade-offs of different alternatives, the Legislature could request that CHP assess specific alternatives and present a modified proposal later this spring.
- ***Approve Positions and Funding for Investigative Supports.*** We recommend the Legislature approve the proposed \$879,000 for seven Associate Governmental Program Analyst positions and \$995,000 for training, IT, and equipment to support criminal investigations. As we discuss below, these additional resources could help provide additional information regarding the associated factors of highway shootings and help inform future legislative policy and funding decisions regarding the Highway Violence Task Force.
- ***Shift Fund Source to the MVA.*** We recommend the Legislature change the fund source of this proposal from the General Fund to the MVA. Given that this proposal is intended to directly benefit users of the state highway system, it would be more appropriate to use MVA for these activities. Our recommendation would “free up” \$4 million in General Fund resources in 2022-23 that the Legislature could redirect to its other priorities.
- ***Require Reporting on Prevalence and Associated Factors of Highway Violence.*** With the additional investigative support positions and resources, CHP reports it would be able to better identify suspects and their vehicles, more effectively identify crime patterns, investigate links between interrelated crimes, as well as collate and analyze crime data in real time. We recommend the Legislature require CHP to report by January 1, 2024 on the numbers and locations of highway shootings, the associated factors in these shootings, as well as the outcomes of the investigatory resources (such as the number of arrests, training provided, and the benefits of requested software and equipment). This report would allow the Legislature to determine whether future resources are needed to continue the Highway Violence Task Force after the expiration of the limited-term funding proposed.

Staff Recommendation: Hold Open.

Issue 19: Increased Funding for Recruitment Advertising

Governor’s Budget. The budget includes \$2 million annually from the Motor Vehicle Account for three years to support recruitment efforts. Funding would support the increased costs of advertising campaigns, expand the scope of recruitment efforts, and improve diversity and inclusiveness when advertising.

Background. Recruitment of law enforcement personnel has been on the decline for over seven years. Agencies have been forced to compete more fiercely for the same candidate pool. This had led to declining numbers of applicants for CHP positions. At the same time, CHP has seen a growing number of uniformed officers depart over the last several years.

In 2019, the CHP implemented the first statewide all digital marketing campaign with outstanding results, effectively reversing the national trend in recruitment. In December 2019, at the onset of the campaign, the CHP received 899 applications. The number of applications increased incrementally month over month during the campaign, which ended with 1576 applications received in June 2020.

Staff Comments. The CHP currently has 1,107 vacant uniformed positions. The department has indicated that the goal for the recruitment effort this request would fund would be 1,000 new uniformed officers for the department.

Given the high vacancy rate in the CHP, and the importance of a fully staffed CHP in ensuring the safety of the motoring public, additional effort to recruit officers is reasonable. The Legislature may want to consider whether additional efforts are warranted, and whether the Motor Vehicle Account is the appropriate fund source for those efforts.

Staff Recommendation: Hold Open.

Issue 20: IT Baseline Cost Increase

Governor’s Budget. The budget includes one-time funding of \$15 million in Fiscal Year 2022-23 from the Motor Vehicle Account to cover increased technology costs.

Background. The Department has leveraged new technologies to enhance efficiencies and better meet the needs of the public. These new technology solutions result in improved delivery of public safety and service to those who reside and travel within California. The baseline costs for these technologies include, but are not limited to, the Department’s Computer Aided Dispatch system, statewide network upgrades, statewide wireless installations, modem replacements, disaster recovery, privacy ad risk management, cyber security and threat assessment, cloud computing, and Microsoft Office 365 licensing.

Staff Comments. The table below reflects an increase of approximately \$13.3 million in baseline costs over the last decade. This amounts to approximately a 100% increase in a ten-year period. The table does not include critical updates to aging infrastructure or future projects under development, estimated to cost an additional \$1.7 million, for a total of \$15 million. The \$1.7 million will fund the modernization of the Academy infrastructure and virtualization of Division and Area offices.

Item	FY 12/13	FY 16/17	FY 21/22
Adobe Licensing	**	\$154,500.00	\$374,700.00
Cisco Software	\$466,427.69	\$825,315.25	\$1,437,496.00
CommVault	**	\$194,499.33	\$775,000.00
CDT (Formerly OTech)	\$3,202,650.16	\$5,535,203.88	\$800,000.00
F5	**	\$193,164.64	*
Ruggedized Tablets	**	\$407,374.92	*
HaiVision	\$17,577.84	\$99,556.40	\$9,000.00
Timekeeping/Scheduling (Kronos)	**	\$4,219,415.00	**
Log Rhythm SEIM	**	\$297,838.70	*
Microsoft Licensing	\$3,368,394.27	\$6,837,240.72	\$8,200,000.00
Microsoft Premium Tech Support	**	\$471,363.00	*
Netmotion	\$214,347.36	\$135,257.00	*
Network Infrastructure Upgrade & Refresh	\$190,135.23	\$1,605,395.54	\$2,416,470.00
Oracle	**	\$244,072.09	\$333,800.00
Palo Alto	**	\$133,490.64	*
PC Equipment (Hardware, Laptops, Docking Stations, Tablets)	\$3,929,538.59	\$200,646.78	\$4,000,000.00
Perceptive	**	\$453,525.50	\$20,000.00
Servers Equipment & Maintenance	\$2,002,123.65	\$1,032,120.61	\$350,700.00
Modems & Components (MDC)	**	\$231,748.36	\$65,000.00
VMWare	\$32,692.30	\$499,026.00	\$885,200.00
Cloud Computing	**	*	\$820,000.00
Cybersecurity Tools/Threat Assessment	**	*	\$2,891,800.00
Computer Aided Dispatch	**	*	\$3,346,040.00
Total	\$13,423,887.09	\$23,770,754.36	\$26,725,206.00

* Purchased under a different category

** Not purchased

While the requested resources are generally reasonable, the Motor Vehicle Account remains fiscally constrained. The Legislature may want to consider whether an alternative fund source is appropriate.

Staff Recommendation: Hold Open.

2740 DEPARTMENT OF MOTOR VEHICLES**Issue 21: Capital Outlay Proposals**

Governor's Budget. The budget includes a number of capital outlay proposals for the Department of Motor Vehicles. These include:

- \$833,000 from the General Fund (GF) to fund the preliminary plans phase (\$320,000) and the working drawing phase (\$513,000) with a two-year expiration date to complete an elevator modernization project for the DMV Headquarters (HQ) Campus in Sacramento.
- \$3,063,000 from the General Fund (GF) to fund the acquisition phase of the DMV El Centro/Brawley DMV Field Office Replacement/Commercial Drive Test Center project.
- \$1,224,000 in FY 2022-23, \$1,814,000 in FY 2023-24, and \$1,907,000 in FY 2024-25 and ongoing for a new leased Laguna Hills Field Office due to the loss of the lease at the current office.
- \$50,000 in Fiscal Year (FY) 2022-23, \$660,000 in FY 2023-24, and \$718,000 in FY 2024-25 and ongoing to consolidate and relocate the Vallejo Investigations District into one office.
- \$600,000 from the General Fund (GF) Account to perform advanced planning and identify suitable parcels to replace two field offices.

Background. The Department of Motor Vehicles currently has 172 field offices statewide. Out of these 172 field offices, DMV has determined that approximately 30 offices need an off-site replacement and another 30 may need an off-site replacement pending further research. These requests are part of an ongoing effort at DMV to address this issue.

Staff Comment. The DMV has a large portfolio of properties, many of which are aging and in need of replacement. The requested projects are generally reasonable, but the Legislature may want to consider whether the proposed mix of General Fund and Motor Vehicle Account is appropriate, or if another mix would be better.

Staff Recommendation. Hold Open.

Issue 22: Supply Chain Resilience - Commercial Drivers Licenses

Governor’s Budget. The budget includes \$40 million limited-term General Fund to expand California’s capacity to issue Commercial Driver’s Licenses (CDLs).

Background. California and the nation are facing commercial truck driver shortages, which further disrupts the supply chain. The DMV has implemented measures to mitigate the commercial truck driver shortage and keep goods moving quickly between California’s largest ports and major distribution centers. To safely and efficiently license more commercial drivers and help address the national shortage of workers in this industry, DMV has implemented Saturday commercial driving test appointments at 15 of its 23 CDL test sites, an extra testing day at select locations in late 2021, additional training for more staff to administer the tests, and redirected examiners to the areas of greatest demand to significantly expand capacity.

Staff Comments. The Administration has indicated that this funding includes \$34 million (\$3.5 million in fiscal year 2022-23 and \$10 million annually through 2025-26) to fund leasing costs to establish dedicated commercial drive test centers in the Bay Area and Northern Los Angeles County. In addition, this proposal includes one-time funding of \$6 million in 2022-23 to fund overtime on Saturdays for Licensing Registration Examiners and necessary support staff which will be directed to offices throughout the state that have appointment wait times above 30 days.

LAO Comments.

Wait Times for Commercial Drive Tests Have Increased Due to Couple of Factors. In recent years, DMV has reported an increase in wait times for individuals applying for their commercial driver’s license (CDL). For example, in 2021, applicants had to wait, on average, 36 days for a commercial drive test, compared to 22 days in 2019. However, the number of CDL applications actually decreased to 4,932 in 2020-21 from 5,064 in 2018-19. As such, the recent increase in wait times likely is more attributable to reasons other than an increase in the demand for CDLs. There appears to be two primary reasons for the increased wait times:

- ***Pandemic-Related Test Cancellations.*** DMV closed or limited field office activities several times throughout 2020 and 2021 due to the pandemic. For example, DMV canceled all drive tests statewide on December 14, 2020 due to the surge in COVID-19 cases and did not resume tests until February 1, 2021. This required previously scheduled tests to be rescheduled and delayed, increasing wait times for both applicants with previously scheduled tests as well as applicants seeking new appointments.
- ***Disruptions in Availability of Testing Locations.*** DMV has reported several disruptions with their commercial drive test locations, which has led to canceling or rescheduling appointments. Of the 23 DMV locations that administer commercial drive tests, four are dedicated commercial drive test centers, which are located in Fontana, Fresno, Gardena, and West Sacramento. While these four centers have sufficient space to accommodate large vehicles required for commercial drive tests, the other test locations frequently do not, and often have to utilize public streets and alleys as well as shared parking lots to conduct the tests. For example, the test location in Lancaster uses a subleased parking lot at a municipal stadium to conduct their test. However, DMV frequently is forced to cancel or reschedule

test appointments when the stadium needs the space for events. Such disruptions have also contributed to increased wait times for commercial drive tests.

Proposal Seems Reasonable to Address Current Issues Leading to Increased Wait Times for Commercial Drive Tests... We find that the proposal is a reasonable approach to addressing the two primary factors that have led to increased wait times. In the near term, expanding testing capacity through the use of overtime would allow the department to process the backlog of applications delayed due to pandemic-related test cancellations and disruptions at test locations. For example, funding overtime would expand the available testing slots immediately, increasing DMV's testing capacity from 5,000 tests monthly to 8,800 tests monthly for a year. In the long term, the department could stabilize testing availability and expand testing capacity by having dedicated space for commercial drive tests, instead of having to rely on frequently unavailable public or shared spaces.

...But Wait Times Could Vary Depending on Changes in Demand for CDLs. In addition to the factors described above, wait times for commercial drive tests could be impacted by changes in the number of CDL applications. For example, while the number of CDL applications are currently stable, it is possible that the demand for CDLs could increase in the coming months, due to a rising need for truck drivers to move goods. In this case, wait times could increase if the number of CDL applications increases at a pace not readily accommodated by the existing CDL testing capacity. Alternatively, the demand for CDLs could decrease due to other factors. For example, at the time of this analysis, DMV recently implemented a new federal regulation which requires CDL applicants to provide proof of driver training. This additional requirement could discourage some potential CDL applicants from applying, and therefore, possibly decrease the number of CDL applications. Continued assessment of the demand for commercial drive tests is needed to determine whether additional testing capacity is warranted beyond the time frame of this proposal. ***Motor Vehicle Account (MVA) Is More Appropriate to Support Proposed Activities.*** The state currently collects an \$83 fee from CDL applications, which is deposited into the MVA. Given that the proposed activities would directly support the department's work in processing CDLs, they should be funded through the MVA, rather than the General Fund as proposed by the Governor. Currently, the MVA is expected to be in relatively stable condition for the next couple of years to support the proposed costs.

LAO Recommendations

Shift Fund Source to MVA. The costs associated with this proposal are directly related to processing commercial drive tests, which the state collects a fee to support. Therefore, we recommend the proposal be funded through the MVA instead of the General Fund.

Require Ongoing Reporting. As discussed above, whether the increased wait times for commercial drive tests will be an ongoing or one-time issue is unclear. We recommend the Legislature require DMV to report by January 1, 2026 monthly wait times for commercial drive tests, the number of CDL applications received each month, and the number of CDL applicants served by region per month for the four years of proposed funding. Additional information on the demand for CDLs would allow the Legislature to determine whether

Staff Recommendation: Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Wednesday, February 23, 2022
1:30 p.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS.....	2
Issue 1: Combating Organized Retail Theft.....	4
5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC).....	12
Issue 2: Local Law Enforcement Gun Buyback Program Grants	12
0820 DEPARTMENT OF JUSTICE (DOJ)	18
Issue 3: Firearms Tracking and Data Systems	19
Issue 4: Task Force Program	21
Issue 5: Various Legislative Proposals.....	23
Issue 6: Special Fund Conditions	25
0690 OFFICE OF EMERGENCY SERVICES (CAL OES)	29
Issue 7: Various Staffing Proposals	33
Issue 8: Cal OES Headquarters Modernization.....	37
Issue 9: Implementing a 9-8-8 Behavioral/Mental Health Hotline	39
Issue 10: California Earthquake Early Warning System.....	41
Issue 11: Fire and Rescue Mutual Aid System.	43
Issue 12: Disaster Funding	45

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

Public Safety Package. The proposed budget includes a total of \$179 million General Fund in 2022-23 (declining to \$22.5 million annually by 2026-27) across multiple state departments to support the implementation of the Governor’s public safety package. The proposals are outlined below.

Overview of Governor’s Proposed Public Safety Package

(In Millions)

	Department	2022-23	2023-24	2024-25	2025-26	2026-27 and Ongoing
Proposals Addressing Organized Retail Theft						
Organized Retail Theft Prevention Grant Program	BSCC	\$85.0	\$85.0	\$85.0	—	—
Vertical Prosecution Grant Program	BSCC	10.0	10.0	10.0	—	—
CHP Organized Retail Crime Task Force Expansion	CHP	6.0	6.0	6.0	\$10.5	\$15.0
DOJ Organized Retail Crime Enterprises Program	DOJ	6.0	6.0	6.0	0.4	0.5
Grants to Small Business Victims of Retail Theft	GO-Biz	20.0	—	—	—	—
Proposals Addressing Firearms						
Gun Buyback Grant Program	BSCC	\$25.0	—	—	—	—
UC Firearm Violence Research Center	UC	2.0	\$2.0	\$2.0	\$2.0	\$2.0
Proposals Addressing Drug Trafficking and Other Crime						
Counterdrug Task Force Program Expansion	CMD	\$20.0	—	—	—	—
DOJ Task Force Program	DOJ	5.0	\$5.0	\$5.0	\$5.0	\$5.0
Totals		\$179.0	\$114.0	\$114.0	\$17.9	\$22.5

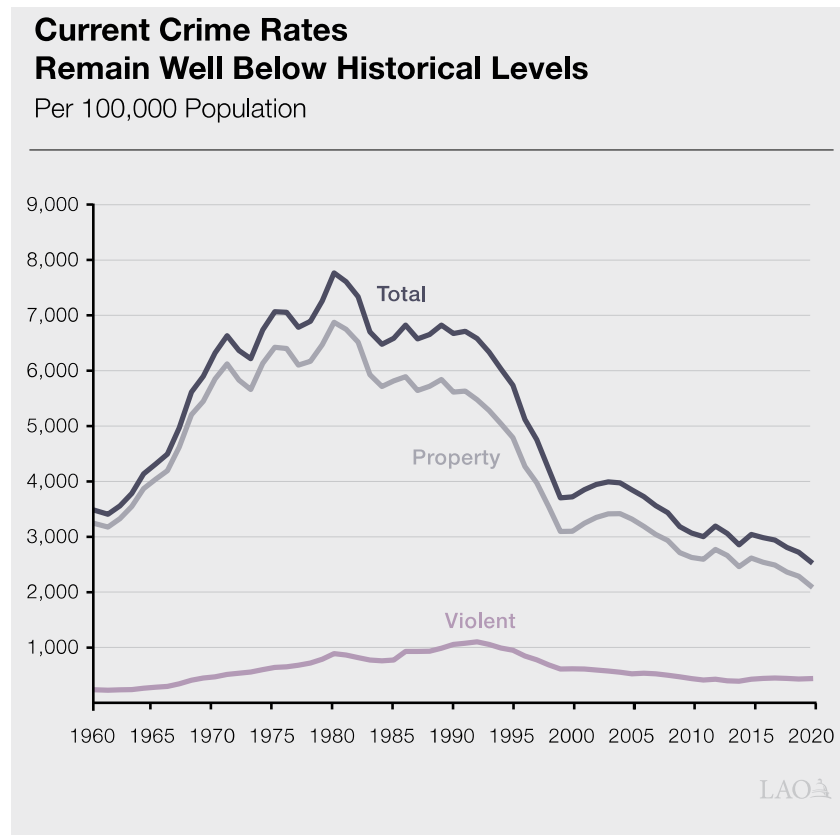
BSCC = Board of State and Community Corrections; CHP = California Highway Patrol; DOJ = Department of Justice; GO-Biz = Governor’s Office of Business and Economic Development; CMD = California Military Department

The funding directed towards GO-Biz, UC, and CMD will be discussed in other subcommittees.

Crime Trends. DOJ collects data on crimes reported to law enforcement agencies throughout California. While these data underestimate the total number of crimes that have occurred (as they do not reflect unreported and certain types of crime), they provide useful metrics for tracking changes in crime rates over time. The most recent available year of data is 2020. However, analysis by the Public Policy Institute of California (PPIC) of preliminary data on certain crimes from four large cities (Los Angeles, Oakland, San Diego, and San Francisco) covering the first ten months of 2021 gives an early indication of 2021 crime rate trends.

Crime Has Fluctuated During the Pandemic Yet Remains Well Below Historical Levels. During the initial phase of the COVID-19 pandemic, California’s total crime rate—consisting of both property and violent crime—declined by 6 percent between 2019 and 2020—from 2,724 to 2,552 crimes per 100,000 residents. While the exact causes of this decline are not clear, experts have suggested it could be associated with businesses being closed and people staying home in response to public health orders. However, preliminary 2021 data suggest that the total crime rate may be returning to pre-pandemic levels. From a historical perspective, such a potential increase

in crime is occurring in the context of a major long-term decline in crime rates. As shown below, between 1980 (when the total crime rate peaked) and 2020, the state's total crime rate declined by about 67 percent. Moreover, the property crime rate is at the lowest level ever recorded since reliable data collection started in 1960.



Increases in certain types of crimes. However, substantial increases have been noted in certain types of crime between 2019 and 2020, including:

- Motor vehicle theft (20 percent increase)
- Motor vehicle accessory (such as catalytic converters) theft (26 percent increase)
- Homicide (31 percent increase)
- Aggravated assault (9 percent increase)

These increases mirror nationwide trends. In addition, preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

Data specific to property theft and firearm violence is discussed in more detail in the following issues.

Issue 1: Combating Organized Retail Theft

Governor's Proposal. The Board of State and Community Corrections (BSCC), the California Highway Patrol (CHP), the Department of Justice (DOJ), and the Governor's Office of Business and Economic Development (GO-Biz) request \$127 million General Fund in 2022-23 and annually through 2024-25, \$10.9 million in 2025-26, and \$15.5 million in 2026-27 and ongoing for various initiatives to combat organized retail theft. Specifically, the proposal includes:

- *Organized Retail Theft Prevention Grant.* \$85 million annually through 2024-25 in grants to local law enforcement for increased presence and other efforts, administered by BSCC.
- *Vertical Prosecution Grant.* \$10 million annually through 2024-25 in grants to district attorneys (DAs) for vertical prosecutions, administered by BSCC.
- *Organized Retail Crime Taskforce.* \$6 million General Fund annually through 2024-25, \$10.5 million in 2025-26, and \$15 million in 2026-27 and ongoing for the CHP to expand and make permanent its Organized Retail Crime Taskforce.
- *Regional Task Forces and Multijurisdictional Prosecutions.* \$6 million General Fund annually through 2024-25, \$361,000 in 2025-26, and \$500,000 in 2026-27 and ongoing, for the DOJ to support regional task forces combating organized retail theft and to prosecute retail theft cases that span multiple jurisdictions.

This proposal also includes \$20 million one-time General Fund in grants to small businesses who experience thefts or crimes, administered by GO-Biz, which will not be discussed here.

Background.

Chapter 803 of 2018 (AB 1065, Jones-Sawyer) established organized retail theft as a specific crime that involves working with other people to steal merchandise with an intent to sell it, knowingly receiving or purchasing such stolen merchandise, or organizing others to engage in these activities. Depending on the circumstances of the crime, people who commit organized retail theft may be charged with other related crimes, such as burglary, robbery, receiving stolen property, fraud, or conspiracy. According to the DOJ, in 2021 there were 953 arrests (an increase of 14 percent from 2020) and 57 convictions (a decrease of 17 percent) for organized retail theft.

According to retailers, retail theft is on the rise, particularly in California and the Bay Area. CVS stated that they have experienced a 300 percent increase in retail theft since the beginning of the pandemic¹. Recent high-profile, brazen, coordinated thefts across the Bay Area have reinforced this perception, and retailers have reported concerns about increasingly violent efforts. In San Francisco, chains including Walgreens, Target, and Safeway have cited increases in shoplifting as they close stores or cut hours. Walgreens stated that the shoplifting rates at its San Francisco stores are five times the national average². City and state officials have taken steps to combat this issue, including supporting increased police presence and filing charges in several high-profile cases.

¹ <https://www.judiciary.senate.gov/imo/media/doc/Dugan%20testimony.pdf>

² <https://www.nytimes.com/2021/10/13/us/walgreens-store-closures-san-francisco.html>

However, there is limited data to verify the trends being reported by retailers, and there is no clear estimate of the scale of the problem³. The state does not collect data specific to organized retail theft (or even to retail theft in general, which may fall into several categories of crime). According to official crime statistics provided by the FBI, SFPD, and DOJ, related crimes such as shoplifting and property theft have been steadily declining for years, with a sharp drop at the beginning of the pandemic⁴. For example, DOJ data show a 29 percent decrease in shoplifting—from 226 to 161 per 100,000 residents—between 2019 and 2020⁵. Preliminary data shows an increase in larceny theft in 2021, now similar to pre-pandemic levels⁶.

Retailers claim that these official reports of theft are artificially low due to pandemic-related closures and underreporting, and that they do not reflect an increase in high-value, violent, and organized retail theft. A survey by the National Retail Federation (NRF) reports that three quarters of retailers saw an increase in organized retail crime in 2020, including increases in case value and aggression and violence⁷. According to a survey of 22 U.S. retailers, shoplifting apprehensions dropped 41.3 percent from 2019 to 2020, but essential retailers that closed few or no stores saw a rise of 7.9 percent⁸. In addition, these crimes may be underreported due to a perceived lack of consequences. However, it is difficult to assess the quality of the data being self-reported by retailers in these surveys.

Driving factors. Increased opportunities to sell goods online, persistent income inequality and economic stress, and criminal justice policy reforms have all been cited as potential driving factors. Proposition 47, which specified that commercial burglary of less than \$950 in value should be charged as a misdemeanor (unless the person has certain prior convictions), has come under particular scrutiny. However, there is no clear link between the passage of Prop 47 and property crime⁹. In addition, many other states, including Texas and South Carolina, have higher thresholds for felony theft (\$2500 and \$2000, respectively)¹⁰.

Challenges in combating retail theft. Retailers and law enforcement have outlined several challenges in combating retail theft, including:

- Lack of initial apprehension due to fears of encounters turning violent.
- Limited resources for investigations and prosecutions of retail theft, both at the local level and for larger-scale, multi-jurisdictional investigations.
- Intersection with other issues, such as income inequality and increases in other types of crimes.

Loss prevention by businesses. Individual stores typically take steps to prevent retail theft, including limiting physical access to commonly stolen items, using technology such as increased

³ <https://www.theguardian.com/us-news/2021/dec/17/explainer-california-mass-thefts-retail-policing>;

<https://www.latimes.com/business/story/2021-12-15/organized-retail-theft-crime-rate>

⁴ <https://crime-data-explorer.fr.cloud.gov/pages/explorer/crime/property-crime>; <https://www.sfchronicle.com/crime/article/Is-shoplifting-rising-in-San-Francisco-Here-s-16272907.php>

⁵ <https://lao.ca.gov/Publications/Report/4546>

⁶ <https://www.ppic.org/blog/after-decreases-in-2020-both-property-and-violent-crimes-are-up-in-2021/>

⁷ https://cdn.nrf.com/sites/default/files/2020-12/2020%20Organized%20Retail%20Crime%20Survey_0.pdf;

<https://cdn.nrf.com/sites/default/files/2021-08/2021%20National%20Retail%20Security%20Survey%20updated.pdf>

⁸ <https://hayesinternational.com/wp-content/uploads/2021/05/33rd-Annual-Retail-Theft-Survey-2021-With-Thoughts-Behind-Numbers-1.pdf>

⁹ <https://news.uci.edu/2018/03/07/proposition-47-not-responsible-for-recent-upticks-in-crime-across-california-uci-study-says/>;

https://www.ppic.org/wp-content/uploads/r_0618mbr.pdf

¹⁰ <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/22/states-can-safely-raise-their-felony-theft-thresholds-research-shows>

surveillance and or working with law enforcement to plant bait cars or goods, increasing security presence, and cooperating with law enforcement on investigations. Larger businesses and chains often make significant investments in loss prevention teams and programs, which may not be fiscally possible for small businesses.

Statewide efforts. In 2018, the Organized Retail Theft Task Force was created as a joint venture between the DOJ and the CHP with the goal of reducing organized retail theft activities (AB 1065, Jones-Sawyer, Chapter 803, Statutes of 2018). It was funded in the 2019 budget for two years, and the 2021 budget included \$5.6 million one-time General Fund for CHP and \$149,000 one-time General Fund for the DOJ. The Administration proposes to add regional seats for Sacramento and the Central Valley, in addition to the current seats for San Diego, Los Angeles, and the Bay Area. According to the Administration, the task force has conducted over 773 investigations that resulted in hundreds of arrests and nearly \$20 million in recovered merchandise.

Limiting resale opportunities. Efforts are also being made at the state level to target online marketplaces. For example, SB 301 (Skinner) would require online marketplaces to verify some information about their sellers, in order to limit the opportunity for reselling stolen goods. Similar legislation is pending at the federal level.

Proposed Resources. The Administration has proposed the following package of resources to combat retail theft:

- *Organized Retail Theft Prevention Grant Program (\$85 Million).* The Governor’s budget proposes \$85 million annually from 2022-23 through 2024-25 for the BSCC to administer a new competitive grant program to support local law enforcement agencies (including police departments, county sheriffs, and probation departments) in preventing retail theft and enforcing theft-related laws.

Proposed provisional budget language specifies that priority “shall be given to localities that do not have a designated CHP task force and that have the largest increases in theft-related crimes over a three-year period based on the most recent available data.” According to the administration, this language is intended to prioritize grant funds for law enforcement agencies in the Fresno and Sacramento areas where the Governor proposes to establish two new CHP Organized Retail Crime Task Forces (ORCTFs), as discussed further below. (ORCTFs consist of CHP officers who collaborate with local law enforcement agencies and prosecutors in specified regions to support investigation and prosecution of organized retail crime.)

The Administration has indicated that they want to provide flexibility to local governments. Grants could be used to fund activities including, but not limited to:

- Participating in ORCTFs.
- Increasing presence at retail locations.
- Supporting increased diversion and supervision of people that commit retail theft, including programs that address root causes of crime.
- Training law enforcement personnel on identifying and combatting retail theft and other organized crime committed against retail businesses.

Other details of the grants, including the scoring criteria and grant sizes, among other details, are not determined, and would be set by BSCC after the funding is approved.

- *Vertical Prosecution Grant Program (\$10 Million).* The Governor's budget proposes \$10 million annually from 2022-23 through 2024-25 for BSCC to administer a new competitive grant program for district attorneys to fund vertical prosecution of organized retail theft. Vertical prosecution is a strategy in which the same attorney is responsible for all aspects of a case from arraignment to disposition. According to the administration, funding would be prioritized for district attorney offices that have attorneys dedicated to the existing and proposed CHP ORCTFs. Although not typically applied to retail theft, the Administration believes that vertical prosecution would provide for greater consistency throughout prosecution of cases and the opportunity for attorneys to develop expertise in prosecuting organized retail theft. Other details of the grants, including the scoring criteria and grant sizes, among other details, are not determined, and would be set by BSCC after the funding is approved.
- *CHP ORCTF Expansion (\$6 Million).* In 2019, the state established three CHP ORCTFs that operate in the greater Bay Area and portions of Southern California. These three task forces are currently supported with \$5.6 million General Fund annually, which is scheduled to expire in 2026-27. The Governor's budget proposes \$6 million annually through 2024-25 (increasing to \$10.5 million in 2025-26 and \$15 million in 2026-27 and ongoing) for CHP to make the three existing ORCTFs permanent and establish two new permanent ORCTFs in the Fresno and Sacramento areas. Due to CHP's high officer vacancy rate, the proposal assumes that these new task forces will be operated by existing officers working overtime for at least three years. After that time, the new ORCTFs would be operated using dedicated staff rather than overtime.
- *DOJ Organized Retail Crime Enterprises (ORCE) Program (\$6 Million).* The Governor's budget proposes \$6 million annually from 2022-23 through 2024-25 (declining to \$500,000 annually beginning in 2026-27) for a new program to pursue ORCE investigations and prosecutions. Specifically, the proposed resources for the first three years would support 28 positions—15 positions to pursue ORCE investigations and 13 positions and legal resources to prosecute resulting ORCE cases. The ORCE investigators plan to focus on complex, multi-jurisdictional organized retail theft crime networks for fraud, tax evasion, and other white-collar crimes. These investigators would coordinate with federal, state, local, and retail partners as well as coordinate data collection and information. The annual funding after the first three years would support one sworn DOJ agent who currently participates in the existing CHP ORCTFs. (The position is currently funded with limited-term funding.)

LAO Comment.

Limited Retail Theft-Related Data Does Not Show Substantial Increases. The LAO notes that the limited data on retail theft does not appear to support a conclusion that retail theft is a significant problem in the state. Accordingly, the Legislature could choose to instead target homicide, aggravated assault, or motor vehicle-related theft, which have demonstrated significant increases

in recent years. However, some experts and retailers report observing an increase in the criminal sophistication of shoplifters and the level of brazenness and violence involved in incidents of theft. This could warrant concern even if the total number of incidents has not changed. In addition, crime rates tend to vary by region and type of crime, and statewide crime trends may not be representative of certain regions of the state. According to an analysis by PPIC, the 2020 violent crime rate in the San Joaquin Valley was more than double that in the southern and border regions, and the property crime rate in the Bay Area was nearly double that in the Sierra region. Thus, while crimes like retail theft may not be of significant concern statewide, targeting such crimes in those areas where they are of significant concern could merit legislative consideration.

Lack of Clear Objectives Makes It Difficult to Assess. The LAO notes that the plan lacks clear and specific objectives, which make it difficult for the Legislature to assess the proposals. For example, the types of criminal activities related to organized retail theft can range from two people working together to steal merchandise and return it for store credit to a criminal organization that exploits marginalized people to steal on its behalf and sells the stolen merchandise through online marketplaces. As such, there are essentially numerous ways to potentially reduce organized retail theft. However, without clear and specific objectives it is difficult to determine which of the various criminal activities related to organized retail theft to target and to identify the specific actions to pursue with limited resources. For example, if the objective is to arrest individuals engaged in basic shoplifting or organized retail theft at a low level of sophistication, the use of video surveillance cameras could be an effective use of state resources. In contrast, if the objective is to dismantle criminal organizations engaged in organized retail theft, employing complex operations to uncover individuals who are running theft rings, as opposed to those they hire or exploit to shoplift for them, could be an effective use of state resources.

Unclear How Funding Would Be Allocated and Used. Given that the Governor proposes to give significant authority to BSCC to implement the grant program proposals, it is unclear how the grant funding would be allocated. According to the administration, after the budget is enacted, BSCC would convene Executive Steering Committees—composed of board members, content area experts, practitioners, and other stakeholders—and receive public comment in order to determine how funding will be allocated. As such, it is unclear how the proposed funding would be targeted or prioritized, whether there would be minimum or maximum grant amounts for a single applicant, and what metrics or outcomes would be collected. It is also unclear how the grant programs would be administered—such as what information would be required in a grant application and the criteria that will be used to determine which applications will be approved. Without this information, it is difficult for the Legislature to determine whether the proposed funding will be allocated equitably or accountably. For example, the Legislature may want to know whether BSCC would prioritize funding for applicants who are disproportionately impacted.

Difficult to Assess Whether Programs Will Be Effective. The lack of details on how the BSCC grant funding would be allocated and used makes it difficult for the Legislature to assess whether programs are structured in the most effective manner, what outcomes could be achieved, and how likely the Governor's proposals are to be successful. The organized retail theft prevention grants to local law enforcement are competitive grants that can be used to support any activities that prevent retail theft or enforce theft-related laws. The breadth of the existing language means that there are numerous possibilities for how the money ultimately could be used. A large portion of

the funding could go to increasing law enforcement patrol of retail locations or to participate in task forces, instead of other activities such as the purchase of cameras or other technology that could achieve different outcomes and/or be a more effective use of limited-term funding.

Supplantation of Local Funding Possible. The broad budget provisional language allowing BSCC to determine most implementation details could result in the supplantation of local funding. Law enforcement agencies and district attorney offices have an incentive to investigate and prosecute certain theft crimes—particularly if there is an ongoing local surge in such crimes—as this impacts the local economy and is frequently a concern of local constituents. This means that local agencies have a strong incentive to redirect resources internally to make the investigation and prosecution of such crimes a priority—even if the state does not specifically provide resources to do so. Accordingly, any state funds that are provided to local agencies under the Governor’s proposed package might not change the amount they would otherwise spend addressing such crimes. However, it is unclear whether BSCC will take steps to avoid this, such as requiring locals to provide matching funds. While it is possible that BSCC ultimately addresses this concern upon actual implementation, specific budget language to prevent it from occurring would increase the likelihood the monies are used effectively.

CHP ORCTF Expansion Could Face Challenges. If the state is interested in targeting organized theft coordinated by criminal gangs or networks, DOJ could be a better entity than CHP to administer such task forces. This is because DOJ has existing expertise in operating dedicated task force teams as well as managing task forces that consist of federal, state, and local partners. Additionally, DOJ employs both law enforcement investigative personnel as well as attorneys who can more easily work together to successfully investigate and prosecute cases. Furthermore, CHP currently does not have the ability to dedicate full-time sworn officers to the two new ORCTFs proposed by the Governor due to a high vacancy rate. The requested funding would instead go to support overtime to pay for patrol officers to conduct increased enforcement in the initial three years. This may not be the most effective way to operate a task force as the patrol officers likely would not be able to fully focus on addressing retail theft in the same manner as full-time dedicated officers. This could then impact the outcomes that can be achieved in the near term.

Staff Comment.

Inconsistent data on the problem scope. Different retailers or retail groups have presented significantly different estimates of the overall size of organized retail theft nationwide, in California, and in the Bay Area (although in multiple cases were mistakenly citing losses to any kind of theft or fraud, including employee theft)¹¹. Some industry advocates cited numbers in the billions for the Bay Area alone, while the LA Times estimated, using numbers from the NRF surveys, that losses to organized retail crime are \$2.1 billion nationwide. If California matched nationwide averages, California’s share would be roughly \$210 million annually.

Other priorities for retailers. A recent NRF survey indicated that “mall or store violence/shooting incidents” and “cyber-related incidents” are both priorities for more retailers than “organized retail crime”¹². In addition, organized retail crime represents a small portion (roughly four percent) of

¹¹ <https://www.latimes.com/business/story/2021-12-15/organized-retail-theft-crime-rate>

¹² <https://cdn.nrf.com/sites/default/files/2021-08/2021%20National%20Retail%20Security%20Survey%20updated.pdf>

overall inventory losses experienced by retailers¹³. Other larger loss categories include employee theft, paperwork errors¹⁴, and self-checkout systems¹⁵, although NRF stopped publishing detailed breakdowns of loss sources in 2018.

Increase in violent incidents. Retailers have noted an increase in brazen and violent thefts, including using firearms. Such brazen attempts may be bolstered by understaffed stores. The Legislature could consider how to target funding to focus on violent incidents.

Increased policing and surveillance. The proposed plan does not consider equity or privacy concerns. There are no safeguards to ensure this funding is used in a way that promotes racial equity and does not reinforce existing biases and patterns of over policing. The funding may also be used to increase surveillance and tracking technology, often managed by private companies, which may raise significant privacy concerns.

Targeting resources for sustainable improvements. As noted by the LAO, it is not clear how these funds, particularly the local law enforcement grants, will be well-targeted to organized retail theft. Some of the allowable uses are also ongoing expenses, and it is unclear how expanding those resources for a limited term will result in a long-term solution to retail theft. In addition, the limited-term resources provided to the DOJ may result in recruiting challenges.

Unclear demand. It is not clear how the Administration decided on the funding levels requested here. Given that the details of the grant programs are still being decided, it is not known how many entities the Administration intends to fund and at what level.

LAO Recommendation.

Consider Highest-Priority Public Safety Goals. The LAO recommends that the Legislature first determine specific goals in regards to public safety, set clear objectives, and then ensure that proposals are well-targeted to achieve those objectives. For example, given that the total crime rate is currently quite low relative to historical standards, the Legislature may want to prioritize public safety goals not directly related to reducing crime. Such goals could include better addressing the mental health or housing needs of individuals involved with the criminal justice system. If the Legislature decides to prioritize reducing crime, the Legislature should decide whether retail theft should be the priority, as opposed to other issues with demonstrable increases such as motor vehicle-related theft, homicides and aggravated assaults, or the use of firearms in crime.

Options for Addressing Crime-Related Public Safety Goals. The LAO also presented several alternative investments (some of which are discussed in the next item). Their suggested options include:

Expanding Existing Programs. The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or

¹³ <https://nrf.com/blog/organized-retail-crime-remains-growing-threat>

¹⁴ <https://cdn.nrf.com/sites/default/files/2018-10/NRF-NRSS-Industry-Research-Survey-2018.pdf>;

<https://www.theatlantic.com/health/archive/2021/12/shoplifting-holiday-theft-panic/621108/>; <https://nrf.com/blog/organized-retail-crime-remains-growing-threat>

¹⁵ <https://www.ecrloss.com/research/self-checkout-research>

operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include DOJ resources targeting complex or organized crime, or DOJ Task Forces to focus on specific crimes in different regions.

Invest in Research-Based Options. The Legislature could consider options that research has found to be effective at reducing crime or certain types of crime. By pursuing strategies that have been found to be effective, the Legislature would increase the likelihood that its desired outcomes are achieved. Research-based options that can reduce both violent and property crime include place-based strategies (such as improving lighting in public places), interventions to reduce substance use (such as expanding access to substance use disorder treatment), and policies or programs that mitigate financial stress on people, among others.

To the extent the Legislature aims to reduce retail theft, there are a variety of research-based tools and best practices that retailers can employ—often in partnership with local law enforcement—to deter and detect theft. For example, strategically placed surveillance cameras could help deter theft by increasing the likelihood that individuals will be identified. Accordingly, the Legislature could consider funding limited-term grants to help retailers and/or local law enforcement invest in technology, infrastructure, training, or consulting services. This could help retailers better self-protect from theft and improve the sharing of crime data and evidence between retailers and law enforcement.

The Legislature could consider various other options, such as those being tried in other jurisdictions. For example, some jurisdictions operate partnerships between retailers, police, and prosecutors through which shoplifters identified by retailers are required to complete a diversion program to avoid being prosecuted with a crime. Such programs can be designed to help people understand the harm that they cause when they shoplift as well as identify factors in their life that may be contributing to their behavior. This could help reduce shoplifting—whether by individuals working alone or by “boosters” hired by organized retail crime rings to shoplift on their behalf. In another example, at least one California city has used GPS tracking devices in “bait” cars in order to reduce motor-vehicle thefts. Accordingly, the Legislature could consider funding a pilot to test these ideas.

Staff Recommendation: Hold Open.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)**Issue 2: Local Law Enforcement Gun Buyback Program Grants**

Governor’s Budget. The proposed budget includes \$25 million one-time General Fund for BSCC to implement the Local Law Enforcement Gun Buyback Grant Program.

Background. According to a 2018 survey from the Firearm Violence Research Center at UC Davis¹⁶, 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 rate¹⁷.

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 2020¹⁸. 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 access¹⁹.

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 danger to themselves or others due to mental illness, or have a restraining order against them. From 2008 to 2021, the number of such persons more than doubled—from 10,266 to 23,598 individuals. 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 31 percent increase in homicides and a 9 percent increase in aggravated assaults between 2019 and 2020. In a July 2021 analysis of violent crime in large California counties, PPIC found that the share of crimes involving guns increased for homicides, aggravated assaults, and robberies. These increases mirror nationwide trends. Preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

As shown below, total firearm-related deaths increased from 2,925 deaths in 2019 to 3,428 deaths in 2020—an increase of 503 deaths (or 17 percent). Of this amount, homicide firearm deaths increased from 1,246 deaths in 2019 to 1,731 deaths in 2020—an increase of 485 deaths (or

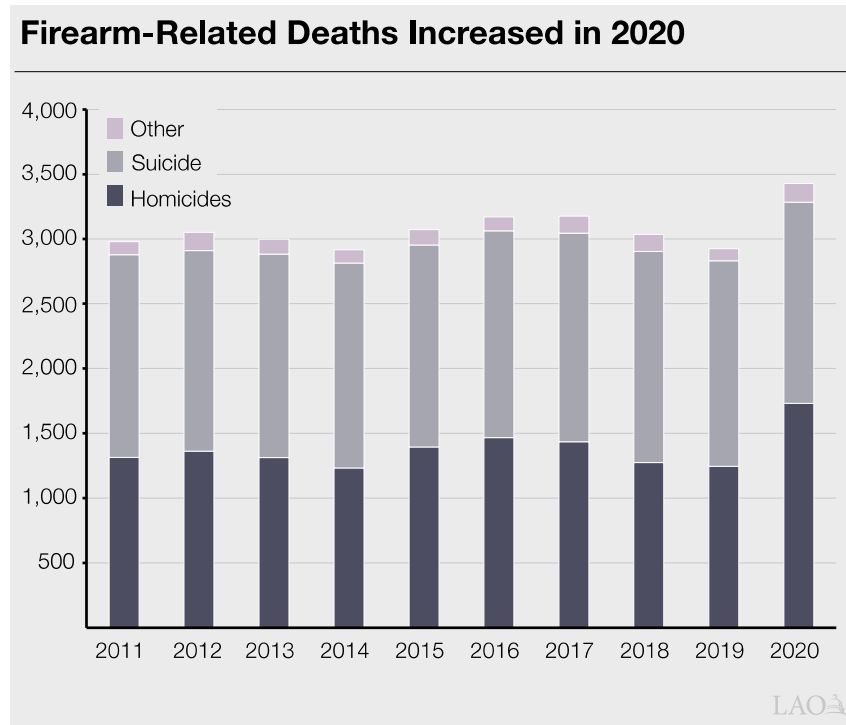
¹⁶ https://health.ucdavis.edu/vprp/UCFC/Fact_Sheets/CSaWSBrief_InjPrev_Kravitz-Wirtz.pdf

¹⁷ <https://journalistsresource.org/health/gun-buybacks-what-the-research-says/>

¹⁸ <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>

¹⁹ <https://www.nejm.org/doi/full/10.1056/NEJMSa1916744>; <https://www.latimes.com/science/la-sci-guns-20140121-story.html>

39 percent). In contrast, while there are slight fluctuations over the past decade, suicide firearm deaths were roughly the same in 2019 (1,586 deaths) and 2020 (1,552 deaths).



Gun buyback programs. In gun buyback programs, governments offer cash or other rewards in exchange for the surrender of firearms, typically with no questions asked about the origin or legality of the firearm. The goal of such programs is to reduce the number of privately-owned guns, which would hopefully lead to a reduction in gun violence and crime. For example, one of the largest gun buyback programs was instituted in Australia after automatic and semi-automatic weapons were banned in 1996. 650,000 guns were purchased, estimated to represent about 20 percent of the privately owned guns in the country. Most gun buybacks in the United States have been much smaller and are typically run by local governments.

The effectiveness of gun buyback programs has been debated²⁰. A review from 2019 concluded that gun buyback programs, combined with widescale gun violence reduction efforts, are a cost-effective method of reducing the number of weapons in the public²¹. In Australia, there was a 42 percent decrease in homicide rates and a 57 percent decrease in suicide rates in the seven years after weapon ban and buyback program. However, it is not clear how much can be attributed to the buyback versus the accompanying weapons ban and other firearm policy changes, and existing trends²². A study published in July 2021 by researchers working with the National Bureau of Economic Research, which looked at almost 25 years of data to analyze whether buybacks in 100

²⁰ <https://journals.sagepub.com/doi/10.1177/0011128708321321>

²¹ <https://link.springer.com/article/10.1007/s40719-019-00180-8>

²² <https://link.springer.com/article/10.1007/s11121-019-01064-8>; <https://www.rand.org/research/gun-policy/analysis/essays/1996-national-firearms-agreement.html>

different U.S. cities affected gun crime, found “no evidence that gun buyback programs are effective at deterring gun crime either in the short- or longer-run”²³.

There are numerous challenges in evaluating the research around gun buyback programs and extrapolating that research to this proposal. Some major issues are:

- *Unique challenges in the United States.* One of the challenges is the sheer number of privately owned guns in the United States: in 2017, the Small Arms Survey estimated that there were 393 million civilian-owned firearms in the US²⁴, representing 45.8 percent of the world’s civilian-owned guns. Gun ownership is also concentrated, so the people returning weapons for buyback may have other guns at home. A mandatory or large-scale national program, in conjunction with firearm policy changes intended to restrict the acquisition of new weapons, is unlikely to occur in the United States. Smaller-scale, local programs are less likely to have a measurable impact on gun crime.
- *Poor program design.* Some of the gun buyback programs in the United States have not been well designed. Common pitfalls include not targeting the programs to the most dangerous weapons (for example, allowing broken firearms or rifles or shotguns, which are not commonly used in crimes, to be collected), and not appropriately setting the payment levels. There have been reports of participants turning in broken or low-value weapons and using the money to buy better guns. Researchers at the Firearm Violence Research Center at UC Davis have highlighted concerns about previous, ineffective buyback programs, and offered suggestions to improve programs moving forward²⁵.
- *Different definitions of success.* Researchers from the Firearm Violence Research Center at UC Davis have indicated that gun buybacks may be valuable if they are part of a broader effort to reduce gun violence and focus on community engagement and education around gun safety²⁶. The 2019 review mentioned earlier did not focus on gun crime, instead concluding that “Gun buybacks are a cost-effective means to reduce the number of unwanted firearms in the general public and also provide a means for education regarding injury prevention. Buybacks in conjunction with other methods have been shown to be successful in reducing the number of firearms that could lead to injury and death.”

Strategies for effective gun buyback programs. Specific suggestions to improve the effectiveness of gun buyback programs include:

- *Target the types of guns.* Buybacks should be limited to the most dangerous guns, such as working guns and handguns, and/or should pay more for more dangerous weapons.
- *Provide drop off sites that are not law enforcement.* Even if amnesty is explicitly part of the program, some people may not participate if it is run by law enforcement.

²³ <https://www.nber.org/papers/w28763>

²⁴ <https://www.smallarmssurvey.org/database/global-firearms-holdings>

²⁵ <https://health.ucdavis.edu/vprp/pdf/2013/2013.11.improving-the-potential-effectiveness-of-gun-buyback-programs.pdf>

²⁶ <https://www.npr.org/2013/01/15/169439243/newtown-prompts-gun-buybacks-but-do-they-work>

- *Use the buyback to increase awareness and engagement.* The buyback should be planned as part of broader gun reduction efforts, including an emphasis on community engagement and education.
- *Set appropriate payments.* If the payments are too low, they will not incentivize people to turn in guns. If the payments are too high, people could turn in low-value guns for a profit.

Proposed resources. The Administration indicated that this program would provide \$25 million in matching grants to local agencies, providing safe-disposal opportunities to remove guns from the streets and raising awareness of gun violence. Grantees would be required to provide a cash or in-kind match of ten percent. The details of the program have not been developed further.

Other statewide investments in combating gun violence. The proposed budget also includes \$2 million ongoing for the UC Firearm Violence Research Center (in addition to \$1 million ongoing provided in the budget last year), as well as the investments in the DOJ's firearm registration and tracking systems described in the next item. The 2021 Budget included \$10.3 million to assist law enforcement in seizing weapons from persons who are prohibited from possessing them (including those in APPS), \$11 million for education and training around gun violence restraining orders, and \$200 million across three years for the California Violence Intervention and Prevention (CalVIP) Program, which provides grants aimed at violence reduction in general (not limited to guns).

Staff Comment.

Lack of detail. The Administration has not provided any details on this proposal, including:

- Basic grant information such as how large the grants will be, what entities and programs would be eligible, how applications would be reviewed and prioritized, and other details.
- Anticipated demand.
- Why this program is preferred over other investments to reduce gun violence.
- How much of the funding can be used for administration by local entities.
- How many guns are expected to be surrendered using this funding.
- What a well-targeted and effective gun buyback program looks like, and how the Administration would ensure that the funded programs follow those guidelines.

The Administration has indicated that it does not have these details available at this time and expects these details to be developed by BSCC if the funding is approved. However, the Legislature should consider how the program could be targeted to the highest need areas and the highest risk guns, and whether benefits such as education and community engagement should be expressly stated goals of the program, and if so, how to ensure they are incorporated.

Level of resources. If the programs offered \$50 per gun, a standard amount in previous programs, the funding could be used to recover roughly 500,000 guns (ignoring BSCC or local administration costs and not including the local match). This represents 2.5 percent of the guns in California. This may not be a large enough number to result in a significant change in gun crime and emphasizes the need for the program to have a targeted approach.

Reselling guns from buyback programs. The Legislature may wish to specify or limit what may be done with guns that are collected. For example, while atypical, some guns collected in buyback programs are resold²⁷.

LAO Comment.

The LAO notes similar concerns as for the previous BSCC grant proposals, including that it is not clear how funding would be allocated and used, the program does not have clear objectives, and it will be difficult to assess.

LAO Recommendations.

Potential Public Safety Goals Related to Firearms. The Legislature could consider prioritizing certain firearm-related goals based on the data presented earlier. Specifically, the Legislature could consider addressing (1) the growth in homicide firearm deaths or (2) the increase in the share of homicides, aggravated assaults, and robberies that involve firearms. Additionally, the Legislature could consider targeting the removal of firearms from armed and prohibited persons—particularly those who are prohibited due to mental illness or restraining orders. Research suggests that firearm prohibitions associated with mental illness may decrease violent crime and those associated with domestic violence restraining orders may decrease total and firearm-related intimate partner homicides.

Ensure Program is Well-Designed. If the goal of the gun buyback program is specifically to reduce firearm crime-related violence, research suggests that such programs are more effective if they require firearms be working in order to receive an incentive, prioritize the types of firearms used in crimes (such as newer firearms or semiautomatic pistols), and/or focus on the types of individuals or locations more prone to firearm violence. However, it is unclear whether BSCC will ensure the gun buyback program is structured effectively.

Options to Expand Existing Programs. The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include:

- ***Gun Violence Reduction Program to Reduce Number of Armed and Prohibited Persons.*** As previously discussed, APPS identified nearly 23,600 armed and prohibited persons as of January 2021. The 2021-22 budget provided \$10 million one-time General Fund to DOJ's Gun Violence Reduction Program for competitive grants to county sheriff's departments to reduce the number of armed and prohibited persons by seizing firearms and ammunition from them. To the extent the Legislature would like to further reduce the number of armed and prohibited persons, it could provide additional funding to the Gun Violence Reduction Program and make other law enforcement agencies (such as city police) eligible for grants.

²⁷ <https://www.theatlantic.com/politics/archive/2013/04/how-arizona-gun-buybacks-became-gun-sellbacks/315779/>

- *Firearm Removal From Individuals Immediately When They Become Prohibited.* Beginning in 2018, courts have been required to inform individuals upon conviction of a felony or certain misdemeanors that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. Courts are also required to assign probation officers to report on what offenders have done with their firearms. Probation officers are required to report to DOJ if any firearms are relinquished to ensure the APPS armed and prohibited persons list is updated. To the extent the Legislature would like to limit growth in the number of armed and prohibited persons, providing funding to local law enforcement agencies and probation departments to ensure this process is followed can be effective as firearms would be surrendered at the time of conviction.

Staff Recommendation. Hold Open.

0820 DEPARTMENT OF JUSTICE (DOJ)

Under the direction of the Attorney General, DOJ provides legal services to state and local entities, brings lawsuits to enforce public rights, and carries out various law enforcement activities. 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 the statewide criminal history database and conducts background checks required for firearm and ammunition purchase as well as other purposes.

The Governor's budget proposes \$1.2 billion to support DOJ operations in 2022-23—an increase of \$40 million (or 3.4 percent)—over the revised amount for 2021-22. About half of the proposed funding supports DOJ's Division of Legal Services, while the remainder supports the Division of Law Enforcement and the California Justice Information Services Division. Of the total amount proposed for DOJ operations in 2022-23, around one-third—\$433 million—is from the General Fund. This is an increase of \$37 million (or 9.5 percent) from the estimated 2021-22 General Fund amount.

Department of Justice Budget Summary

(Dollars in Millions)

	2020-21 Actual	2021-22 Estimated	2022-23 Proposed	Change From 2021-22	
				Amount	Percent
Legal Services	\$498	\$585	\$604	\$19	3.3%
Law Enforcement	218	307	337	30	9.9
California Justice Information Services	228	259	250	-10	-3.8
Totals	\$944	\$1,151	\$1,191	\$40	3.4%

Issue 3: Firearms Tracking and Data Systems

Governor's Budget. The proposed budget includes four proposals related to firearm tracking and data collection and management, including:

- *Firearms IT System Modernization (FITSM) Project.* \$5,188,000 Dealer Record of Sale (DROS) Special Account in 2022-23 to plan and analyze the efforts necessary to modernize the Department's firearms systems.
- *Implementation of Legislation.*
 - \$223,000 General Fund in 2022-23 and ongoing to support accelerated implementation and ongoing workload associated with tracking the sale, possession, and transfer of precursor parts in California, pursuant to Chapter 730, Statutes of 2019 (AB 879, Gipson).
 - \$2,284,000 DROS Account and 5.0 positions in 2022-23, increasing to \$3,462,000 in 2023-24, \$1,483,000 in 2024-25, \$1,017,000 in 2025-26, and \$973,000 in 2026-27 and ongoing to facilitate and maintain multiple modifications to DOJ's firearms-related systems to meet the mandates outlined in Chapter 250, Statutes of 2021 (SB 715, Portantino).
 - \$327,000 General Fund and 2.0 positions in 2022-23 and \$306,000 in 2023-24 and ongoing to analyze and report on firearms that were illegally possess, used in a crime, or suspected to have been used in a crime pursuant to Chapter 683, Statutes of 2021 (AB 1191, McCarty).

Background.

FITSM. The DOJ has 17 firearms information technology systems (see table below). These systems support the education, regulation, and enforcement actions regarding the manufacturing, sale, ownership, safety training, and transfer of firearms. Many have been implemented in a piecemeal fashion over the past four decades, largely in response to specific legislative mandates. However, this has resulted in a complicated set of databases that are not compatible and require extensive reprogramming for even minor changes. For example, this complication has delayed the implementation of Chapter 25, Statutes of 2019 (SB 94, Committee on Budget and Fiscal Review) which requires specific data on the collection of firearms from Armed and Prohibited Persons (APPS) to be reported annually.

The DOJ has begun planning to update and consolidate its firearm data systems into two systems: one external and publicly accessible and one internal DOJ-only. The 2020-21 budget included \$2.352 million in DROS funding to hire consultants to plan and analyze the modernization roadmap. The resources requested here will help continue the planning process, which is being undertaken in consultation with the Department of Technology. DOJ is requesting funding for ten positions and six external consultants in 2022-23 to support the continuation of the FITSM project.

Count	Firearms System Name
1	Automated Firearms System (AFS)
2	Dealer Record of Sale Entry System (DES)
3	Armed and Prohibited Persons System (APPS)
4	Dealer Record of Sale (DROS)
5	California Firearms Information Gateway (CFIG)
6	California Firearms Application Reporting System (CFARS)
7	Centralized List (CL)
8	Consolidated Firearms Information System (CFIS)
9	Firearms Certificate System (FCS)
10	Mental Health Reporting System (MHRS)
11	Mental Health Firearms Prohibition System (MHFPS)
12	Carry Concealed Weapon System (CCW)
13	Assault Weapon Registration (AWR)
14	California Firearms License Check (CFLC) System
15	Prohibited Applicant
16	Firearms Employment Application File (FEAF)
17	Ammo Processor

Implementation of Legislation.

AB 879 and SB 118 – Precursor parts. Ghost guns are untraceable weapons assembled from parts at home, which has allowed people to get around restrictions on buying and owning firearms. However, beginning July 1, 2022, the sale of the parts used to build ghost guns, referred to as firearm precursor parts, will become subject to many of the same regulations and restrictions as the sale of assembled firearms, per AB 879, as amended by Chapter 29, Statutes of 2020 (SB 118, Committee on Budget and Fiscal Review). The DOJ must also track related information in a database to be known as the Firearm Precursor Parts Purchase Records File. The 2020-21 and 2021-22 budgets included a total of \$14.2 million for the implementation of this program, but DOJ indicates that additional ongoing resources for the California Justice Information Services (CJIS) Division are needed.

SB 715 – Various restrictions. SB 715 (Portantino), Chapter 250, Statutes of 2021 bans the possession of semiautomatic centerfire rifles, limits the possession of firearms by a minor, prevents dealers from returning unauthorized weapons to sellers, and requires hunting licenses to be confirmed as part of the background check for people under 21. These changes require DOJ to update several data systems, implement an interagency agreement with the Department of Fish and Wildlife, and make changes related to the creation of a new crime, among other requirements. DOJ is requesting resources for both the Division of Law Enforcement (DLE) and CJIS.

AB 1191 – Firearms used in crimes. AB 1191 (McCarty), Chapter 683, Statutes of 2021 requires DOJ to analyze information already reported regarding firearms that were illegally possessed, used in a crime, or suspected to have been used in a crime, and submit an annual report to the Legislature summarizing the analysis. DOJ is requesting one position for CJIS and one positions for DLE, in addition to consultation costs with other divisions and sections within DOJ.

Staff Recommendation. Hold Open.

Issue 4: Task Force Program

Governor's Budget. The proposed budget includes \$5,000,000 General Fund in 2022-23 and ongoing to maintain DOJ oversight of collaborative law enforcement task forces statewide.

Background. The DOJ coordinates eight task forces (outlined below) that facilitate communication between local, state, and federal law enforcement agencies. The task forces are regional and focused on major crimes, including gang violence and human trafficking. DOJ helps coordinate the task forces, providing leadership, training, and supervision on major investigations. Each task force is assigned approximately 100 cases per year. The various statewide task forces exchange information related to tactics, strategies, intelligence, and emerging criminal trends. The task forces also help smaller, local law enforcement agencies with investigations that they would not have the resources to perform on their own.

Task Force	Total DOJ Cost	Description
High Impact Investigation Team (HIIT)	\$546,000.00	Focuses on criminal organizations and gang activity in Fresno, Tulare, and King Counties.
Inland Crime Allied Task Force (INCA)	\$505,000.00	Established in 1991, focuses on large-scale, transnational organized crime in the Inland Empire.
Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (LA IMPACT)	\$1,412,000.00	One of the largest task forces, with 80 sworn personnel and 15 staff. Focuses on organized crime in the LA area, with expertise in surveillance, property crimes, financial crimes, organized crime, and crimes against persons.
Los Angeles Regional Criminal Information Clearing House (LA CLEAR)	\$325,000.00	Provides intelligence and information sharing to its client law enforcement agencies in support of the Los Angeles High Intensity Drug Trafficking Area program.
California Marijuana Program (CAMP)	\$1,875,000.00	Established in 1983 to eradicate large scale illegal marijuana cultivations on public and private lands that cause deforestation, damage to wildlife habitats, pose dangers to the environment, and introduce pollutants.
Merced Area Gang and Crime Enforcement Team (MAGCET)	\$382,000.00	Established in 2015 to combat organized crime and gang violence in Merced County.
Placer County Special Investigation Unit (Placer SIU)	\$382,000.00	Established in 1987 to combat organized crime in Placer County.
San Diego Human Trafficking Task Force (SD HTTF)	\$1,009,000.00	Established in 2015 to fight human trafficking in San Diego County.
Total	\$6,436,000.00	

Currently, the task forces are funded using a combination of contributions from each member (typically covering their participant's salary and associated costs), federal grants and reimbursements, and redirection from other DOJ resources, including vacancy savings. Many of the programs are funded through Byrne Justice Assistance Grants, which are federally funded and

awarded through BSCC. DOJ has indicated that it plans to continue to apply for these funds, but that the ongoing redirection of department resources is not sustainable.

Current Funding for DOJ Task Force Program.

Year	Total DOJ Cost	Grant Funding	DOJ Redirected Funds
2021-22	\$6,436,000.00	\$2,209,040.00	\$4,226,960.00
2020-21	\$4,363,667.17	\$2,041,232.00	\$2,354,119.57
2019-20	\$4,683,486.59	\$2,151,667.00	\$2,531,819.59
2018-19	\$4,961,205.65	\$1,275,000.00	\$3,686,205.65
2017-18	\$4,123,950.84	\$1,071,638.04	\$3,052,312.80

LAO Comment.

DOJ Task Force Program Facilitates More Complex Investigations With Both Regional and Statewide Benefits. Because each agency that participates in the DOJ Task Force Program typically pays for the costs of their own participants, there is incentive to ensure each regional task force focuses on investigating those crimes that are of highest priority to all participating members—likely the most pressing and/or complex criminal issues in the region. Each task force also benefits from the different resources and expertise of each participating agency, which allows the pursuit of more complex or multi-jurisdictional cases. This collaboration allows for benefits or outcomes that may not have otherwise been achieved without great cost or if the participating agencies worked in isolation from one another. For example, a local law enforcement agency may not be able to afford to dedicate sufficient resources to pursue complex cases at the expense of more routine patrol activities. Moreover, since the state only supports DOJ’s costs associated with the task forces and not those of the participating agencies, the Governor’s proposal appears to be a cost-effective method for the state and local governments to continue addressing more complex investigations that have both regional and statewide benefits.

As noted above, the state’s share of costs related to DOJ’s Task Force Program has been supported using funding associated with vacant positions that DOJ expects will no longer be available as vacant positions are filled. To the extent the DOJ Task Force Program is a priority, ongoing General Fund resources—as proposed by the Governor—would provide a stable source of funding. For budget transparency purposes, the Legislature may want DOJ to report in budget hearings on how it would use the vacant position funding currently supporting the DOJ Task Force Program if this proposal is approved and the vacant positions are not filled as planned. If these activities are not a priority for the Legislature, it could choose to reduce DOJ’s budget accordingly.

LAO Recommendation. The LAO recommends that the Legislature consider approving the proposed \$5 million ongoing General Fund for the DOJ Task Force Program as the funding would maintain DOJ participation in its eight existing task forces. Such task forces can be cost-effective ways of targeting more complex or multi-jurisdictional criminal investigations that could have statewide benefits.

Staff Recommendation. Hold Open.

Issue 5: Various Legislative Proposals

Governor's Budget. The Governor's budget includes the following proposals to implement legislation passed in the 2021 session:

Issue	Funding	Unit
Criminal Procedure: Resentencing (AB 1540)	\$396,000 General Fund limited-term in 2022-23, decreasing to \$382,000 in 2023-24 through 2026-27, to provide legal response to appeals when criminal resentencing is denied, or a defendant claims an error occurred in resentencing, pursuant to Chapter 719, Statutes of 2021 (AB 1540, Ting).	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
Felony Murder Resentencing (SB 775)	<p>\$3,599,000 General Fund limited-term in 2022-23, and \$3,477,000 in 2023-24 through 2025-26, to address increased resentencing hearings pertaining to initial sentence enhancements pursuant to Chapter 728, Statutes of 2021 (SB 775, Becker).</p> <p>SB 775 extends certain resentencing options offered to persons who were convicted of murder under Chapter 1015, Statutes of 2018 (SB 1437, Skinner) to persons who were convicted of attempted murder or manslaughter. DOJ estimates 55 cases in FY 21-22 and 360 cases per year for FY 22-23 through 25-26.</p>	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
Resentencing to Remove Sentencing Enhancements (SB 483)	\$794,000 General Fund limited-term in 2022-23 and \$768,000 in 2023-24 to address increased resentencing hearings to reflect the elimination of certain sentencing enhancements pursuant to Chapter 728, Statutes of 2021 (SB 483, Allen).	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
Human Trafficking: Vacatur Relief for Victims (AB 262)	\$491,000 General Fund and 1.0 position in 2022-23, \$99,000 in 2023-24, and \$95,000 in 2024-25 and ongoing to update the Criminal Justice Data Exchange pursuant to Chapter 193, Statutes of 2021 (AB 262, Patterson), which provides additional rights to victims of human trafficking who are trying to vacate convictions of crimes committed while they were being trafficked. DOJ has estimated 85 cases per year.	California Justice Information Services (CJIS) Division
Peace Officers: Release of Records (SB 16)	\$7,440,000 (\$3.4 million General Fund and \$4 million Legal Services Revolving Fund (LSRF)) and 27.0 positions in 2022-23 and \$6,470,000 (\$2.7 million General Fund and \$3.8 million LSRF) in 2023-24 and ongoing to prepare records pertaining to peace office conduct for public disclosure pursuant to Chapter 402, Statutes of 2021 (SB 16, Skinner).	Department-wide
Reproductive Health Care Services (AB 1356)	\$879,000 General Fund and 4.0 positions in 2022-23 and \$671,000 in 2023-24 and ongoing to implement new data reporting requirements, prepare an annual report that details anti-reproductive healthcare rights violations and criminal offenses, and provide legal guidance to state and local entities pursuant to Chapter 191, Statutes of 2021 (AB 1356, Bauer-Kahan).	Public Rights Division (PRD) - Antitrust Law Section; California Justice Information Services Division (CJIS)

Law Enforcement Gangs (AB 958)	\$1,286,000 General Fund and 5.0 positions in 2022-23, and \$1,245,000 in 2023-24 and ongoing to respond to additional investigations that fall within the expanded definition of "law enforcement gangs" pursuant to Chapter 408, Statutes of 2021 (AB 958, Gipson).	Public Rights Division (PRD) - Civil Rights Enforcement Section (CRES)
Privacy: Genetic Testing Companies (SB 41)	\$396,000 General Fund and 2.0 positions in 2022-23, and \$382,000 in 2023-24 and ongoing to address an increase in consumer complaints, engage in settlement proceedings, and enforce consumer genetic privacy pursuant to Chapter 191, Statutes of 2021 (SB 41, Umberg).	Public Rights Division (PRD) - Consumer Protection Section
Charitable Fundraising Platforms and Platform Charities (AB 488)	\$415,000 Registry of Charitable Trusts Fund and 4.0 positions in 2022-23 and \$659,000 in 2023-24 and ongoing to implement and pursue actions pursuant to Chapter 616, Statutes of 2021 (AB 488, Irwin), which requires DOJ to regulate giving platforms like GoFundMe.	Public Rights Division (PRD) - Registry of Charitable Trusts Unit

In addition, DOJ requests the following resources to continue the implementation of legislation passed in previous sessions, based on changes to the anticipated workloads:

Gender Identity: Female, Male or Nonbinary	\$1,106,000 General Fund in 2022-23 to recode systems within DOJ that interface with Department of Motor Vehicles databases. These were changed in response to Chapter 853, Statutes of 2017 (SB 179, Atkins) in a way that does not work with DOJ's systems. SB 179 allows designation of a gender identity of female, male or nonbinary for driver's licenses.	California Justice Information Services (CJIS) Division
Sex Offender Registration Retiering	\$4,498,000 General Fund in 2022-23 and \$2,197,000 in 2023-24 and ongoing to support previously established positions which are required on an ongoing basis to address the continued workload growth generated by Chapter 541, Statutes of 2017 (SB 384, Wiener). SB 384 changed the sex offender registration from lifetime to limited-term, dependent on the age of the offender and other circumstances.	California Justice Information Services (CJIS) Division
Police Use of Force	7.0 positions and General Fund spending authority of \$2.3 million in 2022-23 and \$1.6 million in 2023-24 and ongoing to physically appear and respond to officer involved shootings that result in the death of an unarmed civilian, pursuant to Chapter 326, Statutes of 2020 (AB 1506, McCarty). DOJ received an initial appropriation of \$15.3 million in 2021-22 and \$15.6 million in 2022-23 and ongoing to handle this workload. However, DOJ has found that the investigations are more time-intensive and that their presence and/or advice is required for more incidents than anticipated.	Division of Law Enforcement – Bureau of Investigation

Staff Comment. No major discrepancies with the fiscal analyses conducted by Appropriations Committees are noted, although in two cases (AB 1540 and SB 483), the DOJ costs were not included in the analysis.

Staff Recommendation. Hold Open.

Issue 6: Special Fund Conditions

Governor's Budget. The proposed budget includes two proposals to address shortfalls in special funds due to insufficient fine and fee revenue:

- *Ammunition Safety and Enforcement Special Fund.* Provisional language for additional General Fund support if needed for the Ammunition Safety and Enforcement Special Fund, which supports the Ammunition Purchase Authorization Program.
- *DNA Identification Fund.* \$46.4 million one-time General Fund backfill of the DNA Identification Fund, which supports the Bureau of Forensic Services, and provisional language for additional General Fund support if needed.

Background.

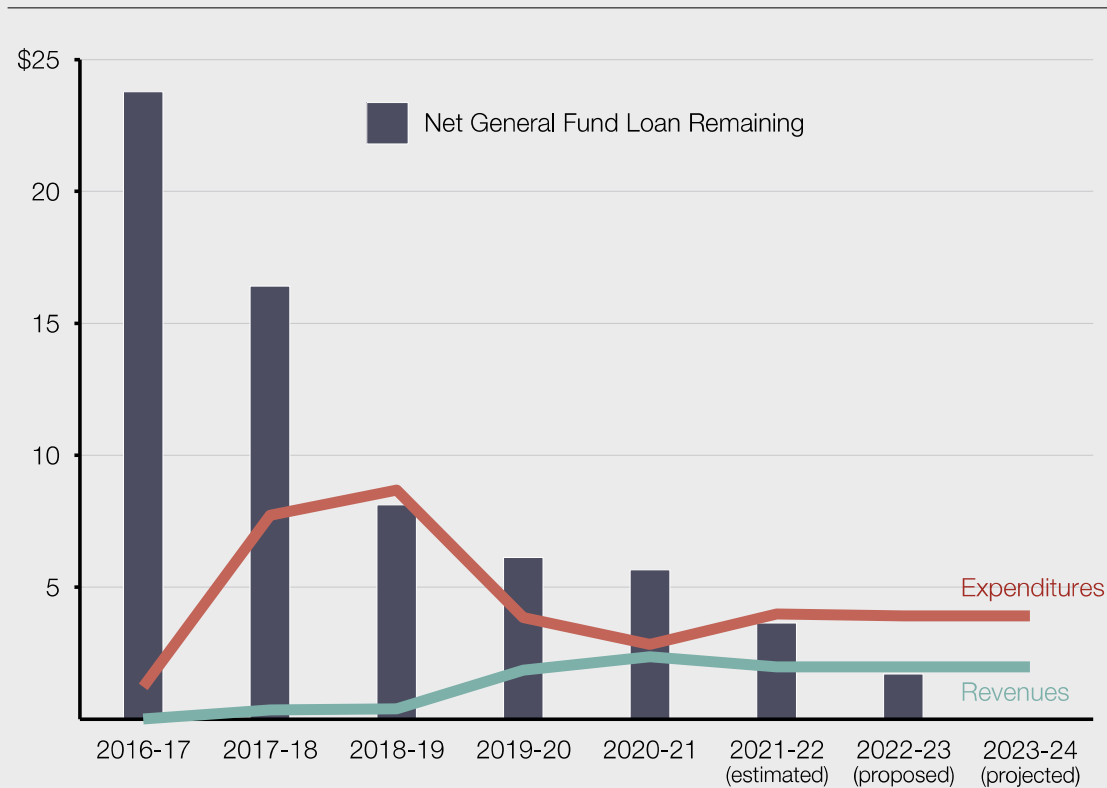
Ammunition Safety and Enforcement Special Fund. DOJ's Bureau of Firearms (BOF) is the primary entity that ensures compliance with federal and state law related to firearm ownership, including background checks, prohibited persons, waiting periods, and recording the sales of firearms and ammunitions, among other duties. Historically, BOF was funded primarily through fees and special funds. However, starting in 2019-20, some General Fund support has been included in the budget. In the proposed budget, BOF would be funded with \$20 million General Fund and \$32 million special fund.

One of the special funds is the Ammunition Safety and Enforcement Special Fund, which is continuously appropriated to support the Ammunition Purchase Authorization Program. This fund comes mostly from fees charged when someone buys ammunition and is intended to cover the cost of DOJ licensing and other verification. This fee is up to \$1 per transaction, which DOJ may adjust for inflation. The fund was provided with a \$25 million start up loan from the General Fund, and all excess revenues were supposed to be returned to the General Fund to pay off the loan.

However, since its creation, expenditures from the fund have outpaced revenues (see chart below). The LAO predicts that this fund will become insolvent by 2023-24. The Governor's proposed budget includes provisional budget language allowing the Department of Finance to transfer General Fund to cover any shortfalls in this funding for the Ammunition Purchase Authorization Program in 2022-23, with 30-day notification to the Legislature.

Ammunition Safety and Enforcement Special Fund in Operational Shortfall Since Creation

(In Millions)

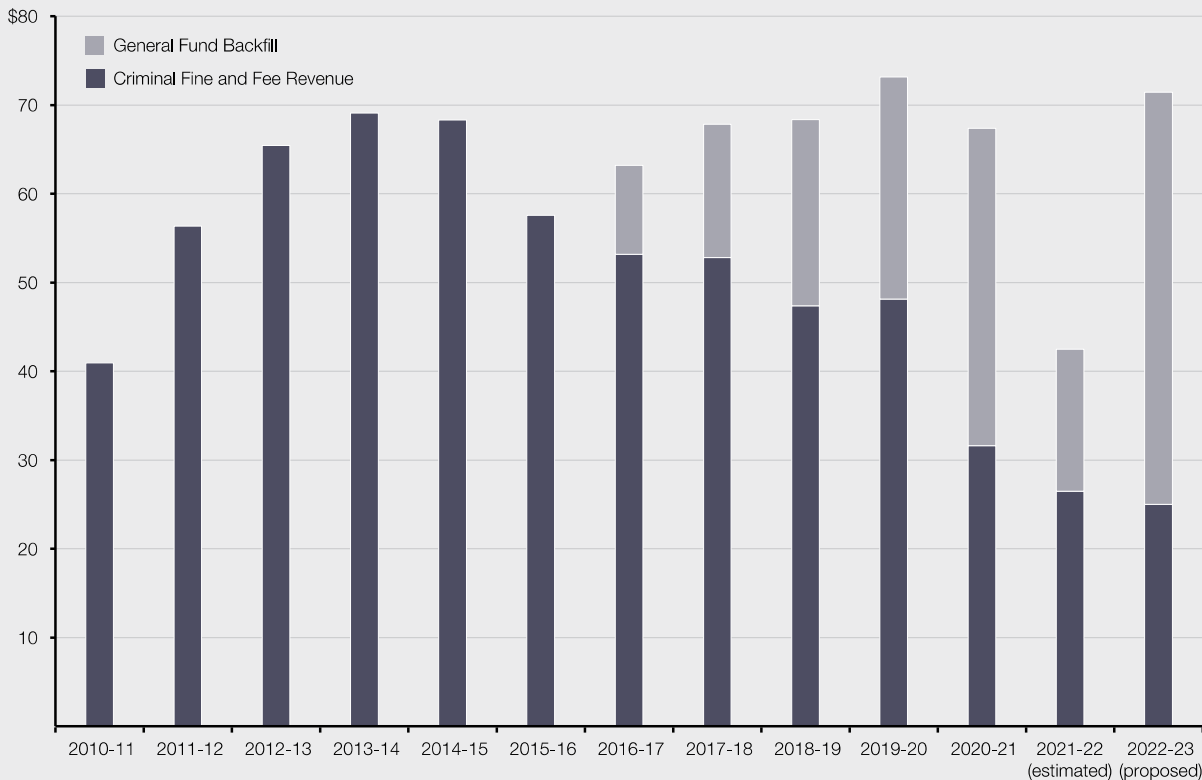


LAO

DNA Identification Fund Backfill. The Bureau of Forensic Services (BFS) provides criminal laboratory services, such as DNA testing, to local law enforcement and prosecutorial agencies at no cost. BFS is primarily funded through the DNA Identification Fund, a special fund that receives criminal fine and fee revenue. However, that revenue has been steadily decreasing, and since 2016-17, the state has also provided General Fund to backfill the DNA Identification Fund. DOJ is required to submit a report by March 10, 2022, to identify new options to support BFS operations. For now, the proposed budget includes \$46.4 million one-time General Fund backfill to support BFS operations for 2022-23. The proposed budget also includes language allowing the Department of Finance to provide additional backfill as required, with 30-day notification of the Legislature.

Steady Decline in Criminal Fine and Fee Revenue Deposited Into the DNA Identification Fund

(In Millions)



LAO

LAO Comments.

Proposals Lacks Long-Term Solutions to Special Fund Shortfalls. The LAO notes that both funds are expected to be insolvent this year or next year and will continue to face structural revenue deficits in the future. The budget proposals provided here are only short-term solutions.

BFS Provides Substantial Benefits to Local Governments. 46 counties do not use any of their own resources for criminal laboratory services, and BFS is effectively subsidizing those counties by tens of millions of dollars in services annually. In addition, the current structure does not incentivize counties to use BFS services efficiently, as they are not charged for testing. On the other hand, some counties run their own labs, and do not benefit from BFS at all.

LAO Recommendation.

Ammunition Safety and Enforcement Special Fund. The LAO recommends that the Legislature approve additional funding to the Ammunition Safety and Enforcement Special Fund as a loan, intended to be paid back to the General Fund. The LAO notes that this proposal does not address the long-term structural issue with the fund, which is that the total revenues from the Ammunition Purchase Transaction Fee do not cover the costs of operating the Ammunition Purchase Authorization Program. The LAO also recommends raising the ammunition purchase transaction fee to cover costs and allow the initial loan and any subsequent loans to be repaid. The amount the fee should be raised depends on how quickly the Legislature desires the loans to be repaid. For example, the LAO estimates that a \$3 fee would allow the fund to be stable, a \$4 fee would allow the start-up loan to be repaid in 15 years, and a \$6 fee would allow the loan to be repaid in 5 years (assuming that purchasing behavior does not change with the fee change).

DNA Identification Fund. The LAO recommends approving the backfill for 2022-23, but to explore other funding structures for 2023-24 and ongoing. The LAO notes that the March report from DOJ will help identify other funding for BFS operations. Regardless of alternatives, the LAO also recommends that BFS charge local governments for services provided, beginning in 2023-24. The LAO recommends developing the funding framework over the next year, considering how much General Fund the state is willing to contribute, the services requested by each local agency, equity concerns, and other factors.

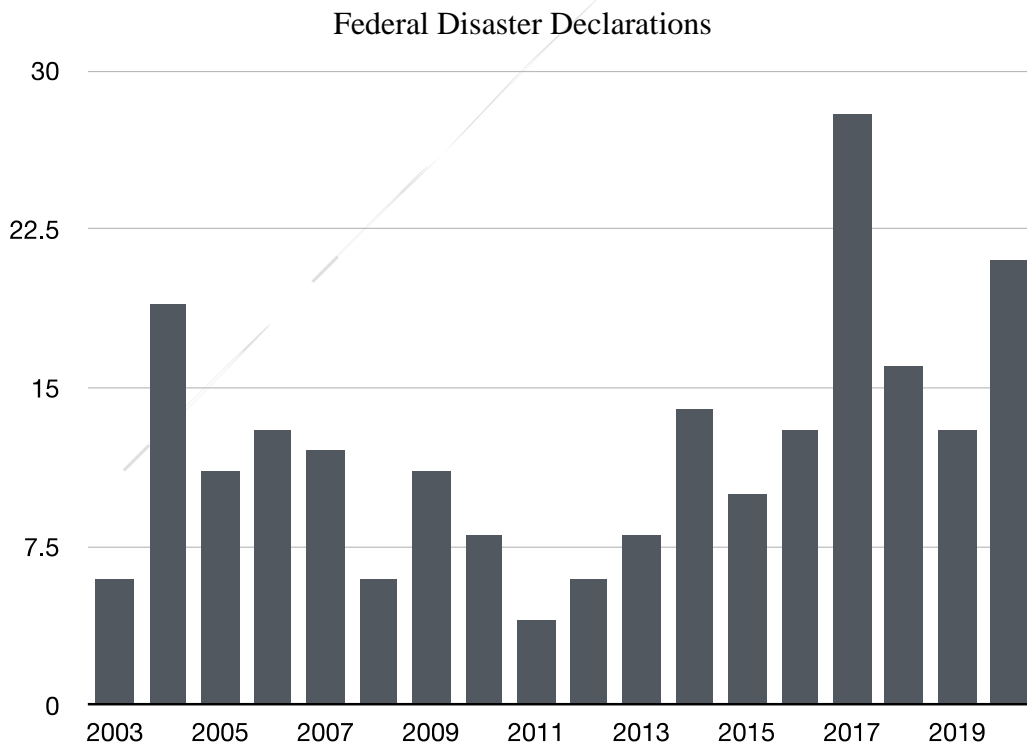
Staff Recommendation. Hold Open.

0690 OFFICE OF EMERGENCY SERVICES (CAL OES)

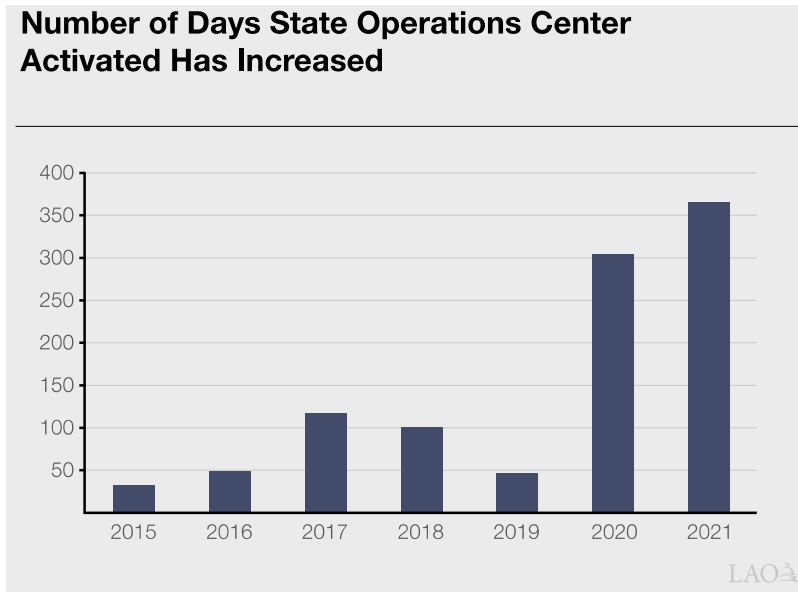
The state is responsible for mitigating the effects of disasters and for protecting Californians' lives and property. Cal OES serves as the state's leadership hub during all major emergencies and disasters. This includes responding, directing, and coordinating state and federal resources and mutual aid assets across all regions to support the diverse communities across the state.

Cal OES also supports 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 (FEMA).

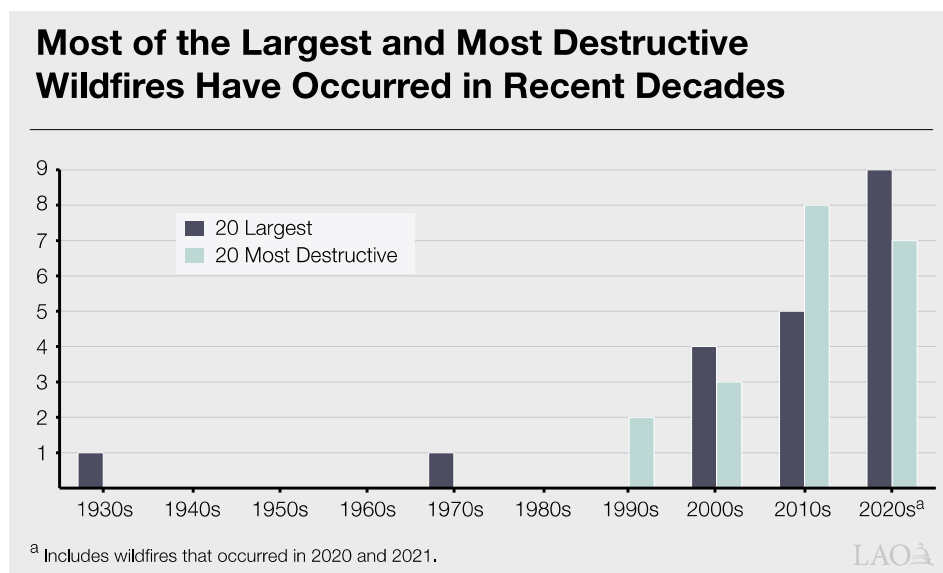
California has moved into a new chapter of emergency management, disaster response, and recovery in the state. Emergencies and disasters are more frequent, more complicated, often involving multiple counties and regions of the state, and the resulting recovery for communities is much longer. Over the past five years, the state has experienced an unprecedented number of emergencies and disasters—including severe drought, catastrophic wildfires, power grid/outage challenges, earthquakes, intensive storms with severe flooding, civil unrest, and COVID-19. California will be recovering from these complex disasters for at least the next decade, while continuing to respond to future disasters.



As a result, the number of days OES has activated the SOC has increased. The primary reason for the major increase in SOC activation days in 2020 and 2021 is the state of emergency that has been in place since March 4, 2020 due to the COVID-19 pandemic. This emergency is the longest continuous activation of the SOC in OES history.

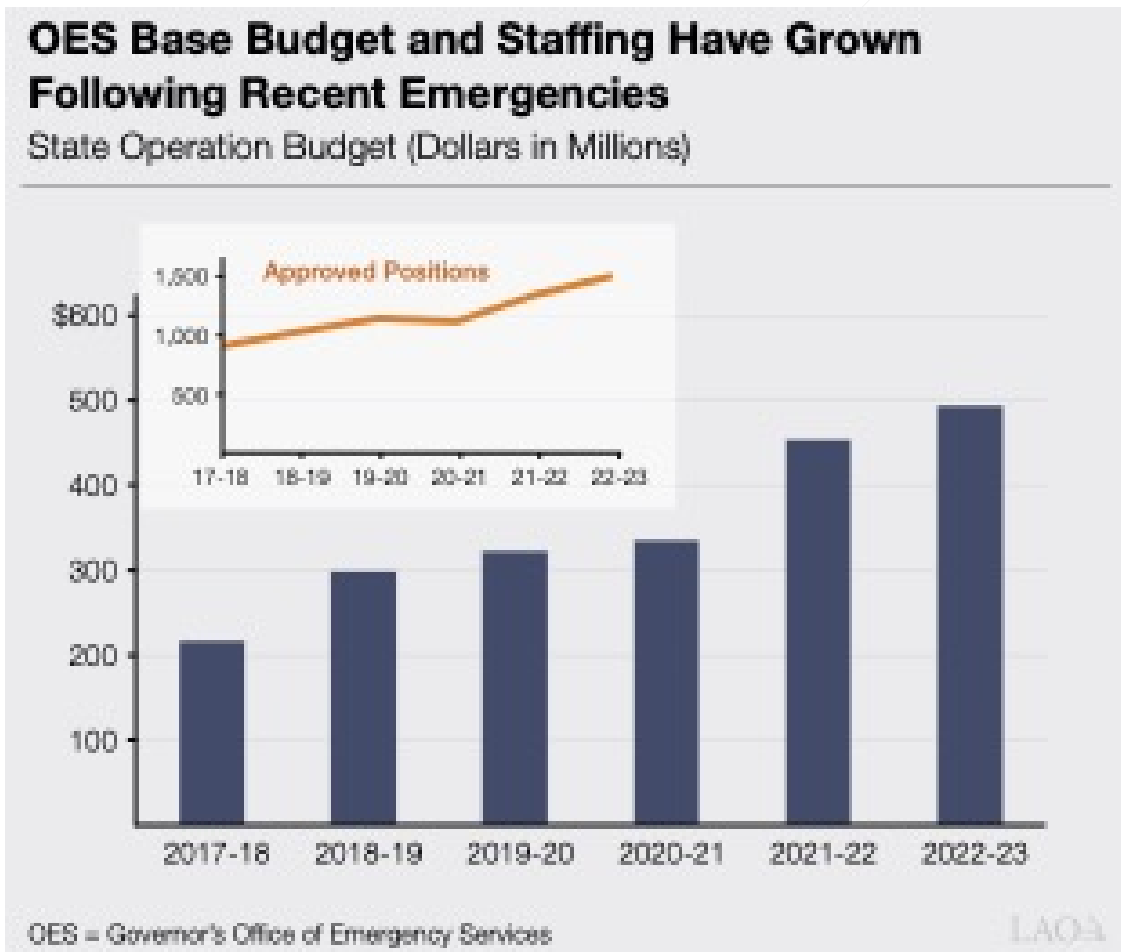


Emergencies unrelated to the pandemic have also increased in severity. Most significantly, the state has experienced a notable increase in the severity of wildfires in recent years. While wildfires are a natural part of California's ecosystems, when exacerbated by other factors, such as unhealthy forests, development in fire-prone areas, and the effects of climate change (including hotter temperatures and droughts), they are more problematic and represent a greater threat to lives and property. Most of California's largest and most destructive wildfires have occurred in recent decades. The last few years have also seen emergencies declared for drought, civil unrest, the Ridgecrest earthquake, storms, and a potential energy shortage.



Increased Level of Emergencies May Persist. It is possible that the increased number and severity of emergencies seen in recent years will persist or even grow in the future due to various reasons. First, a few key factors that have contributed to the recent increase in large and destructive wildfires are likely to persist, including climate change, unhealthy forests, and development in fire-prone areas. Furthermore, climate change will result in numerous conditions that will cause other types of emergencies, such as more droughts, extreme heatwaves, and coastal flooding. The state also faces a continued threat from COVID-19 and potentially more virulent variants of the disease. In addition, the potential for large infectious disease outbreaks—which could turn into pandemics—could be more likely in the future due to numerous factors, such as human development in animal habitats providing more opportunities for diseases to spread from animals to humans, population growth, international travel, and trade.

Cal OES Resources. The proposed budget includes \$2 billion (\$541.1 million General Fund) and 1,507.2 positions for Cal OES. It includes \$239 million (largely from the General Fund) and 163 positions to augment the operations of OES in 2022-23 and to continue three capital outlay projects.



OES Base Budget Has Significantly Increased in Recent Years. In recognition of the increased level of emergencies, OES has received numerous augmentations to its base budget, as well as additional positions, in recent years. From 2017-18 to 2021-22, the state operations budget for OES increased by \$237 million, which represents a 109 percent increase.

Recent Augmentations to OES Base Budget

- ✓ ***Strengthening Capabilities.*** \$60.6 million and 114 positions in 2021-22 to (1) augment emergency capacity and capabilities to respond to increasingly complex disasters, security threats, and emergencies; (2) maximize federal funds for disasters; (3) modernize technology and data analytics; and (4) strengthen equity and connections with vulnerable populations.
- ✓ ***Long-Term Recovery Support.*** \$37.8 million and 214 positions—110 new positions and 104 positions previously funded on a limited-term basis—in 2021-22 to support recovery efforts, increase federal disaster cost reimbursements for the state and local governments, and enhance programs intended to mitigate the impacts of future disasters.
- ✓ ***Mutual Aid Prepositioning.*** \$25 million in 2019-20 to preposition existing OES and local resources in areas with identified wildfire threat.
- ✓ ***Disaster Planning, Preparedness, and Response.*** \$7.4 million and 88 positions in 2019-20 for activities related to disaster planning, preparedness, and response.
- ✓ ***Regional Hazardous Materials Response.*** \$3.6 million for five positions and vehicles in 2021-22 to respond to emergencies involving hazardous materials.
- ✓ ***Transfer of Seismic Safety Commission.*** \$2.4 million and six positions in 2020-21 for costs associated with transferring the Seismic Safety Commission to OES.
- ✓ ***Wildfire Forecast and Threat Intelligence Center.*** \$2 million and five positions in 2020-21 for OES to participate with other state agencies in operating the Wildfire Forecast and Threat Intelligence Center.
- ✓ ***Emergency Response Operations.*** \$1.6 million and eight positions in regional offices in 2018-19 to support local agencies and coordinate emergency response activities.

OES = Governor's Office of Emergency Services.

Source: LAO

Issue 7: Various Staffing Proposals

Governor's Budget. The proposed budget includes the following resources for Cal OES to support its disaster response capabilities and expand its regional presence:

- *Regional Response.* \$5.8 million (\$5.5 million General Fund) and 20 positions to expand Cal OES's regional response capacity and improve partnerships with local governments and other local stakeholders.
- *Review of County Emergency Plans.* \$1,405,000 General Fund ongoing and 6.0 positions to review the emergency plans of each county to determine whether the plans are consistent with access and functional needs best practices and provide technical assistance, consistent with the requirements of Chapter 744, Statutes of 2021 (AB 580, Rodriguez).
- *Support Capacity.* \$5,042,000 General Fund, \$3,954,000 Federal Trust Fund, \$145,000 State Penalty Fund, \$68,000 bond funds, and 71 positions in fiscal year 2022-23 and ongoing to provide continuity of operations for an increase in administrative support activities. The proposed positions include executive, finance, legal, and audit staff, as well as additional staff for certain programs, such as emergency response, planning, and preparedness programs.
- *Logistics Management.* \$4.9 million ongoing General Fund and 21 positions to improve Cal OES's core operations and enhance emergency response capabilities.

Background.

Regional Response. Cal OES has three regional sections (Coastal, Inland, and Southern) that work with each of the 58 counties to facilitate coordination and cooperation between local jurisdictions and counties and the state. Regional staff provide near daily engagement with county emergency managers, coordinating between officials and the array of Cal OES programs that support local and county governments. They also provide linkages between local officials and other state or federal agencies and programs that can support a local government before, during, or after a disaster.

Cal OES is also in the process of establishing a State Operations Center – South (SOC South), which was funded in the 2021-22 budget and will serve as both a back-up for the SOC and a focal point for Cal OES efforts in the southern part of the state. Cal OES also recent established a temporary San Diego Satellite Office to coordinate southern border efforts using emergency COVID-19 funding.

All regions have been stretched by both long-term and chronic disasters over the past few years, including COVID-19, extended wildfires season, and humanitarian efforts. This proposal includes additional staff for each region, the South SOC, and a permanent San Diego Satellite team. The goal is to establish more equal coverage among the regions, provide capacity that can be surged within and amongst regions when multiple or major disasters strike, and add supervisory capacity where needed.

The staff requested include:

- 2 staff for the Coastal Region, covering 16 counties and 9 million people with a wide diversity of needs.
- 7 staff for the Inland Region, consisting of 31 counties and spanning the largest geographic area, much of it rural and/or mountainous.
- 1 staff for the Southern Region, consisting of 11 counties with over 21 million people, with the added complexity of coordinating with Mexico on any cross-border disasters.
- 10 staff for SOC South and the San Diego Satellite Office.

County Emergency Plans. Chapter 744, Statutes of 2021 (AB 580, Rodriguez) requires the state to expand emergency planning for the access and functional needs (AFN) population and include representatives from the AFN populations at various levels of emergency planning. The bill requires counties to submit emergency plans to Cal OES that include AFN planning, and, if requested by the county, requires Cal OES to review the emergency plans and provide technical assistance. Cal OES interpreted the language as requiring a review of every county by 2028, and counties could request that the review include a consultation with representatives from AFN populations. Cal OES expects all or most counties to request these reviews and is requesting 6 additional staff in the Community Planning Unit to facilitate this. Regional staff are also involved in reviewing county plans, but Cal OES indicated that specialized staff at the Cal OES Office of Access and Functional Needs would assist with this component.

Support Capacity. Cal OES is requesting \$5,042,000 General Fund, \$3,954,000 Federal Trust Fund, \$145,000 State Penalty Fund, \$68,000 bond funds, and 71 positions in fiscal year 2022-23 and ongoing to provide continuity of operations for an increase in administrative support activities. As Cal OES has grown, so has the support workload. Support functions include financial operations, accounting, legal, communications and technology. 38 of the positions will be funded through the direct funding indicated here and 33 will be funded through distributed administration funding (overhead) from eight of Cal OES's other BCPs.

Logistics Management. The Disaster Logistics Planning and Coordination (DLPC) Branch includes Disaster Logistics, Logistical Services, and Facilities. The staffing in this division has not kept up with the increased pace of disasters in the state or the increased size of Cal OES, resulting in project delays and other issues. The Logistics Management division has relied upon temporary and redirected staff to meet the expanding needs of the agency and the mission. Currently, the Logistics Management division has 38 permanent staff and 17 temporary staff. This proposal would convert 12 temporary staff to permanent and add additional permanent staff. The result would be 59 permanent staff and 5 temporary staff (which will not be renewed upon expiration). Specifically, Cal OES is requesting:

- 10 positions for Disaster Logistics to handle the existing workload and expand the ability to respond to multiple crises. The Disaster Logistics coordinates logistics in major incidents, such as implementing staging areas and responder base camps and coordinating the delivery of PPE across the state during COVID-19. Since 2020 the current program has worked more than 30,000 hours of overtime to support disaster related work. This averages to 196 hours per staff person per month.

- 5 positions for Business Services and Facilities Management to support fleet management, reimbursement services, and other duties.
- 3 positions for Facilities, to oversee Cal OES's growing facility needs.
- 2 positions for Physical Security Unit, to coordinate security at Cal OES headquarters, especially around visits.
- 1 leadership position in DLPC.

LAO Comment. *Positions Requested Each Year for Similar Purposes, but Overall Staffing Plan and Needs Remain Unclear.* OES has often requested resources for similar purposes year after year. For example, the 2019-20 budget provided \$7.4 million to support 88 additional positions for disaster planning and preparedness, recovery workload, logistics, administration, and grants management. Similarly, the 2021-22 budget provided a \$60.6 million augmentation to support 114 additional positions for many of the same purposes. As shown below, OES is requesting staffing increases in 2022-23 for the same or similar functions that it has received staffing augmentations for in prior years. While the additional positions provided in recent years, and proposed by the Governor for the budget year, assist in the operations of OES, the overall staffing needs of the department in both the near and long term are not clear. Moreover, OES lacks a staffing plan that outlines a strategy for addressing identified staffing needs. The absence of clearly identified staffing needs and plan is evident in the department requesting positions for similar functions each year.

OES Requests Additional Staff For Similar Activities Most Years					
	2018-19	2019-20	2020-21 ^a	2021-22	2022-23
Grant Administration	1	1		1	1
Monitoring and Quality Control	1	1		1	
Accounting and Audits		1		1	1
Fiscal and Budget				1	1
Information Technology	1	1		1	1
Emergency Management and Response	1	1	1	1	1
Regional Staffing	1				1
Administration	1	1		1	1
Planning		1	1	1	1
Logistics		1		1	1
Recovery	1	1		1	
^a OES initially requested additional resources in 2020-21 beyond what is shown, however, those requests were withdrawn after the start of the COVID-19 pandemic and projections of a budget deficit. OES = Governor's Office of Emergency Services.					

Source: LAO

Strategic Plan for Enhancing Emergency Response Capacity Needed to Guide Future Budget Decisions. Given the possibility of a continued increase in the number and severity of emergencies, it is reasonable to enhance the state's emergency response capacity. However, it is difficult to determine whether the Governor's specific proposals reflect the most effective and efficient approach to doing so because they are not tied to specific emergency response goals and objectives. The LAO finds that the development of a strategic plan to enhance emergency response capacity would be valuable in assessing future proposals.

LAO Recommendation.

Recommend Development of Strategic Plan and Review of OES Base Budget. In order to ensure the Legislature has better information to make decisions in the future, The LAO recommends requiring the administration to develop a strategic plan for enhancing emergency response capacity no later than January 1, 2024. Such a plan should include (1) goals for emergency response capacity, (2) an assessment of existing capacity, (3) identification of gaps or weakness in current capacity, and (4) an assessment of the level of staffing needed to support capacity goals. The LAO also recommends that the OES base budget be reviewed to determine whether existing resources are meeting strategic plan goals, some resources should be reallocated to higher-priority uses, and recent augmentations have already provided the necessary resources.

Recommendations on Specific Staffing Proposals. The LAO recommends approving the funding for review of county emergency plans consistent with Chapter 744 of 2021 (AB 580, Rodriguez). This proposal appears reasonable for two reasons. First, the proposal would provide adequate resources for OES to complete statutorily required workload. Furthermore, the review of plans for vulnerable populations could help inform OES of local capacity to assist vulnerable populations, which in turn could assist OES in future emergency response efforts or future efforts to assess gaps in emergency response capabilities.

For the other staffing proposals, the LAO recommends approving them with three-year limited term funding, so that they can be reassessed once a strategic plan is available that can be used to evaluate Cal OES's budget.

Staff Recommendation. Hold Open.

Issue 8: Cal OES Headquarters Modernization

Governor's Budget. The proposed budget includes the following resources for capital outlay and support costs to continue three projects at Cal OES Headquarters in Mather:

- *State Operations Center (SOC) Modification.*
 - \$1,000,000 for the equipment phase and \$8,928,000 for the construction phase.
 - \$5,187,000 General Fund in 2022-23 and \$1,957,000 General Fund in 2023-24 for support costs, primarily for leasing a temporary space for 18 to 24 months and moving costs.
- *Lobby Security Enhancements.*
 - \$198,000 for the working drawings and \$1,111,000 for the construction phases.
 - \$40,000 General Fund in 2022-23 for support costs including a temporary security guard station and signage.
- *Security Checkpoint Enhancements.*
 - \$351,000 for the working drawing phase.
 - \$200,000 ongoing General Fund for support costs, specifically to add two additional security guards to staff the security checkpoints.

Background.

SOC Modification. The SOC is used to coordinate resource requests, maintain situational awareness, and resolve and set priority issues. The SOC is also where federal, state, and local agencies report during a disaster and in support of the National Response Framework. The SOC is currently set up in a war room model (a dedicated location for emergency personnel to co-locate and communicate the activities associated with the execution of the emergency at hand). However, the layout is not optimal for collaboration and is not accessible to people with disabilities or limited mobility.

The project includes changing the State Operations Center (SOC) from a tiered theatre style seating arrangement with computers to a flat workspace with work pods, increasing seating from 54 to 64. The project will also push out the second-floor balcony approximately 20 feet to add additional workstations, redesign and reconstruct the State Warning Center to add three cubicles, and replace the aging technology video wall with the most current technology available.

The working drawings phase has estimated completion in February 2023. The construction is anticipated to begin in July 2023 with completion by August 2024. The total project cost will be \$17.537 million (\$10.393 million for the capital outlay project and \$7.144 million needed to acquire swing space during the construction phase).

Lobby Security. The current entrance to Cal OES has an open lobby layout, where visitors entering could access stairwells and other areas. To maintain steady operations and to provide a safe and secure workplace for staff to conduct businesses, Cal OES's headquarters must be tightly secure

during activations and normal operations. Currently, upon entry into the building, there are no preventative security measures to control the movement of the visitors.

The new design consists of a free-standing security kiosk, badge access turnstiles at the north and south entry points and adjacent to the stairwell that provides access to the Executive suite, and planter boxes and other obstruction type barriers to funnel foot traffic through these three main points of entry. The project includes construction and installation of all items as well as the demolition and removal of existing furniture.

The estimated total project costs are \$1,411,000 including preliminary plans (\$102,000), working drawings (\$198,000), and construction (\$1,111,000). The construction amount includes \$855,000 for the construction contract, \$60,000 for contingency, \$83,000 for architectural and engineering services, \$60,000 for agency retained items, and \$53,000 for other project costs. The preliminary plans phase began September of 2021. The construction is anticipated for completion by November 2023.

Security Checkpoint. Currently, there is no effective or sustainable means to control the vehicular flow of traffic to the main parking area at the Cal OES Headquarters facility. The current parking lot points of entry consists of wooden gate arms and an unmanned badge reader. Pedestrians can enter the rear parking area of the facility, and due to the distance of the security guards, have unfettered access to the rear parking area for an unspecified amount of time. During times when Cal OES is activated and because of the number of partner agencies that access the facility, these gate arms are typically left in the open position, allowing the public to access these areas. There have been five instances of individuals penetrating the rear parking lot through the vehicle access points this calendar year.

The project includes security enhancements to the main point of entry and the delivery entrances, including installing two fortified, permanent security kiosks and upgrading the physical barriers from wooden gate arms to anti-ram, metal control arms. A badge reader installation, intercom and video camera system will also be installed to ensure proper identification of staff and visitors prior to entrance into the facility parking area.

The total project costs are estimated at \$2,763,000. The start date was July 2021. The working drawing phase will begin July 2022 with completion by May 2023. The construction phase is anticipated to begin October 2023 with completion by July 2024.

LAO Recommendation. The three proposed capital outlay projects and two related support proposals appear reasonable as they would continue projects that have been previously approved by the Legislature. In addition, modernizing and improving the functioning of the OES headquarters facility and SOC will benefit the state by providing more appropriate and secure facilities.

Staff Recommendation. Hold Open.

Issue 9: Implementing a 9-8-8 Behavioral/Mental Health Hotline

Governor's Budget. The proposed budget includes \$7.5 million General Fund (\$6 million ongoing) and ten positions to implement a new federally mandated 9-8-8 call system to increase the ease and accessibility for those experiencing a behavioral or mental health crisis. This request will allow Cal OES to procure, install, and maintain call handling equipment to enable the 13 existing Lifeline Call Centers across the state to answer 9-8-8 calls, handle the expected 9-8-8 call volume, and transfer calls between 9-1-1 and 9-8-8.

Background. The federal National Suicide Hotline Designation Act established 9-8-8 as the new three-digit alternative to 9-1-1 to aid rapid access to suicide prevention and mental health support, and to provide behavioral or mental health crisis response. The FCC issued Report and Order 18-336 and mandated telecommunication carriers to implement 9-8-8 by July 16, 2022. Before July 2022, when 9-8-8 goes live, states must create a framework to receive and respond to 9-8-8 calls.

Lifeline Call Centers. In California, these calls will be answered by 13 existing National Suicide Prevention Lifeline (NSPL) Call Centers, local crisis centers that provide free and confidential support 24/7/365 for people in suicidal crisis or emotional distress. Many of the calls are handled on the line by the person (often a volunteer) at the call center. Lifeline call centers in California set the hours and coverage areas for when they will take calls based on funding and staffing levels. If a crisis center is unable to respond to all callers at any time, calls are diverted to backup centers. When calls are re-routed to centers out-of-state, California callers in crisis often wait two to three times longer, receive fewer linkages to effective local care, and are more likely to abandon their calls. In 2019, the NSPL received nearly 2.3 million crisis calls from across the United States and 290,619 of those calls were from California. Of those calls, 199,192 were connected to crisis centers in the state. Since 2016, California Lifeline call volume has increased 60 percent, and this is expected to rise even higher given the ongoing COVID-19 pandemic and the resultant increase in mental health and substance use disorder crisis needs.

Infrastructure. Cal OES, who operates the 9-1-1 system, is providing the technical support and expertise to set up the infrastructure for these 9-8-8 calls, including two key goals:

- Ensure the Lifeline Call Center call handling equipment can support the new FCC 9-8-8 carrier mandate.
- Ensure calls can be transferred from 9-8-8 to 9-1-1 and vice versa.

Cal OES indicated that their primary focus is technical, not content or response. Cal OES is part of planning groups with the Health and Human Services Agency, the Department of Health Care Services (DHCS), the federal Substance Abuse and Mental Health Services Administration (SAMSHA), and the call centers.

Timeline. The federal mandate takes effect in July. Cal OES indicated that they are currently redirecting resources to support the initial implementation, and then would perform initial upgrades and review the capabilities of the Lifeline Call Centers to better understand gaps in the system. Over the next two years, Cal OES would perform equipment upgrades.

AB 988. Proposed legislation would provide ongoing funding for this system using a fee. The bill would also place several requirements on the system to align it more substantively as an alternative to 911, with similar expectations in terms of physical, immediate responses and assistance.

Federal funding. There has been significant federal funding for this transition, given that it is a federal mandate. However, according to DHCS, all SAMHSA funds allocated to California are currently obligated and not available for this activities described here.

Staff Comment. Concerns have been raised about the ability of the call centers to answer these calls to the degree that the public may expect and need if the system is advertised as a 911 alternative. While that concern is not specifically related to this BCP, the Legislature should ensure that the entire system is adequately resourced.

LAO Recommendation. While the Governor's 988 hotline proposal appears necessary as the system's implementation is federally required, the proposal does not account for potential federal funding available for this purpose through the federal American Rescue Plan Act that was enacted in March 2021. These federal funds could reduce, or potentially replace, the need for state General Fund support. The administration indicates it is currently looking into the availability of federal funds to support the implementation of the 988 hotline.

The LAO recommends that the Legislature direct OES to report on the administration's efforts to secure federal funds for implementation of the 988 hotline. This should include the level of federal funding the state has requested and the potential timing of receiving federal funds if they are awarded to the state. Until the receipt and review of such information, The LAO withholds recommendation on the Governor's 988 hotline implementation proposal.

Staff Recommendation. Hold Open.

Issue 10: California Earthquake Early Warning System

Governor’s Budget. The proposed budget includes \$17.1 million ongoing General Fund and three positions to support the California Earthquake Early Warning Program, including increasing sensor density, offering education grants, and researching new public alert methods.

Background. The California Early Earthquake Warning (CEEW) System uses thousands of sensors statewide to detect the early signs of an earthquake and provide a warning a few seconds to a minute or more in advance of an earthquake. The farther away the earthquake, the more warning is received. This alert can be used to automatically take preventative measures that would limit damage, such as stopping or slowing trains, interrupting power or gas sources to decrease the risk of fire, pausing surgeries or other sensitive tasks, opening elevator doors at the next available floor, and activating emergency response units²⁸. Starting in October 2019, alerts are also sent to the public via cell phones and other methods, and could provide time for people to “drop, cover, and hold on” and prevent injuries and death. Mexico, Japan, Turkey, Romania, China, Italy, and Taiwan all have some form of early earthquake warning system, some of which have been activated and used to prevent injuries and damage. The usefulness in California specifically is hard to predict until there is a major earthquake, and it depends on where the epicenter is, what is nearby, and how prepared entities and people are to respond to early alerts. One challenge to note in California is that fault lines and their associated hazards coincide with areas of high population density, requiring an extremely fast system to transmit a useful warning²⁹.

Previously Allocated State Resources. Cal OES has received several one-time appropriations to support the implementation of the CEEW System, including:

- \$10 million General Fund and four permanent positions in 2016-17 for Cal OES to begin the buildout of the CEEW System, including installing seismic stations, increasing telemetry speed and pathways, and improving system performance; developing strategies to reduce the latency to distribute alerts; writing the CEEW Business Plan; implementing a comprehensive statewide public service announcement campaign; and providing program oversight through the CEEW Board.
- \$15 million General Fund in 2018-19 to complete the seismic station buildout through interagency agreements to support seismic sensor installation, enhancements of the state microwave network and last-mile telemetry, and research methods to improve earthquake early warning algorithms. Additionally, Cal OES received \$750,000 General Fund ongoing to provide permanent funding for the four positions previously established to support the CEEW Program.
- \$16.3 million General Fund in 2019-20 to finish the build-out of the CEEW System by adding Global Positioning System (GPS) stations to the network, improving telemetry, and launching a statewide education and outreach campaign.

²⁸ https://earthquakes.berkeley.edu/research/eeew_docs/StraussAllen-EEWuses-SRL-2017.pdf

²⁹ https://pubs.usgs.gov/of/2021/1026/ofr20211026_v1.1.pdf

- \$17.3 million California Earthquake Safety fund in 2020-21, funded by a loan from the Schools Land Bank Fund, to support the ongoing maintenance, operation, and education required for the CEEW System to function as intended.
- \$17.3 million General Fund in 2021-22, to support the ongoing maintenance, operation, research, and education required for the CEEW System to function as intended.

Ongoing funding is needed to (1) improve and maintain the technical system that detects the earthquakes and triggers the alert, and to (2) ensure the alert is useful – namely that it is communicated to automatic systems correctly, and that it is communicated to the public and that public knows what to do if they receive an alert. Cal OES has indicated that the system’s annual operating costs are roughly \$17.1 million.

The CEEW was initially conceived as a public-private partnership, reflecting the benefits provided by the system to private entities. In the most recent CEEW Business Plan Update, the CEEW Advisory Board recommended that the program be funded by industries that would reduce their earthquake risk the most³⁰. Cal OES is working to finalize a Benefit Cost Analysis report, and some funding is received from partners including the US Geological Survey and from private entities that install automatic notification systems. However, Cal OES has indicated that they have had trouble identifying a stable private funding source and are instead requesting ongoing General Fund resources to maintain and improve the CEEW System. Cal OES indicates that they still intend to solicit private and federal funding for specific enhancements or pilot projects.

Requested Resources. The resources requested would go towards maintaining the communications and sensor network (\$10.1 million), outreach and education (\$3.1 million), research and development (\$1.2 million), and program management and other costs (\$2.7 million). Major activities include increasing the sensor density, improving connections, offering education grants to community-based organizations to educate the public on what to do in case of an alert, investigating new alert distribution options, including FM radio and crowd sourcing, expanding outreach, and continuing to seek additional federal and private funding to enhance the system.

LAO Comment. The Governor proposes to make permanent the level of funding that has been provided previously on a one-time basis to support the development of the CEEW System. While the system is potentially promising, without a strategic plan, it is unclear how the current approach to building out the system would align with overall emergency response goals. For example, it is unclear whether the current efforts to expand the system would provide the highest-priority benefits or whether alternative strategies, such as increased funding for building seismic retrofits, would better mitigate the potential harm from earthquakes.

LAO Recommendation. The LAO recommends that the Legislature require Cal OES to develop a strategic plan for enhancing emergency response and use it to evaluate future budget proposals. For this specific proposal, the LAO recommends approving it with three-year limited term funding, so that it can be reassessed once the plan is available.

Staff Recommendation. Hold Open.

³⁰ <https://www.caloes.ca.gov/EarthquakeTsunamiVolcanoProgramsSite/Documents/CEEWS%20Business%20Plan%20Update%20Final.pdf>

Issue 11: Fire and Rescue Mutual Aid System.

Governor's Budget. The proposed budget includes the following resources for the California State Fire and Rescue Mutual Aid system:

- \$11.2 million General Fund (\$10.9 million ongoing) and 11 positions to maintain the fleet.
- \$4,045,000 General Fund in fiscal year 2022-23, \$3,998,000 ongoing, and eight positions to transfer training operations from the California Fire and Rescue Training Authority (CFRTA) to the California Specialized Training Institute (CSTI).

Background. The Cal OES Fire and Rescue Division coordinates the California State Fire and Rescue Mutual Aid system, which oversees the movement and sharing of local and state resources during emergencies. The system includes firefighting equipment and Urban Search and Rescue (US&R) teams, among other shared resources.

Fire Fleet. The Fire and Rescue Division manages over 250 fire engines, as well as various other support vehicles including rescue boats and US&R trailers. The fleet has grown significantly, and related funding has not kept up. Cal OES is requesting \$3.35 million annually for fleet maintenance, including updating and replacing equipment and additional staff to oversee the fleet, including administration, maintenance, and on-site support during deployment.

Training. CSTI was established in 1971 under the California Military Department to provide law enforcement training to state agencies, cities, and counties. The scope of its mission grew to include civil emergency management, and in 1985 the Institute was transferred to Cal OES. CSTI offers 102 course titles in emergency management, hazardous materials emergency response, criminal justice and homeland security, and crisis communications, and offers classes in support of the State Fire and Rescue Mutual Aid System, including hazardous materials emergency response, among others.

The resources requested here would be used to transfer fire and rescue training operations from CFRTA, which is jointly run with the Sacramento City and Sacramento Metropolitan Fire Departments, to CSTI. These trainings help firefighters from various state and local entities. The proposed training includes firefighter training and specialized US&R training.

Specifically, Cal OES is requesting:

- *CSTI Staffing.* 8 positions to oversee the training at CSTI.
- *Regional US&R Task Forces.* \$1.022 million for training Regional US&R Task Forces. These are locally funded teams that are part of the mutual aid network and can rapidly deploy across the state. They assist in tasks such as searching for people missing after wildfires or mudslides, or rescuing firefighters or others trapped by wildfires. Currently, these teams are largely trained at the local level, but this funding would allow them to be trained at CSTI, and at the same level as the eight FEMA US&R Teams in the state.

- *Mobilization Exercise Training.* \$1.038 million to expand opportunities for mobilization exercises and other training for both the eight FEMA and the ten Regional US&R Task Forces. FEMA and the local agencies also contribute to the total cost of these exercises.

LAO Comment and Recommendations.

Fire Fleet. OES mutual aid fire engines are an important part of the state's ability to access additional capacity during peak wildfire season and large wildfires. However, at this time, it is unclear how the proposed \$11 million ongoing would be used. Specifically, it is unclear to what extent the funding would be used by OES to replace existing fire engines more frequently or provide a more robust maintenance program for its engines. Without this type of basic information, it is impossible for the Legislature to evaluate what specific improvements to fire response capacity would be expected from this proposal and whether they would justify the additional costs. Accordingly, the LAO recommends withholding action pending receipt of such information.

Search and Rescue Teams and Training. The LAO finds that this proposal is difficult to assess in the absence of a strategic plan. First, the proposal would replace an existing state-local partnership with a state-run program at a significantly higher cost. Specifically, under the proposal, OES would spend \$2 million more annually to provide the training, which currently costs the state \$360,000. It is unclear whether and to what extent this approach would provide an increased level of service. To the extent the proposal would support an increased level of service, without a strategic plan, it is unclear if such an increase is necessary.

Second, for the \$1 million annually for local urban search and rescue teams, it is unclear whether providing funding for these local teams should be a state responsibility. For example, it is unclear whether the funding would simply replace local funding or increase the capacity of these teams. Moreover, without a strategic plan that outlines a long-term strategy on the use of local search and rescue teams, it is unclear if any increase in capacity is necessary.

Third, the proposal includes funding to align reimbursements provided to local governments for their cost of participating in mobile training exercises for search and rescue teams with their current actual costs. Adjusting the reimbursement rate to better reflect current costs appears reasonable. However, without a strategic plan, it is unclear whether the number of mobile training exercises funded would align with the state's capacity goals.

The LAO recommends that the Legislature require Cal OES to develop a strategic plan for enhancing emergency response and use it to evaluate future budget proposals. For this specific proposal, the LAO recommends approving it with three-year limited term funding, so that it can be reassessed once the plan is available. However, absent justification for increasing the cost of training, the LAO recommends providing only the funding for the local search and rescue teams and mobile training exercise reimbursements.

Staff Recommendation. Hold Open.

Issue 12: Disaster Funding

Governor's Budget. The proposed budget includes two appropriations for OES to respond to disasters, and to fund emergency activities that may fall outside of disaster declarations:

- *California Disaster Assistance Act Adjustment.* Cal OES provides financial assistance to local governments for costs incurred as a result of disasters in California per the California Disaster Assistance Act (CDAA). The proposed budget includes:
 - One-time increase of \$114,029,000 General Fund for a proposed 2022-23 total of \$176,643,000.
 - Ongoing increase of \$37,386,000 to the existing annual \$62,614,000 General Fund baseline, resulting in a new ongoing annual baseline of \$100,000,000.
- *Mission Tasking Appropriation.* The proposed budget includes \$10 million ongoing General Fund to provide funding to state entities for costs incurred as a result of mission tasking for incidents not covered under a Governor's proclaimed state of emergency.

Background.

CDAA. The CDAA authorizes Cal OES to administer a disaster assistance program that provides financial assistance from the state for costs incurred by local governments due to declared disaster events. CDAA provides for the reimbursement of local government costs including funding for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster. For federally declared disasters, the federal government covers 75 percent of eligible reimbursed costs, and the state and local governments cover the remaining 25 percent at 18.75 percent and 6.25 percent, respectively. For state declared disasters, the state covers 75 percent of total eligible costs, and the local government share is 25 percent. Cal OES is provided with a baseline amount of funding for this purpose each year (currently \$62.6 million), but the exact funding is readjusted based the eligible disasters and reimbursements. The average CDAA expenditures over the past six fiscal years was \$106.8 million.

Mission Tasking. Cal OES is authorized to mission task other state agencies and departments to respond to emergencies. If a disaster has been declared, the Department of Finance (DOF) may use the Disaster Response-Emergency Operations Account (DREOA) to fund these types of activities. Occasionally, Cal OES will task entities with missions that fall outside of declared disasters, which results in the entity absorbing the cost of the task. Examples include tasks undertaken to prevent disasters, or in early intervention before a disaster is declared, among other activities. Since 2019, Cal OES has had a \$20 million appropriation that operates in a similar manner to DREOA, but can be used for mission tasking regardless of whether a disaster is declared. However, it is set to expire at the end of this fiscal year.

LAO Recommendation.

CDAА Augmentation. The level of funding for this program is adjusted annually based on projections of reimbursement requests for recent disasters. The LAO finds that the \$114 million augmentation proposed for 2022-23 appears to be reasonable given recent disasters. Moreover, the LAO finds the \$37.4 million ongoing component of the augmentation to be appropriate as it better aligns the program's base budget with the actual amount allocated through CDAА in recent years.

Mission-Tasking Funding Duplicative of Existing Authority, Circumvents Legislative Oversight. The LAO finds the requested \$10 million for mission-tasking funding to be unnecessary for two reasons. First, the proposed funding would allow OES to reimburse departments for costs they incur due to being mission-tasked when other emergency response funding sources are unavailable, such as when a state of emergency has not been declared. However, the Governor's budget already includes the ability to augment funding for departments for unexpected costs or emergencies. Specifically, Item 9840-001-0001 includes \$40 million to augment departments' General Fund budgets and Item 9840-001-0494 includes \$15 million to augment departments' special fund budgets upon approval of the Director of Finance and no sooner than 30 days after notification to the Joint Legislative Budget Committee. The LAO also notes that the proposed level of funding for Item 9840-001-0001 is \$20 million higher in 2022-23 than the amount included in the 2021-22 budget.

Second, the Governor's proposal would allow the administration to transfer the \$10 million from OES to other departments without any legislative notification. Under the proposal, OES would only be required to report by March 1, 2024 on the use of the funds. Thus, such transfers would be subject to considerably less legislative oversight than required by the 9840 items.

The LAO recommends that the Legislature reject the mission-tasking appropriation proposal given that there is an existing process for augmenting departments' budgets for such expenses that would provide greater legislative oversight.

Staff Recommendation. Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Wednesday, February 23, 2022
1:30 p.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS.....	2
Issue 1: Combating Organized Retail Theft.....	4
5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC).....	12
Issue 2: Local Law Enforcement Gun Buyback Program Grants	12
0820 DEPARTMENT OF JUSTICE (DOJ)	18
Issue 3: Firearms Tracking and Data Systems	19
Issue 4: Task Force Program.....	21
Issue 5: Various Legislative Proposals.....	23
Issue 6: Special Fund Conditions.....	25
0690 OFFICE OF EMERGENCY SERVICES (CAL OES)	29
Issue 7: Various Staffing Proposals	33
Issue 8: Cal OES Headquarters Modernization.....	37
Issue 9: Implementing a 9-8-8 Behavioral/Mental Health Hotline	39
Issue 10: California Earthquake Early Warning System.....	41
Issue 11: Fire and Rescue Mutual Aid System.	43
Issue 12: Disaster Funding	45

Public Comment

ALL ITEMS HELD OPEN

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

Public Safety Package. The proposed budget includes a total of \$179 million General Fund in 2022-23 (declining to \$22.5 million annually by 2026-27) across multiple state departments to support the implementation of the Governor’s public safety package. The proposals are outlined below.

Overview of Governor’s Proposed Public Safety Package

(In Millions)

	Department	2022-23	2023-24	2024-25	2025-26	2026-27 and Ongoing
Proposals Addressing Organized Retail Theft						
Organized Retail Theft Prevention Grant Program	BSCC	\$85.0	\$85.0	\$85.0	—	—
Vertical Prosecution Grant Program	BSCC	10.0	10.0	10.0	—	—
CHP Organized Retail Crime Task Force Expansion	CHP	6.0	6.0	6.0	\$10.5	\$15.0
DOJ Organized Retail Crime Enterprises Program	DOJ	6.0	6.0	6.0	0.4	0.5
Grants to Small Business Victims of Retail Theft	GO-Biz	20.0	—	—	—	—
Proposals Addressing Firearms						
Gun Buyback Grant Program	BSCC	\$25.0	—	—	—	—
UC Firearm Violence Research Center	UC	2.0	\$2.0	\$2.0	\$2.0	\$2.0
Proposals Addressing Drug Trafficking and Other Crime						
Counterdrug Task Force Program Expansion	CMD	\$20.0	—	—	—	—
DOJ Task Force Program	DOJ	5.0	\$5.0	\$5.0	\$5.0	\$5.0
Totals		\$179.0	\$114.0	\$114.0	\$17.9	\$22.5

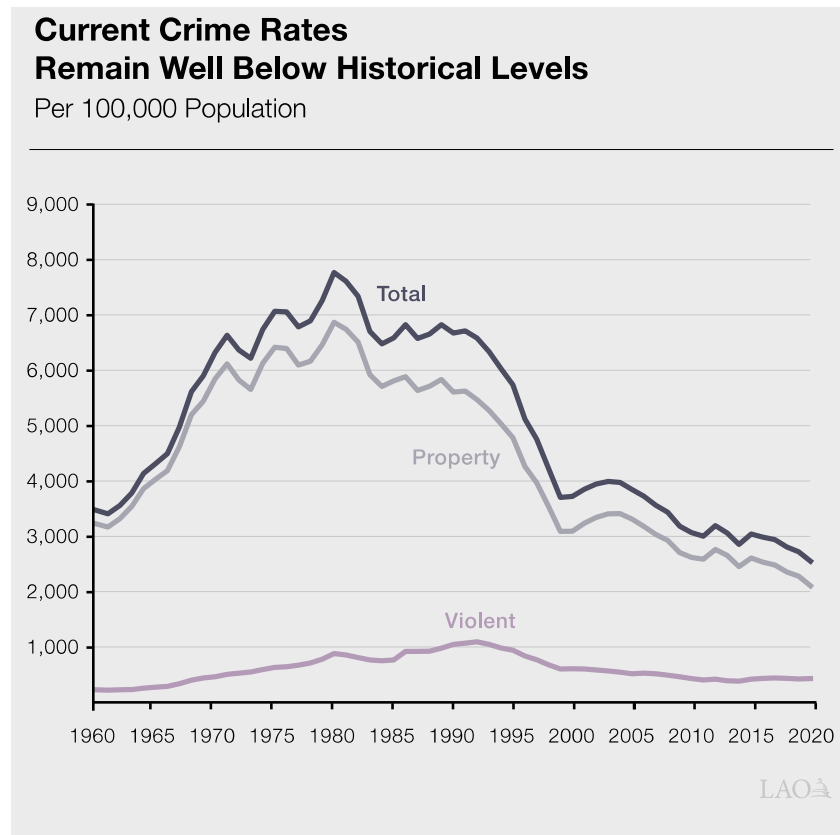
BSCC = Board of State and Community Corrections; CHP = California Highway Patrol; DOJ = Department of Justice; GO-Biz = Governor’s Office of Business and Economic Development; CMD = California Military Department

The funding directed towards GO-Biz, UC, and CMD will be discussed in other subcommittees.

Crime Trends. DOJ collects data on crimes reported to law enforcement agencies throughout California. While these data underestimate the total number of crimes that have occurred (as they do not reflect unreported and certain types of crime), they provide useful metrics for tracking changes in crime rates over time. The most recent available year of data is 2020. However, analysis by the Public Policy Institute of California (PPIC) of preliminary data on certain crimes from four large cities (Los Angeles, Oakland, San Diego, and San Francisco) covering the first ten months of 2021 gives an early indication of 2021 crime rate trends.

Crime Has Fluctuated During the Pandemic Yet Remains Well Below Historical Levels. During the initial phase of the COVID-19 pandemic, California’s total crime rate—consisting of both property and violent crime—declined by 6 percent between 2019 and 2020—from 2,724 to 2,552 crimes per 100,000 residents. While the exact causes of this decline are not clear, experts have suggested it could be associated with businesses being closed and people staying home in response to public health orders. However, preliminary 2021 data suggest that the total crime rate may be returning to pre-pandemic levels. From a historical perspective, such a potential increase

in crime is occurring in the context of a major long-term decline in crime rates. As shown below, between 1980 (when the total crime rate peaked) and 2020, the state's total crime rate declined by about 67 percent. Moreover, the property crime rate is at the lowest level ever recorded since reliable data collection started in 1960.



Increases in certain types of crimes. However, substantial increases have been noted in certain types of crime between 2019 and 2020, including:

- Motor vehicle theft (20 percent increase)
- Motor vehicle accessory (such as catalytic converters) theft (26 percent increase)
- Homicide (31 percent increase)
- Aggravated assault (9 percent increase)

These increases mirror nationwide trends. In addition, preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

Data specific to property theft and firearm violence is discussed in more detail in the following issues.

Issue 1: Combating Organized Retail Theft

Governor's Proposal. The Board of State and Community Corrections (BSCC), the California Highway Patrol (CHP), the Department of Justice (DOJ), and the Governor's Office of Business and Economic Development (GO-Biz) request \$127 million General Fund in 2022-23 and annually through 2024-25, \$10.9 million in 2025-26, and \$15.5 million in 2026-27 and ongoing for various initiatives to combat organized retail theft. Specifically, the proposal includes:

- *Organized Retail Theft Prevention Grant.* \$85 million annually through 2024-25 in grants to local law enforcement for increased presence and other efforts, administered by BSCC.
- *Vertical Prosecution Grant.* \$10 million annually through 2024-25 in grants to district attorneys (DAs) for vertical prosecutions, administered by BSCC.
- *Organized Retail Crime Taskforce.* \$6 million General Fund annually through 2024-25, \$10.5 million in 2025-26, and \$15 million in 2026-27 and ongoing for the CHP to expand and make permanent its Organized Retail Crime Taskforce.
- *Regional Task Forces and Multijurisdictional Prosecutions.* \$6 million General Fund annually through 2024-25, \$361,000 in 2025-26, and \$500,000 in 2026-27 and ongoing, for the DOJ to support regional task forces combating organized retail theft and to prosecute retail theft cases that span multiple jurisdictions.

This proposal also includes \$20 million one-time General Fund in grants to small businesses who experience thefts or crimes, administered by GO-Biz, which will not be discussed here.

Background.

Chapter 803 of 2018 (AB 1065, Jones-Sawyer) established organized retail theft as a specific crime that involves working with other people to steal merchandise with an intent to sell it, knowingly receiving or purchasing such stolen merchandise, or organizing others to engage in these activities. Depending on the circumstances of the crime, people who commit organized retail theft may be charged with other related crimes, such as burglary, robbery, receiving stolen property, fraud, or conspiracy. According to the DOJ, in 2021 there were 953 arrests (an increase of 14 percent from 2020) and 57 convictions (a decrease of 17 percent) for organized retail theft.

According to retailers, retail theft is on the rise, particularly in California and the Bay Area. CVS stated that they have experienced a 300 percent increase in retail theft since the beginning of the pandemic¹. Recent high-profile, brazen, coordinated thefts across the Bay Area have reinforced this perception, and retailers have reported concerns about increasingly violent efforts. In San Francisco, chains including Walgreens, Target, and Safeway have cited increases in shoplifting as they close stores or cut hours. Walgreens stated that the shoplifting rates at its San Francisco stores are five times the national average². City and state officials have taken steps to combat this issue, including supporting increased police presence and filing charges in several high-profile cases.

¹ <https://www.judiciary.senate.gov/imo/media/doc/Dugan%20testimony.pdf>

² <https://www.nytimes.com/2021/10/13/us/walgreens-store-closures-san-francisco.html>

However, there is limited data to verify the trends being reported by retailers, and there is no clear estimate of the scale of the problem³. The state does not collect data specific to organized retail theft (or even to retail theft in general, which may fall into several categories of crime). According to official crime statistics provided by the FBI, SFPD, and DOJ, related crimes such as shoplifting and property theft have been steadily declining for years, with a sharp drop at the beginning of the pandemic⁴. For example, DOJ data show a 29 percent decrease in shoplifting—from 226 to 161 per 100,000 residents—between 2019 and 2020⁵. Preliminary data shows an increase in larceny theft in 2021, now similar to pre-pandemic levels⁶.

Retailers claim that these official reports of theft are artificially low due to pandemic-related closures and underreporting, and that they do not reflect an increase in high-value, violent, and organized retail theft. A survey by the National Retail Federation (NRF) reports that three quarters of retailers saw an increase in organized retail crime in 2020, including increases in case value and aggression and violence⁷. According to a survey of 22 U.S. retailers, shoplifting apprehensions dropped 41.3 percent from 2019 to 2020, but essential retailers that closed few or no stores saw a rise of 7.9 percent⁸. In addition, these crimes may be underreported due to a perceived lack of consequences. However, it is difficult to assess the quality of the data being self-reported by retailers in these surveys.

Driving factors. Increased opportunities to sell goods online, persistent income inequality and economic stress, and criminal justice policy reforms have all been cited as potential driving factors. Proposition 47, which specified that commercial burglary of less than \$950 in value should be charged as a misdemeanor (unless the person has certain prior convictions), has come under particular scrutiny. However, there is no clear link between the passage of Prop 47 and property crime⁹. In addition, many other states, including Texas and South Carolina, have higher thresholds for felony theft (\$2500 and \$2000, respectively)¹⁰.

Challenges in combating retail theft. Retailers and law enforcement have outlined several challenges in combating retail theft, including:

- Lack of initial apprehension due to fears of encounters turning violent.
- Limited resources for investigations and prosecutions of retail theft, both at the local level and for larger-scale, multi-jurisdictional investigations.
- Intersection with other issues, such as income inequality and increases in other types of crimes.

Loss prevention by businesses. Individual stores typically take steps to prevent retail theft, including limiting physical access to commonly stolen items, using technology such as increased

³ <https://www.theguardian.com/us-news/2021/dec/17/explainer-california-mass-thefts-retail-policing>;

<https://www.latimes.com/business/story/2021-12-15/organized-retail-theft-crime-rate>

⁴ <https://crime-data-explorer.fr.cloud.gov/pages/explorer/crime/property-crime>; <https://www.sfchronicle.com/crime/article/Is-shoplifting-rising-in-San-Francisco-Here-s-16272907.php>

⁵ <https://lao.ca.gov/Publications/Report/4546>

⁶ <https://www.ppic.org/blog/after-decreases-in-2020-both-property-and-violent-crimes-are-up-in-2021/>

⁷ https://cdn.nrf.com/sites/default/files/2020-12/2020%20Organized%20Retail%20Crime%20Survey_0.pdf;

<https://cdn.nrf.com/sites/default/files/2021-08/2021%20National%20Retail%20Security%20Survey%20updated.pdf>

⁸ <https://hayesinternational.com/wp-content/uploads/2021/05/33rd-Annual-Retail-Theft-Survey-2021-With-Thoughts-Behind-Numbers-1.pdf>

⁹ <https://news.uci.edu/2018/03/07/proposition-47-not-responsible-for-recent-upticks-in-crime-across-california-uci-study-says/>;

https://www.ppic.org/wp-content/uploads/r_0618mbr.pdf

¹⁰ <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/22/states-can-safely-raise-their-felony-theft-thresholds-research-shows>

surveillance and or working with law enforcement to plant bait cars or goods, increasing security presence, and cooperating with law enforcement on investigations. Larger businesses and chains often make significant investments in loss prevention teams and programs, which may not be fiscally possible for small businesses.

Statewide efforts. In 2018, the Organized Retail Theft Task Force was created as a joint venture between the DOJ and the CHP with the goal of reducing organized retail theft activities (AB 1065, Jones-Sawyer, Chapter 803, Statutes of 2018). It was funded in the 2019 budget for two years, and the 2021 budget included \$5.6 million one-time General Fund for CHP and \$149,000 one-time General Fund for the DOJ. The Administration proposes to add regional seats for Sacramento and the Central Valley, in addition to the current seats for San Diego, Los Angeles, and the Bay Area. According to the Administration, the task force has conducted over 773 investigations that resulted in hundreds of arrests and nearly \$20 million in recovered merchandise.

Limiting resale opportunities. Efforts are also being made at the state level to target online marketplaces. For example, SB 301 (Skinner) would require online marketplaces to verify some information about their sellers, in order to limit the opportunity for reselling stolen goods. Similar legislation is pending at the federal level.

Proposed Resources. The Administration has proposed the following package of resources to combat retail theft:

- *Organized Retail Theft Prevention Grant Program (\$85 Million).* The Governor’s budget proposes \$85 million annually from 2022-23 through 2024-25 for the BSCC to administer a new competitive grant program to support local law enforcement agencies (including police departments, county sheriffs, and probation departments) in preventing retail theft and enforcing theft-related laws.

Proposed provisional budget language specifies that priority “shall be given to localities that do not have a designated CHP task force and that have the largest increases in theft-related crimes over a three-year period based on the most recent available data.” According to the administration, this language is intended to prioritize grant funds for law enforcement agencies in the Fresno and Sacramento areas where the Governor proposes to establish two new CHP Organized Retail Crime Task Forces (ORCTFs), as discussed further below. (ORCTFs consist of CHP officers who collaborate with local law enforcement agencies and prosecutors in specified regions to support investigation and prosecution of organized retail crime.)

The Administration has indicated that they want to provide flexibility to local governments. Grants could be used to fund activities including, but not limited to:

- Participating in ORCTFs.
- Increasing presence at retail locations.
- Supporting increased diversion and supervision of people that commit retail theft, including programs that address root causes of crime.
- Training law enforcement personnel on identifying and combatting retail theft and other organized crime committed against retail businesses.

Other details of the grants, including the scoring criteria and grant sizes, among other details, are not determined, and would be set by BSCC after the funding is approved.

- *Vertical Prosecution Grant Program (\$10 Million)*. The Governor's budget proposes \$10 million annually from 2022-23 through 2024-25 for BSCC to administer a new competitive grant program for district attorneys to fund vertical prosecution of organized retail theft. Vertical prosecution is a strategy in which the same attorney is responsible for all aspects of a case from arraignment to disposition. According to the administration, funding would be prioritized for district attorney offices that have attorneys dedicated to the existing and proposed CHP ORCTFs. Although not typically applied to retail theft, the Administration believes that vertical prosecution would provide for greater consistency throughout prosecution of cases and the opportunity for attorneys to develop expertise in prosecuting organized retail theft. Other details of the grants, including the scoring criteria and grant sizes, among other details, are not determined, and would be set by BSCC after the funding is approved.
- *CHP ORCTF Expansion (\$6 Million)*. In 2019, the state established three CHP ORCTFs that operate in the greater Bay Area and portions of Southern California. These three task forces are currently supported with \$5.6 million General Fund annually, which is scheduled to expire in 2026-27. The Governor's budget proposes \$6 million annually through 2024-25 (increasing to \$10.5 million in 2025-26 and \$15 million in 2026-27 and ongoing) for CHP to make the three existing ORCTFs permanent and establish two new permanent ORCTFs in the Fresno and Sacramento areas. Due to CHP's high officer vacancy rate, the proposal assumes that these new task forces will be operated by existing officers working overtime for at least three years. After that time, the new ORCTFs would be operated using dedicated staff rather than overtime.
- *DOJ Organized Retail Crime Enterprises (ORCE) Program (\$6 Million)*. The Governor's budget proposes \$6 million annually from 2022-23 through 2024-25 (declining to \$500,000 annually beginning in 2026-27) for a new program to pursue ORCE investigations and prosecutions. Specifically, the proposed resources for the first three years would support 28 positions—15 positions to pursue ORCE investigations and 13 positions and legal resources to prosecute resulting ORCE cases. The ORCE investigators plan to focus on complex, multi-jurisdictional organized retail theft crime networks for fraud, tax evasion, and other white-collar crimes. These investigators would coordinate with federal, state, local, and retail partners as well as coordinate data collection and information. The annual funding after the first three years would support one sworn DOJ agent who currently participates in the existing CHP ORCTFs. (The position is currently funded with limited-term funding.)

LAO Comment.

Limited Retail Theft-Related Data Does Not Show Substantial Increases. The LAO notes that the limited data on retail theft does not appear to support a conclusion that retail theft is a significant problem in the state. Accordingly, the Legislature could choose to instead target homicide, aggravated assault, or motor vehicle-related theft, which have demonstrated significant increases

in recent years. However, some experts and retailers report observing an increase in the criminal sophistication of shoplifters and the level of brazenness and violence involved in incidents of theft. This could warrant concern even if the total number of incidents has not changed. In addition, crime rates tend to vary by region and type of crime, and statewide crime trends may not be representative of certain regions of the state. According to an analysis by PPIC, the 2020 violent crime rate in the San Joaquin Valley was more than double that in the southern and border regions, and the property crime rate in the Bay Area was nearly double that in the Sierra region. Thus, while crimes like retail theft may not be of significant concern statewide, targeting such crimes in those areas where they are of significant concern could merit legislative consideration.

Lack of Clear Objectives Makes It Difficult to Assess. The LAO notes that the plan lacks clear and specific objectives, which make it difficult for the Legislature to assess the proposals. For example, the types of criminal activities related to organized retail theft can range from two people working together to steal merchandise and return it for store credit to a criminal organization that exploits marginalized people to steal on its behalf and sells the stolen merchandise through online marketplaces. As such, there are essentially numerous ways to potentially reduce organized retail theft. However, without clear and specific objectives it is difficult to determine which of the various criminal activities related to organized retail theft to target and to identify the specific actions to pursue with limited resources. For example, if the objective is to arrest individuals engaged in basic shoplifting or organized retail theft at a low level of sophistication, the use of video surveillance cameras could be an effective use of state resources. In contrast, if the objective is to dismantle criminal organizations engaged in organized retail theft, employing complex operations to uncover individuals who are running theft rings, as opposed to those they hire or exploit to shoplift for them, could be an effective use of state resources.

Unclear How Funding Would Be Allocated and Used. Given that the Governor proposes to give significant authority to BSCC to implement the grant program proposals, it is unclear how the grant funding would be allocated. According to the administration, after the budget is enacted, BSCC would convene Executive Steering Committees—composed of board members, content area experts, practitioners, and other stakeholders—and receive public comment in order to determine how funding will be allocated. As such, it is unclear how the proposed funding would be targeted or prioritized, whether there would be minimum or maximum grant amounts for a single applicant, and what metrics or outcomes would be collected. It is also unclear how the grant programs would be administered—such as what information would be required in a grant application and the criteria that will be used to determine which applications will be approved. Without this information, it is difficult for the Legislature to determine whether the proposed funding will be allocated equitably or accountably. For example, the Legislature may want to know whether BSCC would prioritize funding for applicants who are disproportionately impacted.

Difficult to Assess Whether Programs Will Be Effective. The lack of details on how the BSCC grant funding would be allocated and used makes it difficult for the Legislature to assess whether programs are structured in the most effective manner, what outcomes could be achieved, and how likely the Governor's proposals are to be successful. The organized retail theft prevention grants to local law enforcement are competitive grants that can be used to support any activities that prevent retail theft or enforce theft-related laws. The breadth of the existing language means that there are numerous possibilities for how the money ultimately could be used. A large portion of

the funding could go to increasing law enforcement patrol of retail locations or to participate in task forces, instead of other activities such as the purchase of cameras or other technology that could achieve different outcomes and/or be a more effective use of limited-term funding.

Supplantation of Local Funding Possible. The broad budget provisional language allowing BSCC to determine most implementation details could result in the supplantation of local funding. Law enforcement agencies and district attorney offices have an incentive to investigate and prosecute certain theft crimes—particularly if there is an ongoing local surge in such crimes—as this impacts the local economy and is frequently a concern of local constituents. This means that local agencies have a strong incentive to redirect resources internally to make the investigation and prosecution of such crimes a priority—even if the state does not specifically provide resources to do so. Accordingly, any state funds that are provided to local agencies under the Governor’s proposed package might not change the amount they would otherwise spend addressing such crimes. However, it is unclear whether BSCC will take steps to avoid this, such as requiring locals to provide matching funds. While it is possible that BSCC ultimately addresses this concern upon actual implementation, specific budget language to prevent it from occurring would increase the likelihood the monies are used effectively.

CHP ORCTF Expansion Could Face Challenges. If the state is interested in targeting organized theft coordinated by criminal gangs or networks, DOJ could be a better entity than CHP to administer such task forces. This is because DOJ has existing expertise in operating dedicated task force teams as well as managing task forces that consist of federal, state, and local partners. Additionally, DOJ employs both law enforcement investigative personnel as well as attorneys who can more easily work together to successfully investigate and prosecute cases. Furthermore, CHP currently does not have the ability to dedicate full-time sworn officers to the two new ORCTFs proposed by the Governor due to a high vacancy rate. The requested funding would instead go to support overtime to pay for patrol officers to conduct increased enforcement in the initial three years. This may not be the most effective way to operate a task force as the patrol officers likely would not be able to fully focus on addressing retail theft in the same manner as full-time dedicated officers. This could then impact the outcomes that can be achieved in the near term.

Staff Comment.

Inconsistent data on the problem scope. Different retailers or retail groups have presented significantly different estimates of the overall size of organized retail theft nationwide, in California, and in the Bay Area (although in multiple cases were mistakenly citing losses to any kind of theft or fraud, including employee theft)¹¹. Some industry advocates cited numbers in the billions for the Bay Area alone, while the LA Times estimated, using numbers from the NRF surveys, that losses to organized retail crime are \$2.1 billion nationwide. If California matched nationwide averages, California’s share would be roughly \$210 million annually.

Other priorities for retailers. A recent NRF survey indicated that “mall or store violence/shooting incidents” and “cyber-related incidents” are both priorities for more retailers than “organized retail crime”¹². In addition, organized retail crime represents a small portion (roughly four percent) of

¹¹ <https://www.latimes.com/business/story/2021-12-15/organized-retail-theft-crime-rate>

¹² <https://cdn.nrf.com/sites/default/files/2021-08/2021%20National%20Retail%20Security%20Survey%20updated.pdf>

overall inventory losses experienced by retailers¹³. Other larger loss categories include employee theft, paperwork errors¹⁴, and self-checkout systems¹⁵, although NRF stopped publishing detailed breakdowns of loss sources in 2018.

Increase in violent incidents. Retailers have noted an increase in brazen and violent thefts, including using firearms. Such brazen attempts may be bolstered by understaffed stores. The Legislature could consider how to target funding to focus on violent incidents.

Increased policing and surveillance. The proposed plan does not consider equity or privacy concerns. There are no safeguards to ensure this funding is used in a way that promotes racial equity and does not reinforce existing biases and patterns of overpolicing. The funding may also be used to increase surveillance and tracking technology, often managed by private companies, which may raise significant privacy concerns.

Targeting resources for sustainable improvements. As noted by the LAO, it is not clear how these funds, particularly the local law enforcement grants, will be well-targeted to organized retail theft. Some of the allowable uses are also ongoing expenses, and it is unclear how expanding those resources for a limited term will result in a long-term solution to retail theft. In addition, the limited-term resources provided to the DOJ may result in recruiting challenges.

Unclear demand. It is not clear how the Administration decided on the funding levels requested here. Given that the details of the grant programs are still being decided, it is not known how many entities the Administration intends to fund and at what level.

LAO Recommendation.

Consider Highest-Priority Public Safety Goals. The LAO recommends that the Legislature first determine specific goals in regards to public safety, set clear objectives, and then ensure that proposals are well-targeted to achieve those objectives. For example, given that the total crime rate is currently quite low relative to historical standards, the Legislature may want to prioritize public safety goals not directly related to reducing crime. Such goals could include better addressing the mental health or housing needs of individuals involved with the criminal justice system. If the Legislature decides to prioritize reducing crime, the Legislature should decide whether retail theft should be the priority, as opposed to other issues with demonstrable increases such as motor vehicle-related theft, homicides and aggravated assaults, or the use of firearms in crime.

Options for Addressing Crime-Related Public Safety Goals. The LAO also presented several alternative investments (some of which are discussed in the next item). Their suggested options include:

Expanding Existing Programs. The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or

¹³ <https://nrf.com/blog/organized-retail-crime-remains-growing-threat>

¹⁴ <https://cdn.nrf.com/sites/default/files/2018-10/NRF-NRSS-Industry-Research-Survey-2018.pdf>;

<https://www.theatlantic.com/health/archive/2021/12/shoplifting-holiday-theft-panic/621108/>; <https://nrf.com/blog/organized-retail-crime-remains-growing-threat>

¹⁵ <https://www.ecrloss.com/research/self-checkout-research>

operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include DOJ resources targeting complex or organized crime, or DOJ Task Forces to focus on specific crimes in different regions.

Invest in Research-Based Options. The Legislature could consider options that research has found to be effective at reducing crime or certain types of crime. By pursuing strategies that have been found to be effective, the Legislature would increase the likelihood that its desired outcomes are achieved. Research-based options that can reduce both violent and property crime include place-based strategies (such as improving lighting in public places), interventions to reduce substance use (such as expanding access to substance use disorder treatment), and policies or programs that mitigate financial stress on people, among others.

To the extent the Legislature aims to reduce retail theft, there are a variety of research-based tools and best practices that retailers can employ—often in partnership with local law enforcement—to deter and detect theft. For example, strategically placed surveillance cameras could help deter theft by increasing the likelihood that individuals will be identified. Accordingly, the Legislature could consider funding limited-term grants to help retailers and/or local law enforcement invest in technology, infrastructure, training, or consulting services. This could help retailers better self-protect from theft and improve the sharing of crime data and evidence between retailers and law enforcement.

The Legislature could consider various other options, such as those being tried in other jurisdictions. For example, some jurisdictions operate partnerships between retailers, police, and prosecutors through which shoplifters identified by retailers are required to complete a diversion program to avoid being prosecuted with a crime. Such programs can be designed to help people understand the harm that they cause when they shoplift as well as identify factors in their life that may be contributing to their behavior. This could help reduce shoplifting—whether by individuals working alone or by “boosters” hired by organized retail crime rings to shoplift on their behalf. In another example, at least one California city has used GPS tracking devices in “bait” cars in order to reduce motor-vehicle thefts. Accordingly, the Legislature could consider funding a pilot to test these ideas.

Staff Recommendation: Hold Open.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)**Issue 2: Local Law Enforcement Gun Buyback Program Grants**

Governor’s Budget. The proposed budget includes \$25 million one-time General Fund for BSCC to implement the Local Law Enforcement Gun Buyback Grant Program.

Background. According to a 2018 survey from the Firearm Violence Research Center at UC Davis¹⁶, 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 rate¹⁷.

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 2020¹⁸. 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 access¹⁹.

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 danger to themselves or others due to mental illness, or have a restraining order against them. From 2008 to 2021, the number of such persons more than doubled—from 10,266 to 23,598 individuals. 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 31 percent increase in homicides and a 9 percent increase in aggravated assaults between 2019 and 2020. In a July 2021 analysis of violent crime in large California counties, PPIC found that the share of crimes involving guns increased for homicides, aggravated assaults, and robberies. These increases mirror nationwide trends. Preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

As shown below, total firearm-related deaths increased from 2,925 deaths in 2019 to 3,428 deaths in 2020—an increase of 503 deaths (or 17 percent). Of this amount, homicide firearm deaths increased from 1,246 deaths in 2019 to 1,731 deaths in 2020—an increase of 485 deaths (or

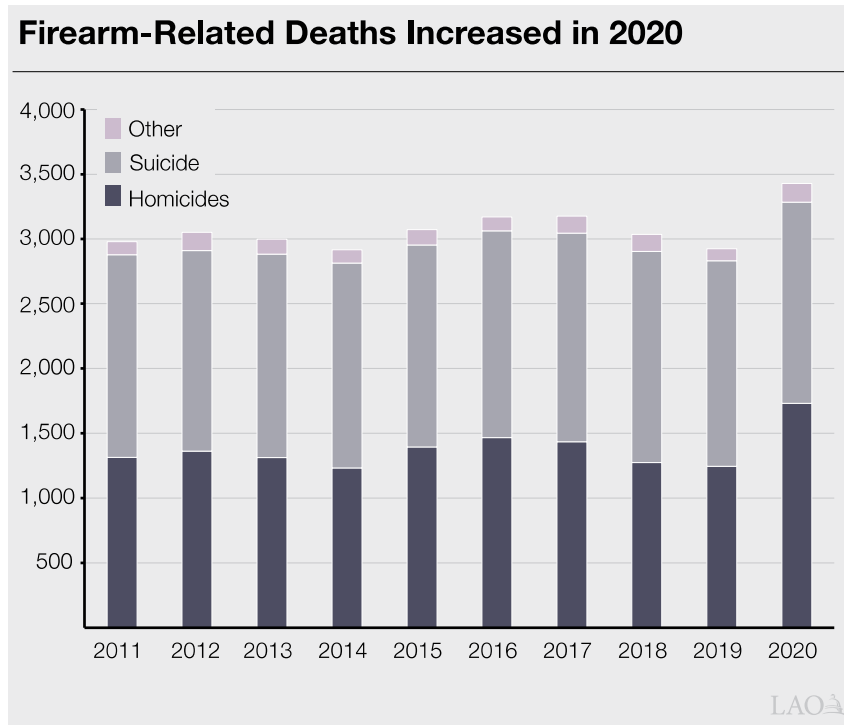
¹⁶ https://health.ucdavis.edu/vprp/UCFC/Fact_Sheets/CSaWSBrief_InjPrev_Kravitz-Wirtz.pdf

¹⁷ <https://journalistsresource.org/health/gun-buybacks-what-the-research-says/>

¹⁸ <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>

¹⁹ <https://www.nejm.org/doi/full/10.1056/NEJMs1916744>; <https://www.latimes.com/science/la-sci-guns-20140121-story.html>

39 percent). In contrast, while there are slight fluctuations over the past decade, suicide firearm deaths were roughly the same in 2019 (1,586 deaths) and 2020 (1,552 deaths).



Gun buyback programs. In gun buyback programs, governments offer cash or other rewards in exchange for the surrender of firearms, typically with no questions asked about the origin or legality of the firearm. The goal of such programs is to reduce the number of privately-owned guns, which would hopefully lead to a reduction in gun violence and crime. For example, one of the largest gun buyback programs was instituted in Australia after automatic and semi-automatic weapons were banned in 1996. 650,000 guns were purchased, estimated to represent about 20 percent of the privately owned guns in the country. Most gun buybacks in the United States have been much smaller and are typically run by local governments.

The effectiveness of gun buyback programs has been debated²⁰. A review from 2019 concluded that gun buyback programs, combined with widescale gun violence reduction efforts, are a cost-effective method of reducing the number of weapons in the public²¹. In Australia, there was a 42 percent decrease in homicide rates and a 57 percent decrease in suicide rates in the seven years after weapon ban and buyback program. However, it is not clear how much can be attributed to the buyback versus the accompanying weapons ban and other firearm policy changes, and existing trends²². A study published in July 2021 by researchers working with the National Bureau of Economic Research, which looked at almost 25 years of data to analyze whether buybacks in 100 different U.S. cities affected gun crime, found “no evidence that gun buyback programs are

²⁰ <https://journals.sagepub.com/doi/10.1177/0011128708321321>

²¹ <https://link.springer.com/article/10.1007/s40719-019-00180-8>

²² <https://link.springer.com/article/10.1007/s11121-019-01064-8>; <https://www.rand.org/research/gun-policy/analysis/essays/1996-national-firearms-agreement.html>

effective at deterring gun crime either in the short- or longer-run”²³. There are numerous challenges in evaluating the research around gun buyback programs and extrapolating that research to this proposal. Some major issues are:

- *Unique challenges in the United States.* One of the challenges is the sheer number of privately owned guns in the United States: in 2017, the Small Arms Survey estimated that there were 393 million civilian-owned firearms in the US²⁴, representing 45.8 percent of the world’s civilian-owned guns. Gun ownership is also concentrated, so the people returning weapons for buyback may have other guns at home. A mandatory or large-scale national program, in conjunction with firearm policy changes intended to restrict the acquisition of new weapons, is unlikely to occur in the United States. Smaller-scale, local programs are less likely to have a measurable impact on gun crime.
- *Poor program design.* Some of the gun buyback programs in the United States have not been well designed. Common pitfalls include not targeting the programs to the most dangerous weapons (for example, allowing broken firearms or rifles or shotguns, which are not commonly used in crimes, to be collected), and not appropriately setting the payment levels. There have been reports of participants turning in broken or low-value weapons and using the money to buy better guns. Researchers at the Firearm Violence Research Center at UC Davis have highlighted concerns about previous, ineffective buyback programs, and offered suggestions to improve programs moving forward²⁵.
- *Different definitions of success.* Researchers from the Firearm Violence Research Center at UC Davis have indicated that gun buybacks may be valuable if they are part of a broader effort to reduce gun violence and focus on community engagement and education around gun safety²⁶. The 2019 review mentioned earlier did not focus on gun crime, instead concluding that “Gun buybacks are a cost-effective means to reduce the number of unwanted firearms in the general public and also provide a means for education regarding injury prevention. Buybacks in conjunction with other methods have been shown to be successful in reducing the number of firearms that could lead to injury and death.”

Strategies for effective gun buyback programs. Specific suggestions to improve the effectiveness of gun buyback programs include:

- *Target the types of guns.* Buybacks should be limited to the most dangerous guns, such as working guns and handguns, and/or should pay more for more dangerous weapons.
- *Provide drop off sites that are not law enforcement.* Even if amnesty is explicitly part of the program, some people may not participate if it is run by law enforcement.

²³ <https://www.nber.org/papers/w28763>

²⁴ <https://www.smallarmssurvey.org/database/global-firearms-holdings>

²⁵ <https://health.ucdavis.edu/vprp/pdf/2013/2013.11.improving-the-potential-effectiveness-of-gun-buyback-programs.pdf>

²⁶ <https://www.npr.org/2013/01/15/169439243/newtown-prompts-gun-buybacks-but-do-they-work>

- *Use the buyback to increase awareness and engagement.* The buyback should be planned as part of broader gun reduction efforts, including an emphasis on community engagement and education.
- *Set appropriate payments.* If the payments are too low, they will not incentivize people to turn in guns. If the payments are too high, people could turn in low-value guns for a profit.

Proposed resources. The Administration indicated that this program would provide \$25 million in matching grants to local agencies, providing safe-disposal opportunities to remove guns from the streets and raising awareness of gun violence. Grantees would be required to provide a cash or in-kind match of ten percent. The details of the program have not been developed further.

Other statewide investments in combating gun violence. The proposed budget also includes \$2 million ongoing for the UC Firearm Violence Research Center (in addition to \$1 million ongoing provided in the budget last year), as well as the investments in the DOJ's firearm registration and tracking systems described in the next item. The 2021 Budget included \$10.3 million to assist law enforcement in seizing weapons from persons who are prohibited from possessing them (including those in APPS), \$11 million for education and training around gun violence restraining orders, and \$200 million across three years for the California Violence Intervention and Prevention (CalVIP) Program, which provides grants aimed at violence reduction in general (not limited to guns).

Staff Comment.

Lack of detail. The Administration has not provided any details on this proposal, including:

- Basic grant information such as how large the grants will be, what entities and programs would be eligible, how applications would be reviewed and prioritized, and other details.
- Anticipated demand.
- Why this program is preferred over other investments to reduce gun violence.
- How much of the funding can be used for administration by local entities.
- How many guns are expected to be surrendered using this funding.
- What a well-targeted and effective gun buyback program looks like, and how the Administration would ensure that the funded programs follow those guidelines.

The Administration has indicated that it does not have these details available at this time and expects these details to be developed by BSCC if the funding is approved. However, the Legislature should consider how the program could be targeted to the highest need areas and the highest risk guns, and whether benefits such as education and community engagement should be expressly stated goals of the program, and if so, how to ensure they are incorporated.

Level of resources. If the programs offered \$50 per gun, a standard amount in previous programs, the funding could be used to recover roughly 500,000 guns (ignoring BSCC or local administration costs and not including the local match). This represents 2.5 percent of the guns in California. This may not be a large enough number to result in a significant change in gun crime and emphasizes the need for the program to have a targeted approach.

Reselling guns from buyback programs. The Legislature may wish to specify or limit what may be done with guns that are collected. For example, while atypical, some guns collected in buyback programs are resold²⁷.

LAO Comment.

The LAO notes similar concerns as for the previous BSCC grant proposals, including that it is not clear how funding would be allocated and used, the program does not have clear objectives, and it will be difficult to assess.

LAO Recommendations.

Potential Public Safety Goals Related to Firearms. The Legislature could consider prioritizing certain firearm-related goals based on the data presented earlier. Specifically, the Legislature could consider addressing (1) the growth in homicide firearm deaths or (2) the increase in the share of homicides, aggravated assaults, and robberies that involve firearms. Additionally, the Legislature could consider targeting the removal of firearms from armed and prohibited persons—particularly those who are prohibited due to mental illness or restraining orders. Research suggests that firearm prohibitions associated with mental illness may decrease violent crime and those associated with domestic violence restraining orders may decrease total and firearm-related intimate partner homicides.

Ensure Program is Well-Designed. If the goal of the gun buyback program is specifically to reduce firearm crime-related violence, research suggests that such programs are more effective if they require firearms be working in order to receive an incentive, prioritize the types of firearms used in crimes (such as newer firearms or semiautomatic pistols), and/or focus on the types of individuals or locations more prone to firearm violence. However, it is unclear whether BSCC will ensure the gun buyback program is structured effectively.

Options to Expand Existing Programs. The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include:

- ***Gun Violence Reduction Program to Reduce Number of Armed and Prohibited Persons.*** As previously discussed, APPS identified nearly 23,600 armed and prohibited persons as of January 2021. The 2021-22 budget provided \$10 million one-time General Fund to DOJ's Gun Violence Reduction Program for competitive grants to county sheriff's departments to reduce the number of armed and prohibited persons by seizing firearms and ammunition from them. To the extent the Legislature would like to further reduce the number of armed and prohibited persons, it could provide additional funding to the Gun Violence Reduction Program and make other law enforcement agencies (such as city police) eligible for grants.

²⁷ <https://www.theatlantic.com/politics/archive/2013/04/how-arizona-gun-buybacks-became-gun-sellbacks/315779/>

- *Firearm Removal From Individuals Immediately When They Become Prohibited.* Beginning in 2018, courts have been required to inform individuals upon conviction of a felony or certain misdemeanors that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. Courts are also required to assign probation officers to report on what offenders have done with their firearms. Probation officers are required to report to DOJ if any firearms are relinquished to ensure the APPS armed and prohibited persons list is updated. To the extent the Legislature would like to limit growth in the number of armed and prohibited persons, providing funding to local law enforcement agencies and probation departments to ensure this process is followed can be effective as firearms would be surrendered at the time of conviction.

Staff Recommendation. Hold Open.

0820 DEPARTMENT OF JUSTICE (DOJ)

Under the direction of the Attorney General, DOJ provides legal services to state and local entities, brings lawsuits to enforce public rights, and carries out various law enforcement activities. 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 the statewide criminal history database and conducts background checks required for firearm and ammunition purchase as well as other purposes.

The Governor's budget proposes \$1.2 billion to support DOJ operations in 2022-23—an increase of \$40 million (or 3.4 percent)—over the revised amount for 2021-22. About half of the proposed funding supports DOJ's Division of Legal Services, while the remainder supports the Division of Law Enforcement and the California Justice Information Services Division. Of the total amount proposed for DOJ operations in 2022-23, around one-third—\$433 million—is from the General Fund. This is an increase of \$37 million (or 9.5 percent) from the estimated 2021-22 General Fund amount.

Department of Justice Budget Summary

(Dollars in Millions)

	2020-21 Actual	2021-22 Estimated	2022-23 Proposed	Change From 2021-22	
				Amount	Percent
Legal Services	\$498	\$585	\$604	\$19	3.3%
Law Enforcement	218	307	337	30	9.9
California Justice Information Services	228	259	250	-10	-3.8
Totals	\$944	\$1,151	\$1,191	\$40	3.4%

Issue 3: Firearms Tracking and Data Systems

Governor's Budget. The proposed budget includes four proposals related to firearm tracking and data collection and management, including:

- *Firearms IT System Modernization (FITSM) Project.* \$5,188,000 Dealer Record of Sale (DROS) Special Account in 2022-23 to plan and analyze the efforts necessary to modernize the Department's firearms systems.
- *Implementation of Legislation.*
 - \$223,000 General Fund in 2022-23 and ongoing to support accelerated implementation and ongoing workload associated with tracking the sale, possession, and transfer of precursor parts in California, pursuant to Chapter 730, Statutes of 2019 (AB 879, Gipson).
 - \$2,284,000 DROS Account and 5.0 positions in 2022-23, increasing to \$3,462,000 in 2023-24, \$1,483,000 in 2024-25, \$1,017,000 in 2025-26, and \$973,000 in 2026-27 and ongoing to facilitate and maintain multiple modifications to DOJ's firearms-related systems to meet the mandates outlined in Chapter 250, Statutes of 2021 (SB 715, Portantino).
 - \$327,000 General Fund and 2.0 positions in 2022-23 and \$306,000 in 2023-24 and ongoing to analyze and report on firearms that were illegally possess, used in a crime, or suspected to have been used in a crime pursuant to Chapter 683, Statutes of 2021 (AB 1191, McCarty).

Background.

FITSM. The DOJ has 17 firearms information technology systems (see table below). These systems support the education, regulation, and enforcement actions regarding the manufacturing, sale, ownership, safety training, and transfer of firearms. Many have been implemented in a piecemeal fashion over the past four decades, largely in response to specific legislative mandates. However, this has resulted in a complicated set of databases that are not compatible and require extensive reprogramming for even minor changes. For example, this complication has delayed the implementation of Chapter 25, Statutes of 2019 (SB 94, Committee on Budget and Fiscal Review) which requires specific data on the collection of firearms from Armed and Prohibited Persons (APPS) to be reported annually.

The DOJ has begun planning to update and consolidate its firearm data systems into two systems: one external and publicly accessible and one internal DOJ-only. The 2020-21 budget included \$2.352 million in DROS funding to hire consultants to plan and analyze the modernization roadmap. The resources requested here will help continue the planning process, which is being undertaken in consultation with the Department of Technology. DOJ is requesting funding for ten positions and six external consultants in 2022-23 to support the continuation of the FITSM project.

Count	Firearms System Name
1	Automated Firearms System (AFS)
2	Dealer Record of Sale Entry System (DES)
3	Armed and Prohibited Persons System (APPS)
4	Dealer Record of Sale (DROS)
5	California Firearms Information Gateway (CFIG)
6	California Firearms Application Reporting System (CFARS)
7	Centralized List (CL)
8	Consolidated Firearms Information System (CFIS)
9	Firearms Certificate System (FCS)
10	Mental Health Reporting System (MHRS)
11	Mental Health Firearms Prohibition System (MHFPS)
12	Carry Concealed Weapon System (CCW)
13	Assault Weapon Registration (AWR)
14	California Firearms License Check (CFLC) System
15	Prohibited Applicant
16	Firearms Employment Application File (FEAF)
17	Ammo Processor

Implementation of Legislation.

AB 879 and SB 118 – Precursor parts. Ghost guns are untraceable weapons assembled from parts at home, which has allowed people to get around restrictions on buying and owning firearms. However, beginning July 1, 2022, the sale of the parts used to build ghost guns, referred to as firearm precursor parts, will become subject to many of the same regulations and restrictions as the sale of assembled firearms, per AB 879, as amended by Chapter 29, Statutes of 2020 (SB 118, Committee on Budget and Fiscal Review). The DOJ must also track related information in a database to be known as the Firearm Precursor Parts Purchase Records File. The 2020-21 and 2021-22 budgets included a total of \$14.2 million for the implementation of this program, but DOJ indicates that additional ongoing resources for the California Justice Information Services (CJIS) Division are needed.

SB 715 – Various restrictions. SB 715 (Portantino), Chapter 250, Statutes of 2021 bans the possession of semiautomatic centerfire rifles, limits the possession of firearms by a minor, prevents dealers from returning unauthorized weapons to sellers, and requires hunting licenses to be confirmed as part of the background check for people under 21. These changes require DOJ to update several data systems, implement an interagency agreement with the Department of Fish and Wildlife, and make changes related to the creation of a new crime, among other requirements. DOJ is requesting resources for both the Division of Law Enforcement (DLE) and CJIS.

AB 1191 – Firearms used in crimes. AB 1191 (McCarty), Chapter 683, Statutes of 2021 requires DOJ to analyze information already reported regarding firearms that were illegally possessed, used in a crime, or suspected to have been used in a crime, and submit an annual report to the Legislature summarizing the analysis. DOJ is requesting one position for CJIS and one positions for DLE, in addition to consultation costs with other divisions and sections within DOJ.

Staff Recommendation. Hold Open.

Issue 4: Task Force Program

Governor's Budget. The proposed budget includes \$5,000,000 General Fund in 2022-23 and ongoing to maintain DOJ oversight of collaborative law enforcement task forces statewide.

Background. The DOJ coordinates eight task forces (outlined below) that facilitate communication between local, state, and federal law enforcement agencies. The task forces are regional and focused on major crimes, including gang violence and human trafficking. DOJ helps coordinate the task forces, providing leadership, training, and supervision on major investigations. Each task force is assigned approximately 100 cases per year. The various statewide task forces exchange information related to tactics, strategies, intelligence, and emerging criminal trends. The task forces also help smaller, local law enforcement agencies with investigations that they would not have the resources to perform on their own.

Task Force	Total DOJ Cost	Description
High Impact Investigation Team (HIIT)	\$546,000.00	Focuses on criminal organizations and gang activity in Fresno, Tulare, and King Counties.
Inland Crime Allied Task Force (INCA)	\$505,000.00	Established in 1991, focuses on large-scale, transnational organized crime in the Inland Empire.
Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (LA IMPACT)	\$1,412,000.00	One of the largest task forces, with 80 sworn personnel and 15 staff. Focuses on organized crime in the LA area, with expertise in surveillance, property crimes, financial crimes, organized crime, and crimes against persons.
Los Angeles Regional Criminal Information Clearing House (LA CLEAR)	\$325,000.00	Provides intelligence and information sharing to its client law enforcement agencies in support of the Los Angeles High Intensity Drug Trafficking Area program.
California Marijuana Program (CAMP)	\$1,875,000.00	Established in 1983 to eradicate large scale illegal marijuana cultivations on public and private lands that cause deforestation, damage to wildlife habitats, pose dangers to the environment, and introduce pollutants.
Merced Area Gang and Crime Enforcement Team (MAGCET)	\$382,000.00	Established in 2015 to combat organized crime and gang violence in Merced County.
Placer County Special Investigation Unit (Placer SIU)	\$382,000.00	Established in 1987 to combat organized crime in Placer County.
San Diego Human Trafficking Task Force (SD HTTF)	\$1,009,000.00	Established in 2015 to fight human trafficking in San Diego County.
Total	\$6,436,000.00	

Currently, the task forces are funded using a combination of contributions from each member (typically covering their participant's salary and associated costs), federal grants and reimbursements, and redirection from other DOJ resources, including vacancy savings. Many of the programs are funded through Byrne Justice Assistance Grants, which are federally funded and

awarded through BSCC. DOJ has indicated that it plans to continue to apply for these funds, but that the ongoing redirection of department resources is not sustainable.

Current Funding for DOJ Task Force Program.

Year	Total DOJ Cost	Grant Funding	DOJ Redirected Funds
2021-22	\$6,436,000.00	\$2,209,040.00	\$4,226,960.00
2020-21	\$4,363,667.17	\$2,041,232.00	\$2,354,119.57
2019-20	\$4,683,486.59	\$2,151,667.00	\$2,531,819.59
2018-19	\$4,961,205.65	\$1,275,000.00	\$3,686,205.65
2017-18	\$4,123,950.84	\$1,071,638.04	\$3,052,312.80

LAO Comment.

DOJ Task Force Program Facilitates More Complex Investigations With Both Regional and Statewide Benefits. Because each agency that participates in the DOJ Task Force Program typically pays for the costs of their own participants, there is incentive to ensure each regional task force focuses on investigating those crimes that are of highest priority to all participating members—likely the most pressing and/or complex criminal issues in the region. Each task force also benefits from the different resources and expertise of each participating agency, which allows the pursuit of more complex or multi-jurisdictional cases. This collaboration allows for benefits or outcomes that may not have otherwise been achieved without great cost or if the participating agencies worked in isolation from one another. For example, a local law enforcement agency may not be able to afford to dedicate sufficient resources to pursue complex cases at the expense of more routine patrol activities. Moreover, since the state only supports DOJ’s costs associated with the task forces and not those of the participating agencies, the Governor’s proposal appears to be a cost-effective method for the state and local governments to continue addressing more complex investigations that have both regional and statewide benefits.

As noted above, the state’s share of costs related to DOJ’s Task Force Program has been supported using funding associated with vacant positions that DOJ expects will no longer be available as vacant positions are filled. To the extent the DOJ Task Force Program is a priority, ongoing General Fund resources—as proposed by the Governor—would provide a stable source of funding. For budget transparency purposes, the Legislature may want DOJ to report in budget hearings on how it would use the vacant position funding currently supporting the DOJ Task Force Program if this proposal is approved and the vacant positions are not filled as planned. If these activities are not a priority for the Legislature, it could choose to reduce DOJ’s budget accordingly.

LAO Recommendation. The LAO recommends that the Legislature consider approving the proposed \$5 million ongoing General Fund for the DOJ Task Force Program as the funding would maintain DOJ participation in its eight existing task forces. Such task forces can be cost-effective ways of targeting more complex or multi-jurisdictional criminal investigations that could have statewide benefits.

Staff Recommendation. Hold Open.

Issue 5: Various Legislative Proposals

Governor's Budget. The Governor's budget includes the following proposals to implement legislation passed in the 2021 session:

Issue	Funding	Unit
Criminal Procedure: Resentencing (AB 1540)	\$396,000 General Fund limited-term in 2022-23, decreasing to \$382,000 in 2023-24 through 2026-27, to provide legal response to appeals when criminal resentencing is denied, or a defendant claims an error occurred in resentencing, pursuant to Chapter 719, Statutes of 2021 (AB 1540, Ting).	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
Felony Murder Resentencing (SB 775)	<p>\$3,599,000 General Fund limited-term in 2022-23, and \$3,477,000 in 2023-24 through 2025-26, to address increased resentencing hearings pertaining to initial sentence enhancements pursuant to Chapter 728, Statutes of 2021 (SB 775, Becker).</p> <p>SB 775 extends certain resentencing options offered to persons who were convicted of murder under Chapter 1015, Statutes of 2018 (SB 1437, Skinner) to persons who were convicted of attempted murder or manslaughter. DOJ estimates 55 cases in FY 21-22 and 360 cases per year for FY 22-23 through 25-26.</p>	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
Resentencing to Remove Sentencing Enhancements (SB 483)	\$794,000 General Fund limited-term in 2022-23 and \$768,000 in 2023-24 to address increased resentencing hearings to reflect the elimination of certain sentencing enhancements pursuant to Chapter 728, Statutes of 2021 (SB 483, Allen).	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
Human Trafficking: Vacatur Relief for Victims (AB 262)	\$491,000 General Fund and 1.0 position in 2022-23, \$99,000 in 2023-24, and \$95,000 in 2024-25 and ongoing to update the Criminal Justice Data Exchange pursuant to Chapter 193, Statutes of 2021 (AB 262, Patterson), which provides additional rights to victims of human trafficking who are trying to vacate convictions of crimes committed while they were being trafficked. DOJ has estimated 85 cases per year.	California Justice Information Services (CJIS) Division
Peace Officers: Release of Records (SB 16)	\$7,440,000 (\$3.4 million General Fund and \$4 million Legal Services Revolving Fund (LSRF)) and 27.0 positions in 2022-23 and \$6,470,000 (\$2.7 million General Fund and \$3.8 million LSRF) in 2023-24 and ongoing to prepare records pertaining to peace office conduct for public disclosure pursuant to Chapter 402, Statutes of 2021 (SB 16, Skinner).	Department-wide
Reproductive Health Care Services (AB 1356)	\$879,000 General Fund and 4.0 positions in 2022-23 and \$671,000 in 2023-24 and ongoing to implement new data reporting requirements, prepare an annual report that details anti-reproductive healthcare rights violations and criminal offenses, and provide legal guidance to state and local entities pursuant to Chapter 191, Statutes of 2021 (AB 1356, Bauer-Kahan).	Public Rights Division (PRD) - Antitrust Law Section; California Justice Information Services Division (CJIS)

Law Enforcement Gangs (AB 958)	\$1,286,000 General Fund and 5.0 positions in 2022-23, and \$1,245,000 in 2023-24 and ongoing to respond to additional investigations that fall within the expanded definition of "law enforcement gangs" pursuant to Chapter 408, Statutes of 2021 (AB 958, Gipson).	Public Rights Division (PRD) - Civil Rights Enforcement Section (CRES)
Privacy: Genetic Testing Companies (SB 41)	\$396,000 General Fund and 2.0 positions in 2022-23, and \$382,000 in 2023-24 and ongoing to address an increase in consumer complaints, engage in settlement proceedings, and enforce consumer genetic privacy pursuant to Chapter 191, Statutes of 2021 (SB 41, Umberg).	Public Rights Division (PRD) - Consumer Protection Section
Charitable Fundraising Platforms and Platform Charities (AB 488)	\$415,000 Registry of Charitable Trusts Fund and 4.0 positions in 2022-23 and \$659,000 in 2023-24 and ongoing to implement and pursue actions pursuant to Chapter 616, Statutes of 2021 (AB 488, Irwin), which requires DOJ to regulate giving platforms like GoFundMe.	Public Rights Division (PRD) - Registry of Charitable Trusts Unit

In addition, DOJ requests the following resources to continue the implementation of legislation passed in previous sessions, based on changes to the anticipated workloads:

Gender Identity: Female, Male or Nonbinary	\$1,106,000 General Fund in 2022-23 to recode systems within DOJ that interface with Department of Motor Vehicles databases. These were changed in response to Chapter 853, Statutes of 2017 (SB 179, Atkins) in a way that does not work with DOJ's systems. SB 179 allows designation of a gender identity of female, male or nonbinary for driver's licenses.	California Justice Information Services (CJIS) Division
Sex Offender Registration Retiering	\$4,498,000 General Fund in 2022-23 and \$2,197,000 in 2023-24 and ongoing to support previously established positions which are required on an ongoing basis to address the continued workload growth generated by Chapter 541, Statutes of 2017 (SB 384, Wiener). SB 384 changed the sex offender registration from lifetime to limited-term, dependent on the age of the offender and other circumstances.	California Justice Information Services (CJIS) Division
Police Use of Force	7.0 positions and General Fund spending authority of \$2.3 million in 2022-23 and \$1.6 million in 2023-24 and ongoing to physically appear and respond to officer involved shootings that result in the death of an unarmed civilian, pursuant to Chapter 326, Statutes of 2020 (AB 1506, McCarty). DOJ received an initial appropriation of \$15.3 million in 2021-22 and \$15.6 million in 2022-23 and ongoing to handle this workload. However, DOJ has found that the investigations are more time-intensive and that their presence and/or advice is required for more incidents than anticipated.	Division of Law Enforcement – Bureau of Investigation

Staff Comment. No major discrepancies with the fiscal analyses conducted by Appropriations Committees are noted, although in two cases (AB 1540 and SB 483), the DOJ costs were not included in the analysis.

Staff Recommendation. Hold Open.

Issue 6: Special Fund Conditions

Governor's Budget. The proposed budget includes two proposals to address shortfalls in special funds due to insufficient fine and fee revenue:

- *Ammunition Safety and Enforcement Special Fund.* Provisional language for additional General Fund support if needed for the Ammunition Safety and Enforcement Special Fund, which supports the Ammunition Purchase Authorization Program.
- *DNA Identification Fund.* \$46.4 million one-time General Fund backfill of the DNA Identification Fund, which supports the Bureau of Forensic Services, and provisional language for additional General Fund support if needed.

Background.

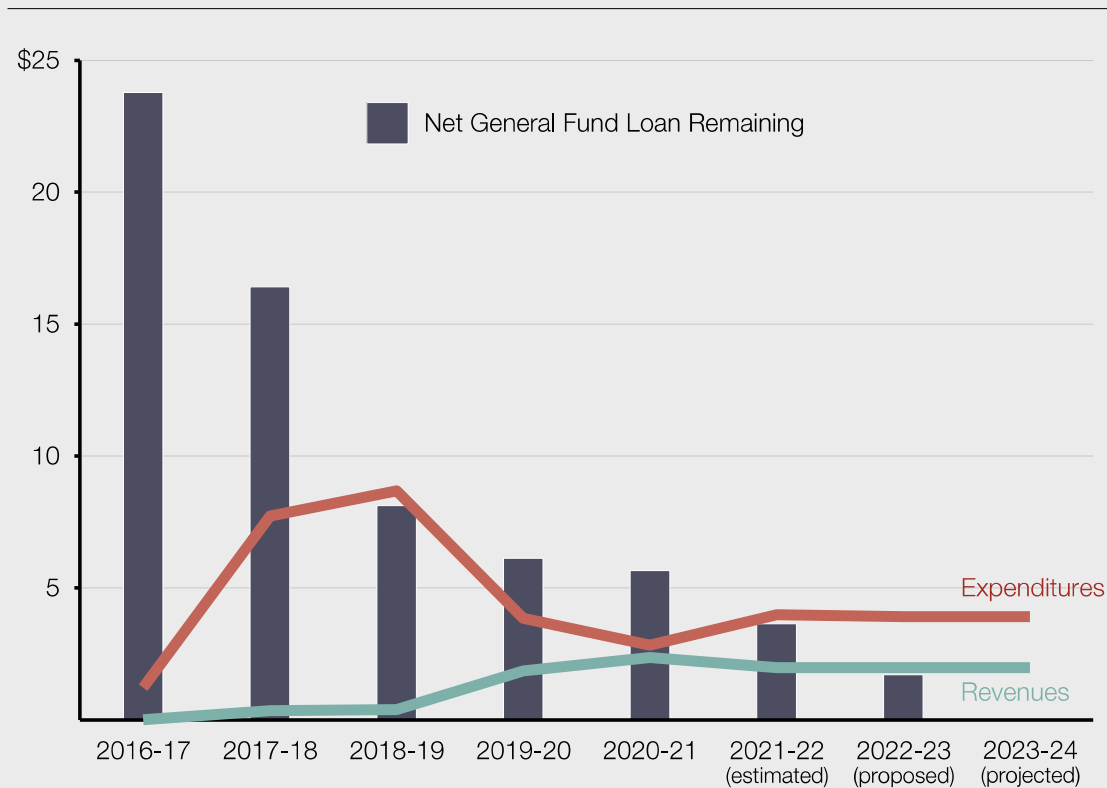
Ammunition Safety and Enforcement Special Fund. DOJ's Bureau of Firearms (BOF) is the primary entity that ensures compliance with federal and state law related to firearm ownership, including background checks, prohibited persons, waiting periods, and recording the sales of firearms and ammunitions, among other duties. Historically, BOF was funded primarily through fees and special funds. However, starting in 2019-20, some General Fund support has been included in the budget. In the proposed budget, BOF would be funded with \$20 million General Fund and \$32 million special fund.

One of the special funds is the Ammunition Safety and Enforcement Special Fund, which is continuously appropriated to support the Ammunition Purchase Authorization Program. This fund comes mostly from fees charged when someone buys ammunition and is intended to cover the cost of DOJ licensing and other verification. This fee is up to \$1 per transaction, which DOJ may adjust for inflation. The fund was provided with a \$25 million start up loan from the General Fund, and all excess revenues were supposed to be returned to the General Fund to pay off the loan.

However, since its creation, expenditures from the fund have outpaced revenues (see chart below). The LAO predicts that this fund will become insolvent by 2023-24. The Governor's proposed budget includes provisional budget language allowing the Department of Finance to transfer General Fund to cover any shortfalls in this funding for the Ammunition Purchase Authorization Program in 2022-23, with 30-day notification to the Legislature.

Ammunition Safety and Enforcement Special Fund in Operational Shortfall Since Creation

(In Millions)

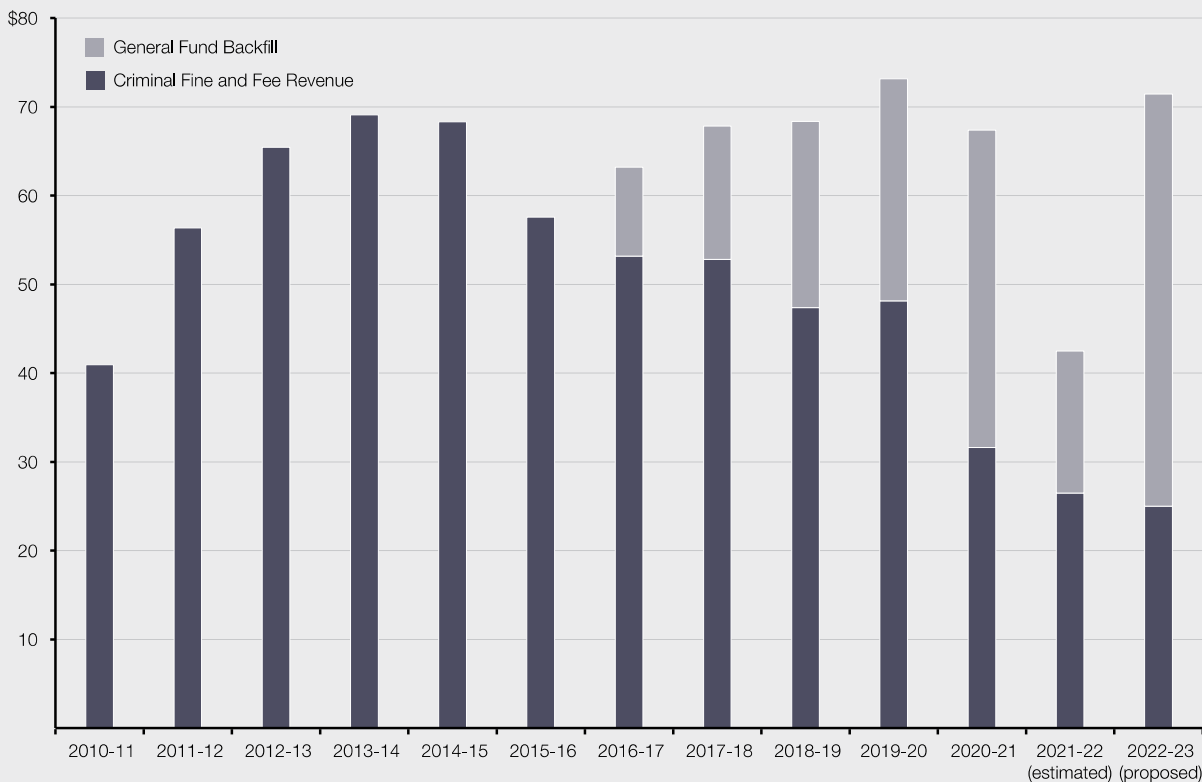


LAO

DNA Identification Fund Backfill. The Bureau of Forensic Services (BFS) provides criminal laboratory services, such as DNA testing, to local law enforcement and prosecutorial agencies at no cost. BFS is primarily funded through the DNA Identification Fund, a special fund that receives criminal fine and fee revenue. However, that revenue has been steadily decreasing, and since 2016-17, the state has also provided General Fund to backfill the DNA Identification Fund. DOJ is required to submit a report by March 10, 2022, to identify new options to support BFS operations. For now, the proposed budget includes \$46.4 million one-time General Fund backfill to support BFS operations for 2022-23. The proposed budget also includes language allowing the Department of Finance to provide additional backfill as required, with 30-day notification of the Legislature.

Steady Decline in Criminal Fine and Fee Revenue Deposited Into the DNA Identification Fund

(In Millions)



LAO

LAO Comments.

Proposals Lacks Long-Term Solutions to Special Fund Shortfalls. The LAO notes that both funds are expected to be insolvent this year or next year and will continue to face structural revenue deficits in the future. The budget proposals provided here are only short-term solutions.

BFS Provides Substantial Benefits to Local Governments. 46 counties do not use any of their own resources for criminal laboratory services, and BFS is effectively subsidizing those counties by tens of millions of dollars in services annually. In addition, the current structure does not incentivize counties to use BFS services efficiently, as they are not charged for testing. On the other hand, some counties run their own labs, and do not benefit from BFS at all.

LAO Recommendation.

Ammunition Safety and Enforcement Special Fund. The LAO recommends that the Legislature approve additional funding to the Ammunition Safety and Enforcement Special Fund as a loan, intended to be paid back to the General Fund. The LAO notes that this proposal does not address the long-term structural issue with the fund, which is that the total revenues from the Ammunition Purchase Transaction Fee do not cover the costs of operating the Ammunition Purchase Authorization Program. The LAO also recommends raising the ammunition purchase transaction fee to cover costs and allow the initial loan and any subsequent loans to be repaid. The amount the fee should be raised depends on how quickly the Legislature desires the loans to be repaid. For example, the LAO estimates that a \$3 fee would allow the fund to be stable, a \$4 fee would allow the start-up loan to be repaid in 15 years, and a \$6 fee would allow the loan to be repaid in 5 years (assuming that purchasing behavior does not change with the fee change).

DNA Identification Fund. The LAO recommends approving the backfill for 2022-23, but to explore other funding structures for 2023-24 and ongoing. The LAO notes that the March report from DOJ will help identify other funding for BFS operations. Regardless of alternatives, the LAO also recommends that BFS charge local governments for services provided, beginning in 2023-24. The LAO recommends developing the funding framework over the next year, considering how much General Fund the state is willing to contribute, the services requested by each local agency, equity concerns, and other factors.

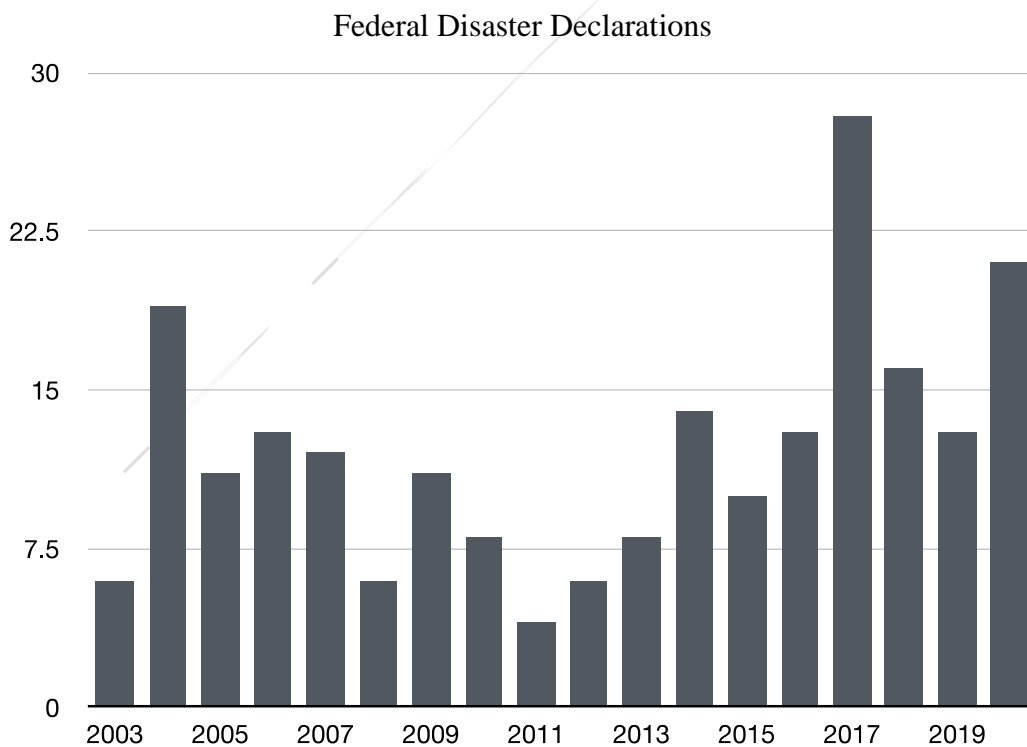
Staff Recommendation. Hold Open.

0690 OFFICE OF EMERGENCY SERVICES (CAL OES)

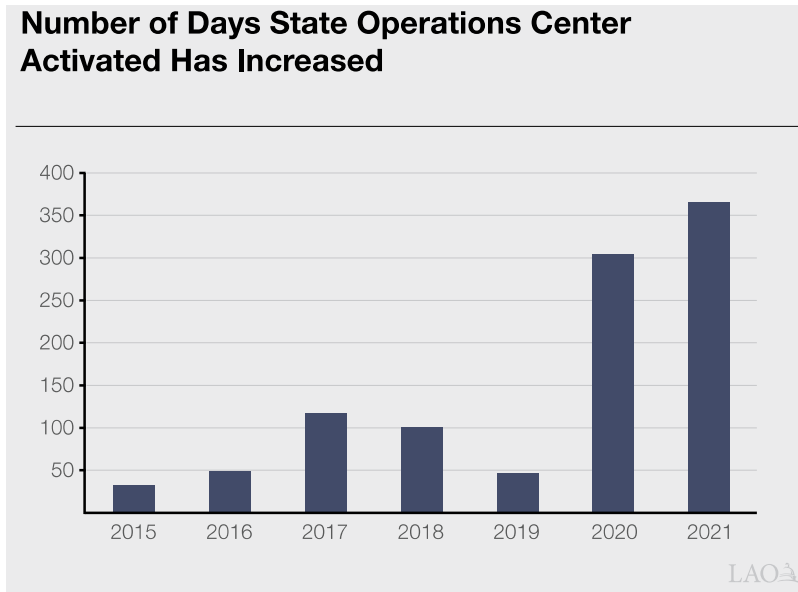
The state is responsible for mitigating the effects of disasters and for protecting Californians' lives and property. Cal OES serves as the state's leadership hub during all major emergencies and disasters. This includes responding, directing, and coordinating state and federal resources and mutual aid assets across all regions to support the diverse communities across the state.

Cal OES also supports 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 (FEMA).

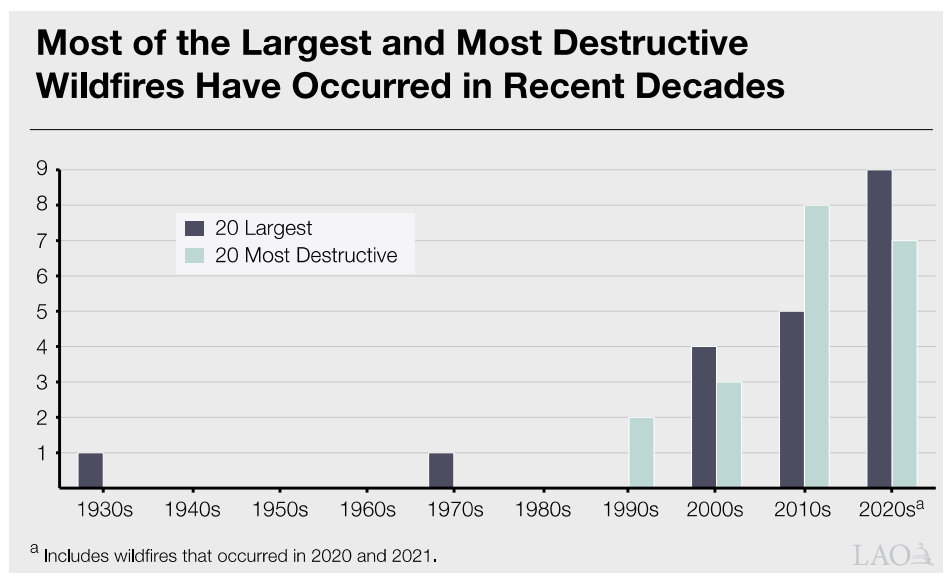
California has moved into a new chapter of emergency management, disaster response, and recovery in the state. Emergencies and disasters are more frequent, more complicated, often involving multiple counties and regions of the state, and the resulting recovery for communities is much longer. Over the past five years, the state has experienced an unprecedented number of emergencies and disasters—including severe drought, catastrophic wildfires, power grid/outage challenges, earthquakes, intensive storms with severe flooding, civil unrest, and COVID-19. California will be recovering from these complex disasters for at least the next decade, while continuing to respond to future disasters.



As a result, the number of days OES has activated the SOC has increased. The primary reason for the major increase in SOC activation days in 2020 and 2021 is the state of emergency that has been in place since March 4, 2020 due to the COVID-19 pandemic. This emergency is the longest continuous activation of the SOC in OES history.

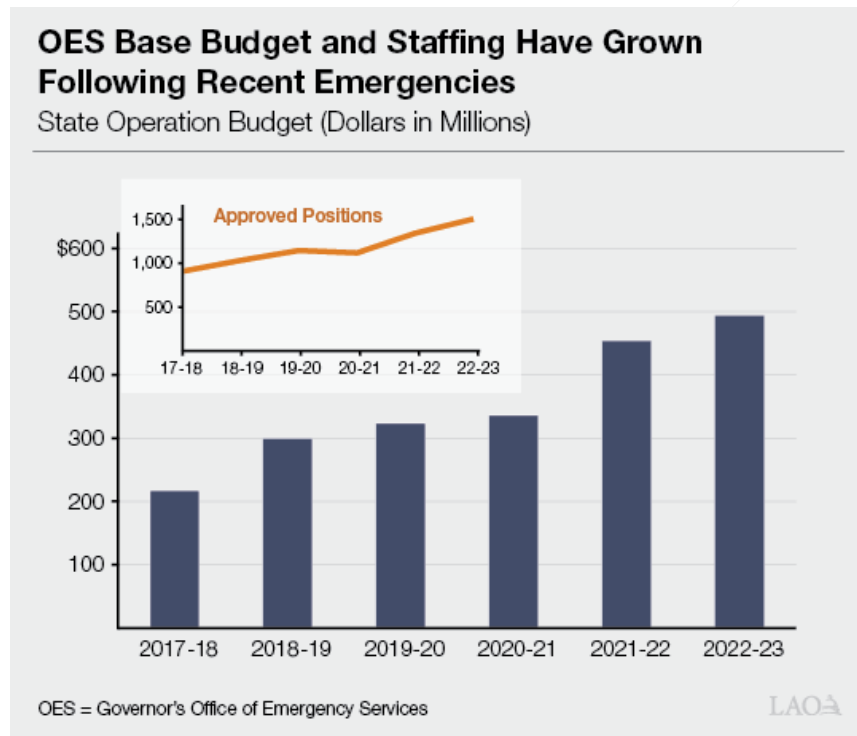


Emergencies unrelated to the pandemic have also increased in severity. Most significantly, the state has experienced a notable increase in the severity of wildfires in recent years. While wildfires are a natural part of California's ecosystems, when exacerbated by other factors, such as unhealthy forests, development in fire-prone areas, and the effects of climate change (including hotter temperatures and droughts), they are more problematic and represent a greater threat to lives and property. Most of California's largest and most destructive wildfires have occurred in recent decades. The last few years have also seen emergencies declared for drought, civil unrest, the Ridgecrest earthquake, storms, and a potential energy shortage.



Increased Level of Emergencies May Persist. It is possible that the increased number and severity of emergencies seen in recent years will persist or even grow in the future due to various reasons. First, a few key factors that have contributed to the recent increase in large and destructive wildfires are likely to persist, including climate change, unhealthy forests, and development in fire-prone areas. Furthermore, climate change will result in numerous conditions that will cause other types of emergencies, such as more droughts, extreme heatwaves, and coastal flooding. The state also faces a continued threat from COVID-19 and potentially more virulent variants of the disease. In addition, the potential for large infectious disease outbreaks—which could turn into pandemics—could be more likely in the future due to numerous factors, such as human development in animal habitats providing more opportunities for diseases to spread from animals to humans, population growth, international travel, and trade.

Cal OES Resources. The proposed budget includes \$2 billion (\$541.1 million General Fund) and 1,507.2 positions for Cal OES. It includes \$239 million (largely from the General Fund) and 163 positions to augment the operations of OES in 2022-23 and to continue three capital outlay projects.



OES Base Budget Has Significantly Increased in Recent Years. In recognition of the increased level of emergencies, OES has received numerous augmentations to its base budget, as well as additional positions, in recent years. From 2017-18 to 2021-22, the state operations budget for OES increased by \$237 million, which represents a 109 percent increase.

Recent Augmentations to OES Base Budget

- ✓ ***Strengthening Capabilities.*** \$60.6 million and 114 positions in 2021-22 to (1) augment emergency capacity and capabilities to respond to increasingly complex disasters, security threats, and emergencies; (2) maximize federal funds for disasters; (3) modernize technology and data analytics; and (4) strengthen equity and connections with vulnerable populations.
- ✓ ***Long-Term Recovery Support.*** \$37.8 million and 214 positions—110 new positions and 104 positions previously funded on a limited-term basis—in 2021-22 to support recovery efforts, increase federal disaster cost reimbursements for the state and local governments, and enhance programs intended to mitigate the impacts of future disasters.
- ✓ ***Mutual Aid Prepositioning.*** \$25 million in 2019-20 to preposition existing OES and local resources in areas with identified wildfire threat.
- ✓ ***Disaster Planning, Preparedness, and Response.*** \$7.4 million and 88 positions in 2019-20 for activities related to disaster planning, preparedness, and response.
- ✓ ***Regional Hazardous Materials Response.*** \$3.6 million for five positions and vehicles in 2021-22 to respond to emergencies involving hazardous materials.
- ✓ ***Transfer of Seismic Safety Commission.*** \$2.4 million and six positions in 2020-21 for costs associated with transferring the Seismic Safety Commission to OES.
- ✓ ***Wildfire Forecast and Threat Intelligence Center.*** \$2 million and five positions in 2020-21 for OES to participate with other state agencies in operating the Wildfire Forecast and Threat Intelligence Center.
- ✓ ***Emergency Response Operations.*** \$1.6 million and eight positions in regional offices in 2018-19 to support local agencies and coordinate emergency response activities.

OES = Governor's Office of Emergency Services.

Source: LAO

Issue 7: Various Staffing Proposals

Governor's Budget. The proposed budget includes the following resources for Cal OES to support its disaster response capabilities and expand its regional presence:

- *Regional Response.* \$5.8 million (\$5.5 million General Fund) and 20 positions to expand Cal OES's regional response capacity and improve partnerships with local governments and other local stakeholders.
- *Review of County Emergency Plans.* \$1,405,000 General Fund ongoing and 6.0 positions to review the emergency plans of each county to determine whether the plans are consistent with access and functional needs best practices and provide technical assistance, consistent with the requirements of Chapter 744, Statutes of 2021 (AB 580, Rodriguez).
- *Support Capacity.* \$5,042,000 General Fund, \$3,954,000 Federal Trust Fund, \$145,000 State Penalty Fund, \$68,000 bond funds, and 71 positions in fiscal year 2022-23 and ongoing to provide continuity of operations for an increase in administrative support activities. The proposed positions include executive, finance, legal, and audit staff, as well as additional staff for certain programs, such as emergency response, planning, and preparedness programs.
- *Logistics Management.* \$4.9 million ongoing General Fund and 21 positions to improve Cal OES's core operations and enhance emergency response capabilities.

Background.

Regional Response. Cal OES has three regional sections (Coastal, Inland, and Southern) that work with each of the 58 counties to facilitate coordination and cooperation between local jurisdictions and counties and the state. Regional staff provide near daily engagement with county emergency managers, coordinating between officials and the array of Cal OES programs that support local and county governments. They also provide linkages between local officials and other state or federal agencies and programs that can support a local government before, during, or after a disaster.

Cal OES is also in the process of establishing a State Operations Center – South (SOC South), which was funded in the 2021-22 budget and will serve as both a back-up for the SOC and a focal point for Cal OES efforts in the southern part of the state. Cal OES also recently established a temporary San Diego Satellite Office to coordinate southern border efforts using emergency COVID-19 funding.

All regions have been stretched by both long-term and chronic disasters over the past few years, including COVID-19, extended wildfires season, and humanitarian efforts. This proposal includes additional staff for each region, the South SOC, and a permanent San Diego Satellite team. The goal is to establish more equal coverage among the regions, provide capacity that can be surged within and amongst regions when multiple or major disasters strike, and add supervisory capacity where needed.

The staff requested include:

- 2 staff for the Coastal Region, covering 16 counties and 9 million people with a wide diversity of needs.
- 7 staff for the Inland Region, consisting of 31 counties and spanning the largest geographic area, much of it rural and/or mountainous.
- 1 staff for the Southern Region, consisting of 11 counties with over 21 million people, with the added complexity of coordinating with Mexico on any cross-border disasters.
- 10 staff for SOC South and the San Diego Satellite Office.

County Emergency Plans. Chapter 744, Statutes of 2021 (AB 580, Rodriguez) requires the state to expand emergency planning for the access and functional needs (AFN) population and include representatives from the AFN populations at various levels of emergency planning. The bill requires counties to submit emergency plans to Cal OES that include AFN planning, and, if requested by the county, requires Cal OES to review the emergency plans and provide technical assistance. Cal OES interpreted the language as requiring a review of every county by 2028, and counties could request that the review include a consultation with representatives from AFN populations. Cal OES expects all or most counties to request these reviews and is requesting 6 additional staff in the Community Planning Unit to facilitate this. Regional staff are also involved in reviewing county plans, but Cal OES indicated that specialized staff at the Cal OES Office of Access and Functional Needs would assist with this component.

Support Capacity. Cal OES is requesting \$5,042,000 General Fund, \$3,954,000 Federal Trust Fund, \$145,000 State Penalty Fund, \$68,000 bond funds, and 71 positions in fiscal year 2022-23 and ongoing to provide continuity of operations for an increase in administrative support activities. As Cal OES has grown, so has the support workload. Support functions include financial operations, accounting, legal, communications and technology. 38 of the positions will be funded through the direct funding indicated here and 33 will be funded through distributed administration funding (overhead) from eight of Cal OES's other BCPs.

Logistics Management. The Disaster Logistics Planning and Coordination (DLPC) Branch includes Disaster Logistics, Logistical Services, and Facilities. The staffing in this division has not kept up with the increased pace of disasters in the state or the increased size of Cal OES, resulting in project delays and other issues. The Logistics Management division has relied upon temporary and redirected staff to meet the expanding needs of the agency and the mission. Currently, the Logistics Management division has 38 permanent staff and 17 temporary staff. This proposal would convert 12 temporary staff to permanent and add additional permanent staff. The result would be 59 permanent staff and 5 temporary staff (which will not be renewed upon expiration). Specifically, Cal OES is requesting:

- 10 positions for Disaster Logistics to handle the existing workload and expand the ability to respond to multiple crises. The Disaster Logistics coordinates logistics in major incidents, such as implementing staging areas and responder base camps and coordinating the delivery of PPE across the state during COVID-19. Since 2020 the current program has worked more than 30,000 hours of overtime to support disaster related work. This averages to 196 hours per staff person per month.

- 5 positions for Business Services and Facilities Management to support fleet management, reimbursement services, and other duties.
- 3 positions for Facilities, to oversee Cal OES's growing facility needs.
- 2 positions for Physical Security Unit, to coordinate security at Cal OES headquarters, especially around visits.
- 1 leadership position in DLPC.

LAO Comment. *Positions Requested Each Year for Similar Purposes, but Overall Staffing Plan and Needs Remain Unclear.* OES has often requested resources for similar purposes year after year. For example, the 2019-20 budget provided \$7.4 million to support 88 additional positions for disaster planning and preparedness, recovery workload, logistics, administration, and grants management. Similarly, the 2021-22 budget provided a \$60.6 million augmentation to support 114 additional positions for many of the same purposes. As shown below, OES is requesting staffing increases in 2022-23 for the same or similar functions that it has received staffing augmentations for in prior years. While the additional positions provided in recent years, and proposed by the Governor for the budget year, assist in the operations of OES, the overall staffing needs of the department in both the near and long term are not clear. Moreover, OES lacks a staffing plan that outlines a strategy for addressing identified staffing needs. The absence of clearly identified staffing needs and plan is evident in the department requesting positions for similar functions each year.

OES Requests Additional Staff For Similar Activities Most Years					
	2018-19	2019-20	2020-21 ^a	2021-22	2022-23
Grant Administration	●	●		●	●
Monitoring and Quality Control	●	●		●	
Accounting and Audits		●		●	●
Fiscal and Budget				●	●
Information Technology	●	●		●	●
Emergency Management and Response	●	●	●	●	●
Regional Staffing	●				●
Administration	●	●		●	●
Planning		●	●	●	●
Logistics		●		●	●
Recovery	●	●		●	
^a OES initially requested additional resources in 2020-21 beyond what is shown, however, those requests were withdrawn after the start of the COVID-19 pandemic and projections of a budget deficit. OES = Governor's Office of Emergency Services.					

Source: LAO

Strategic Plan for Enhancing Emergency Response Capacity Needed to Guide Future Budget Decisions. Given the possibility of a continued increase in the number and severity of emergencies, it is reasonable to enhance the state's emergency response capacity. However, it is difficult to determine whether the Governor's specific proposals reflect the most effective and efficient approach to doing so because they are not tied to specific emergency response goals and objectives. The LAO finds that the development of a strategic plan to enhance emergency response capacity would be valuable in assessing future proposals.

LAO Recommendation.

Recommend Development of Strategic Plan and Review of OES Base Budget. In order to ensure the Legislature has better information to make decisions in the future, The LAO recommends requiring the administration to develop a strategic plan for enhancing emergency response capacity no later than January 1, 2024. Such a plan should include (1) goals for emergency response capacity, (2) an assessment of existing capacity, (3) identification of gaps or weakness in current capacity, and (4) an assessment of the level of staffing needed to support capacity goals. The LAO also recommends that the OES base budget be reviewed to determine whether existing resources are meeting strategic plan goals, some resources should be reallocated to higher-priority uses, and recent augmentations have already provided the necessary resources.

Recommendations on Specific Staffing Proposals. The LAO recommends approving the funding for review of county emergency plans consistent with Chapter 744 of 2021 (AB 580, Rodriguez). This proposal appears reasonable for two reasons. First, the proposal would provide adequate resources for OES to complete statutorily required workload. Furthermore, the review of plans for vulnerable populations could help inform OES of local capacity to assist vulnerable populations, which in turn could assist OES in future emergency response efforts or future efforts to assess gaps in emergency response capabilities.

For the other staffing proposals, the LAO recommends approving them with three-year limited term funding, so that they can be reassessed once a strategic plan is available that can be used to evaluate Cal OES's budget.

Staff Recommendation. Hold Open.

Issue 8: Cal OES Headquarters Modernization

Governor's Budget. The proposed budget includes the following resources for capital outlay and support costs to continue three projects at Cal OES Headquarters in Mather:

- *State Operations Center (SOC) Modification.*
 - \$1,000,000 for the equipment phase and \$8,928,000 for the construction phase.
 - \$5,187,000 General Fund in 2022-23 and \$1,957,000 General Fund in 2023-24 for support costs, primarily for leasing a temporary space for 18 to 24 months and moving costs.
- *Lobby Security Enhancements.*
 - \$198,000 for the working drawings and \$1,111,000 for the construction phases.
 - \$40,000 General Fund in 2022-23 for support costs including a temporary security guard station and signage.
- *Security Checkpoint Enhancements.*
 - \$351,000 for the working drawing phase.
 - \$200,000 ongoing General Fund for support costs, specifically to add two additional security guards to staff the security checkpoints.

Background.

SOC Modification. The SOC is used to coordinate resource requests, maintain situational awareness, and resolve and set priority issues. The SOC is also where federal, state, and local agencies report during a disaster and in support of the National Response Framework. The SOC is currently set up in a war room model (a dedicated location for emergency personnel to co-locate and communicate the activities associated with the execution of the emergency at hand). However, the layout is not optimal for collaboration and is not accessible to people with disabilities or limited mobility.

The project includes changing the State Operations Center (SOC) from a tiered theatre style seating arrangement with computers to a flat workspace with work pods, increasing seating from 54 to 64. The project will also push out the second-floor balcony approximately 20 feet to add additional workstations, redesign and reconstruct the State Warning Center to add three cubicles, and replace the aging technology video wall with the most current technology available.

The working drawings phase has estimated completion in February 2023. The construction is anticipated to begin in July 2023 with completion by August 2024. The total project cost will be \$17.537 million (\$10.393 million for the capital outlay project and \$7.144 million needed to acquire swing space during the construction phase).

Lobby Security. The current entrance to Cal OES has an open lobby layout, where visitors entering could access stairwells and other areas. To maintain steady operations and to provide a safe and secure workplace for staff to conduct businesses, Cal OES's headquarters must be tightly secure

during activations and normal operations. Currently, upon entry into the building, there are no preventative security measures to control the movement of the visitors.

The new design consists of a free-standing security kiosk, badge access turnstiles at the north and south entry points and adjacent to the stairwell that provides access to the Executive suite, and planter boxes and other obstruction type barriers to funnel foot traffic through these three main points of entry. The project includes construction and installation of all items as well as the demolition and removal of existing furniture.

The estimated total project costs are \$1,411,000 including preliminary plans (\$102,000), working drawings (\$198,000), and construction (\$1,111,000). The construction amount includes \$855,000 for the construction contract, \$60,000 for contingency, \$83,000 for architectural and engineering services, \$60,000 for agency retained items, and \$53,000 for other project costs. The preliminary plans phase began September of 2021. The construction is anticipated for completion by November 2023.

Security Checkpoint. Currently, there is no effective or sustainable means to control the vehicular flow of traffic to the main parking area at the Cal OES Headquarters facility. The current parking lot points of entry consists of wooden gate arms and an unmanned badge reader. Pedestrians can enter the rear parking area of the facility, and due to the distance of the security guards, have unfettered access to the rear parking area for an unspecified amount of time. During times when Cal OES is activated and because of the number of partner agencies that access the facility, these gate arms are typically left in the open position, allowing the public to access these areas. There have been five instances of individuals penetrating the rear parking lot through the vehicle access points this calendar year.

The project includes security enhancements to the main point of entry and the delivery entrances, including installing two fortified, permanent security kiosks and upgrading the physical barriers from wooden gate arms to anti-ram, metal control arms. A badge reader installation, intercom and video camera system will also be installed to ensure proper identification of staff and visitors prior to entrance into the facility parking area.

The total project costs are estimated at \$2,763,000. The start date was July 2021. The working drawing phase will begin July 2022 with completion by May 2023. The construction phase is anticipated to begin October 2023 with completion by July 2024.

LAO Recommendation. The three proposed capital outlay projects and two related support proposals appear reasonable as they would continue projects that have been previously approved by the Legislature. In addition, modernizing and improving the functioning of the OES headquarters facility and SOC will benefit the state by providing more appropriate and secure facilities.

Staff Recommendation. Hold Open.

Issue 9: Implementing a 9-8-8 Behavioral/Mental Health Hotline

Governor's Budget. The proposed budget includes \$7.5 million General Fund (\$6 million ongoing) and ten positions to implement a new federally mandated 9-8-8 call system to increase the ease and accessibility for those experiencing a behavioral or mental health crisis. This request will allow Cal OES to procure, install, and maintain call handling equipment to enable the 13 existing Lifeline Call Centers across the state to answer 9-8-8 calls, handle the expected 9-8-8 call volume, and transfer calls between 9-1-1 and 9-8-8.

Background. The federal National Suicide Hotline Designation Act established 9-8-8 as the new three-digit alternative to 9-1-1 to aid rapid access to suicide prevention and mental health support, and to provide behavioral or mental health crisis response. The FCC issued Report and Order 18-336 and mandated telecommunication carriers to implement 9-8-8 by July 16, 2022. Before July 2022, when 9-8-8 goes live, states must create a framework to receive and respond to 9-8-8 calls.

Lifeline Call Centers. In California, these calls will be answered by 13 existing National Suicide Prevention Lifeline (NSPL) Call Centers, local crisis centers that provide free and confidential support 24/7/365 for people in suicidal crisis or emotional distress. Many of the calls are handled on the line by the person (often a volunteer) at the call center. Lifeline call centers in California set the hours and coverage areas for when they will take calls based on funding and staffing levels. If a crisis center is unable to respond to all callers at any time, calls are diverted to backup centers. When calls are re-routed to centers out-of-state, California callers in crisis often wait two to three times longer, receive fewer linkages to effective local care, and are more likely to abandon their calls. In 2019, the NSPL received nearly 2.3 million crisis calls from across the United States and 290,619 of those calls were from California. Of those calls, 199,192 were connected to crisis centers in the state. Since 2016, California Lifeline call volume has increased 60 percent, and this is expected to rise even higher given the ongoing COVID-19 pandemic and the resultant increase in mental health and substance use disorder crisis needs.

Infrastructure. Cal OES, who operates the 9-1-1 system, is providing the technical support and expertise to set up the infrastructure for these 9-8-8 calls, including two key goals:

- Ensure the Lifeline Call Center call handling equipment can support the new FCC 9-8-8 carrier mandate.
- Ensure calls can be transferred from 9-8-8 to 9-1-1 and vice versa.

Cal OES indicated that their primary focus is technical, not content or response. Cal OES is part of planning groups with the Health and Human Services Agency, the Department of Health Care Services (DHCS), the federal Substance Abuse and Mental Health Services Administration (SAMSHA), and the call centers.

Timeline. The federal mandate takes effect in July. Cal OES indicated that they are currently redirecting resources to support the initial implementation, and then would perform initial upgrades and review the capabilities of the Lifeline Call Centers to better understand gaps in the system. Over the next two years, Cal OES would perform equipment upgrades.

AB 988. Proposed legislation would provide ongoing funding for this system using a fee. The bill would also place several requirements on the system to align it more substantively as an alternative to 911, with similar expectations in terms of physical, immediate responses and assistance.

Federal funding. There has been significant federal funding for this transition, given that it is a federal mandate. However, according to DHCS, all SAMHSA funds allocated to California are currently obligated and not available for this activities described here.

Staff Comment. Concerns have been raised about the ability of the call centers to answer these calls to the degree that the public may expect and need if the system is advertised as a 911 alternative. While that concern is not specifically related to this BCP, the Legislature should ensure that the entire system is adequately resourced.

LAO Recommendation. While the Governor's 988 hotline proposal appears necessary as the system's implementation is federally required, the proposal does not account for potential federal funding available for this purpose through the federal American Rescue Plan Act that was enacted in March 2021. These federal funds could reduce, or potentially replace, the need for state General Fund support. The administration indicates it is currently looking into the availability of federal funds to support the implementation of the 988 hotline.

The LAO recommends that the Legislature direct OES to report on the administration's efforts to secure federal funds for implementation of the 988 hotline. This should include the level of federal funding the state has requested and the potential timing of receiving federal funds if they are awarded to the state. Until the receipt and review of such information, The LAO withholds recommendation on the Governor's 988 hotline implementation proposal.

Staff Recommendation. Hold Open.

Issue 10: California Earthquake Early Warning System

Governor’s Budget. The proposed budget includes \$17.1 million ongoing General Fund and three positions to support the California Earthquake Early Warning Program, including increasing sensor density, offering education grants, and researching new public alert methods.

Background. The California Early Earthquake Warning (CEEW) System uses thousands of sensors statewide to detect the early signs of an earthquake and provide a warning a few seconds to a minute or more in advance of an earthquake. The farther away the earthquake, the more warning is received. This alert can be used to automatically take preventative measures that would limit damage, such as stopping or slowing trains, interrupting power or gas sources to decrease the risk of fire, pausing surgeries or other sensitive tasks, opening elevator doors at the next available floor, and activating emergency response units²⁸. Starting in October 2019, alerts are also sent to the public via cell phones and other methods, and could provide time for people to “drop, cover, and hold on” and prevent injuries and death. Mexico, Japan, Turkey, Romania, China, Italy, and Taiwan all have some form of early earthquake warning system, some of which have been activated and used to prevent injuries and damage. The usefulness in California specifically is hard to predict until there is a major earthquake, and it depends on where the epicenter is, what is nearby, and how prepared entities and people are to respond to early alerts. One challenge to note in California is that fault lines and their associated hazards coincide with areas of high population density, requiring an extremely fast system to transmit a useful warning²⁹.

Previously Allocated State Resources. Cal OES has received several one-time appropriations to support the implementation of the CEEW System, including:

- \$10 million General Fund and four permanent positions in 2016-17 for Cal OES to begin the buildout of the CEEW System, including installing seismic stations, increasing telemetry speed and pathways, and improving system performance; developing strategies to reduce the latency to distribute alerts; writing the CEEW Business Plan; implementing a comprehensive statewide public service announcement campaign; and providing program oversight through the CEEW Board.
- \$15 million General Fund in 2018-19 to complete the seismic station buildout through interagency agreements to support seismic sensor installation, enhancements of the state microwave network and last-mile telemetry, and research methods to improve earthquake early warning algorithms. Additionally, Cal OES received \$750,000 General Fund ongoing to provide permanent funding for the four positions previously established to support the CEEW Program.
- \$16.3 million General Fund in 2019-20 to finish the build-out of the CEEW System by adding Global Positioning System (GPS) stations to the network, improving telemetry, and launching a statewide education and outreach campaign.

²⁸ https://earthquakes.berkeley.edu/research/eeew_docs/StraussAllen-EEWuses-SRL-2017.pdf

²⁹ https://pubs.usgs.gov/of/2021/1026/ofr20211026_v1.1.pdf

- \$17.3 million California Earthquake Safety fund in 2020-21, funded by a loan from the Schools Land Bank Fund, to support the ongoing maintenance, operation, and education required for the CEEW System to function as intended.
- \$17.3 million General Fund in 2021-22, to support the ongoing maintenance, operation, research, and education required for the CEEW System to function as intended.

Ongoing funding is needed to (1) improve and maintain the technical system that detects the earthquakes and triggers the alert, and to (2) ensure the alert is useful – namely that it is communicated to automatic systems correctly, and that it is communicated to the public and that public knows what to do if they receive an alert. Cal OES has indicated that the system’s annual operating costs are roughly \$17.1 million.

The CEEW was initially conceived as a public-private partnership, reflecting the benefits provided by the system to private entities. In the most recent CEEW Business Plan Update, the CEEW Advisory Board recommended that the program be funded by industries that would reduce their earthquake risk the most³⁰. Cal OES is working to finalize a Benefit Cost Analysis report, and some funding is received from partners including the US Geological Survey and from private entities that install automatic notification systems. However, Cal OES has indicated that they have had trouble identifying a stable private funding source and are instead requesting ongoing General Fund resources to maintain and improve the CEEW System. Cal OES indicates that they still intend to solicit private and federal funding for specific enhancements or pilot projects.

Requested Resources. The resources requested would go towards maintaining the communications and sensor network (\$10.1 million), outreach and education (\$3.1 million), research and development (\$1.2 million), and program management and other costs (\$2.7 million). Major activities include increasing the sensor density, improving connections, offering education grants to community-based organizations to educate the public on what to do in case of an alert, investigating new alert distribution options, including FM radio and crowd sourcing, expanding outreach, and continuing to seek additional federal and private funding to enhance the system.

LAO Comment. The Governor proposes to make permanent the level of funding that has been provided previously on a one-time basis to support the development of the CEEW System. While the system is potentially promising, without a strategic plan, it is unclear how the current approach to building out the system would align with overall emergency response goals. For example, it is unclear whether the current efforts to expand the system would provide the highest-priority benefits or whether alternative strategies, such as increased funding for building seismic retrofits, would better mitigate the potential harm from earthquakes.

LAO Recommendation. The LAO recommends that the Legislature require Cal OES to develop a strategic plan for enhancing emergency response and use it to evaluate future budget proposals. For this specific proposal, the LAO recommends approving it with three-year limited term funding, so that it can be reassessed once the plan is available.

Staff Recommendation. Hold Open.

³⁰ <https://www.caloes.ca.gov/EarthquakeTsunamiVolcanoProgramsSite/Documents/CEEWS%20Business%20Plan%20Update%20Final.pdf>

Issue 11: Fire and Rescue Mutual Aid System.

Governor's Budget. The proposed budget includes the following resources for the California State Fire and Rescue Mutual Aid system:

- \$11.2 million General Fund (\$10.9 million ongoing) and 11 positions to maintain the fleet.
- \$4,045,000 General Fund in fiscal year 2022-23, \$3,998,000 ongoing, and eight positions to transfer training operations from the California Fire and Rescue Training Authority (CFRTA) to the California Specialized Training Institute (CSTI).

Background. The Cal OES Fire and Rescue Division coordinates the California State Fire and Rescue Mutual Aid system, which oversees the movement and sharing of local and state resources during emergencies. The system includes firefighting equipment and Urban Search and Rescue (US&R) teams, among other shared resources.

Fire Fleet. The Fire and Rescue Division manages over 250 fire engines, as well as various other support vehicles including rescue boats and US&R trailers. The fleet has grown significantly, and related funding has not kept up. Cal OES is requesting \$3.35 million annually for fleet maintenance, including updating and replacing equipment and additional staff to oversee the fleet, including administration, maintenance, and on-site support during deployment.

Training. CSTI was established in 1971 under the California Military Department to provide law enforcement training to state agencies, cities, and counties. The scope of its mission grew to include civil emergency management, and in 1985 the Institute was transferred to Cal OES. CSTI offers 102 course titles in emergency management, hazardous materials emergency response, criminal justice and homeland security, and crisis communications, and offers classes in support of the State Fire and Rescue Mutual Aid System, including hazardous materials emergency response, among others.

The resources requested here would be used to transfer fire and rescue training operations from CFRTA, which is jointly run with the Sacramento City and Sacramento Metropolitan Fire Departments, to CSTI. These trainings help firefighters from various state and local entities. The proposed training includes firefighter training and specialized US&R training.

Specifically, Cal OES is requesting:

- *CSTI Staffing.* 8 positions to oversee the training at CSTI.
- *Regional US&R Task Forces.* \$1.022 million for training Regional US&R Task Forces. These are locally funded teams that are part of the mutual aid network and can rapidly deploy across the state. They assist in tasks such as searching for people missing after wildfires or mudslides, or rescuing firefighters or others trapped by wildfires. Currently, these teams are largely trained at the local level, but this funding would allow them to be trained at CSTI, and at the same level as the eight FEMA US&R Teams in the state.

- *Mobilization Exercise Training.* \$1.038 million to expand opportunities for mobilization exercises and other training for both the eight FEMA and the ten Regional US&R Task Forces. FEMA and the local agencies also contribute to the total cost of these exercises.

LAO Comment and Recommendations.

Fire Fleet. OES mutual aid fire engines are an important part of the state's ability to access additional capacity during peak wildfire season and large wildfires. However, at this time, it is unclear how the proposed \$11 million ongoing would be used. Specifically, it is unclear to what extent the funding would be used by OES to replace existing fire engines more frequently or provide a more robust maintenance program for its engines. Without this type of basic information, it is impossible for the Legislature to evaluate what specific improvements to fire response capacity would be expected from this proposal and whether they would justify the additional costs. Accordingly, the LAO recommends withholding action pending receipt of such information.

Search and Rescue Teams and Training. The LAO finds that this proposal is difficult to assess in the absence of a strategic plan. First, the proposal would replace an existing state-local partnership with a state-run program at a significantly higher cost. Specifically, under the proposal, OES would spend \$2 million more annually to provide the training, which currently costs the state \$360,000. It is unclear whether and to what extent this approach would provide an increased level of service. To the extent the proposal would support an increased level of service, without a strategic plan, it is unclear if such an increase is necessary.

Second, for the \$1 million annually for local urban search and rescue teams, it is unclear whether providing funding for these local teams should be a state responsibility. For example, it is unclear whether the funding would simply replace local funding or increase the capacity of these teams. Moreover, without a strategic plan that outlines a long-term strategy on the use of local search and rescue teams, it is unclear if any increase in capacity is necessary.

Third, the proposal includes funding to align reimbursements provided to local governments for their cost of participating in mobile training exercises for search and rescue teams with their current actual costs. Adjusting the reimbursement rate to better reflect current costs appears reasonable. However, without a strategic plan, it is unclear whether the number of mobile training exercises funded would align with the state's capacity goals.

The LAO recommends that the Legislature require Cal OES to develop a strategic plan for enhancing emergency response and use it to evaluate future budget proposals. For this specific proposal, the LAO recommends approving it with three-year limited term funding, so that it can be reassessed once the plan is available. However, absent justification for increasing the cost of training, the LAO recommends providing only the funding for the local search and rescue teams and mobile training exercise reimbursements.

Staff Recommendation. Hold Open.

Issue 12: Disaster Funding

Governor's Budget. The proposed budget includes two appropriations for OES to respond to disasters, and to fund emergency activities that may fall outside of disaster declarations:

- *California Disaster Assistance Act Adjustment.* Cal OES provides financial assistance to local governments for costs incurred as a result of disasters in California per the California Disaster Assistance Act (CDAA). The proposed budget includes:
 - One-time increase of \$114,029,000 General Fund for a proposed 2022-23 total of \$176,643,000.
 - Ongoing increase of \$37,386,000 to the existing annual \$62,614,000 General Fund baseline, resulting in a new ongoing annual baseline of \$100,000,000.
- *Mission Tasking Appropriation.* The proposed budget includes \$10 million ongoing General Fund to provide funding to state entities for costs incurred as a result of mission tasking for incidents not covered under a Governor's proclaimed state of emergency.

Background.

CDAA. The CDAA authorizes Cal OES to administer a disaster assistance program that provides financial assistance from the state for costs incurred by local governments due to declared disaster events. CDAA provides for the reimbursement of local government costs including funding for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster. For federally declared disasters, the federal government covers 75 percent of eligible reimbursed costs, and the state and local governments cover the remaining 25 percent at 18.75 percent and 6.25 percent, respectively. For state declared disasters, the state covers 75 percent of total eligible costs, and the local government share is 25 percent. Cal OES is provided with a baseline amount of funding for this purpose each year (currently \$62.6 million), but the exact funding is readjusted based the eligible disasters and reimbursements. The average CDAA expenditures over the past six fiscal years was \$106.8 million.

Mission Tasking. Cal OES is authorized to mission task other state agencies and departments to respond to emergencies. If a disaster has been declared, the Department of Finance (DOF) may use the Disaster Response-Emergency Operations Account (DREOA) to fund these types of activities. Occasionally, Cal OES will task entities with missions that fall outside of declared disasters, which results in the entity absorbing the cost of the task. Examples include tasks undertaken to prevent disasters, or in early intervention before a disaster is declared, among other activities. Since 2019, Cal OES has had a \$20 million appropriation that operates in a similar manner to DREOA, but can be used for mission tasking regardless of whether a disaster is declared. However, it is set to expire at the end of this fiscal year.

LAO Recommendation.

CDAА Augmentation. The level of funding for this program is adjusted annually based on projections of reimbursement requests for recent disasters. The LAO finds that the \$114 million augmentation proposed for 2022-23 appears to be reasonable given recent disasters. Moreover, the LAO finds the \$37.4 million ongoing component of the augmentation to be appropriate as it better aligns the program's base budget with the actual amount allocated through CDAА in recent years.

Mission-Tasking Funding Duplicative of Existing Authority, Circumvents Legislative Oversight. The LAO finds the requested \$10 million for mission-tasking funding to be unnecessary for two reasons. First, the proposed funding would allow OES to reimburse departments for costs they incur due to being mission-tasked when other emergency response funding sources are unavailable, such as when a state of emergency has not been declared. However, the Governor's budget already includes the ability to augment funding for departments for unexpected costs or emergencies. Specifically, Item 9840-001-0001 includes \$40 million to augment departments' General Fund budgets and Item 9840-001-0494 includes \$15 million to augment departments' special fund budgets upon approval of the Director of Finance and no sooner than 30 days after notification to the Joint Legislative Budget Committee. The LAO also notes that the proposed level of funding for Item 9840-001-0001 is \$20 million higher in 2022-23 than the amount included in the 2021-22 budget.

Second, the Governor's proposal would allow the administration to transfer the \$10 million from OES to other departments without any legislative notification. Under the proposal, OES would only be required to report by March 1, 2024 on the use of the funds. Thus, such transfers would be subject to considerably less legislative oversight than required by the 9840 items.

The LAO recommends that the Legislature reject the mission-tasking appropriation proposal given that there is an existing process for augmenting departments' budgets for such expenses that would provide greater legislative oversight.

Staff Recommendation. Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, March 1, 2022
9:00 AM
State Capitol - Room 4203

Consultant: Christopher Francis, Ph.D.

Items for Discussion

<u>Item</u>	<u>Department</u>	<u>Page</u>
0559	SECRETARY FOR LABOR AND WORKFORCE DEVELOPMENT AGENCY	2
	Issue 1: Overview and Governor's Budget	2
7120	CALIFORNIA WORKFORCE DEVELOPMENT BOARD	5
	Issue 2: High Road Training Partnerships for Health and Human Services	5
	Issue 3: Climate and Clean Energy Economy	7
	Issue 4: California Youth Leadership Program Language Justice Pathway	10
7100	EMPLOYMENT DEVELOPMENT DEPARTMENT	13
	Issue 5: Addressing Unemployment Insurance (UI) Debt	13
	Issue 6: Addressing and Preventing Fraud	19
	Issue 7: Workforce Education, Development, and Training Proposals	34
7350	DEPARTMENT OF INDUSTRIAL RELATIONS	39
	Issue 8: Enhanced Enforcement and Compliance	41
7900	CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM	46
7920	CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM	46
VARIOUS DEPARTMENTS		46
	Issue 9: State Retirement Liabilities	46
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.

0559 SECRETARY FOR LABOR AND WORKFORCE DEVELOPMENT AGENCY

Issue 1: Overview and Governor's Budget

The Labor and Workforce Development Agency was established to address issues relating to California workers and their employers. The Agency is responsible for labor law enforcement, workforce development, and benefit payment and adjudication. The Agency works to combat the underground economy and help legitimate businesses and workers in California through a combination of enforcement and education activities.

3-YEAR EXPENDITURES AND POSITIONS ^T

		Positions			Expenditures		
		2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
0350	Office of the Secretary of Labor and Workforce Development	39.2	28.0	30.0	\$44,719	\$6,295	\$6,800
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		39.2	28.0	30.0	\$44,719	\$6,295	\$6,800

Natalie Palugyai was appointed Secretary of the California Labor & Workforce Development Agency by Governor Newsom on July 14, 2021. Secretary Palugyai is the first Latina to serve as California Labor Secretary. Prior to leading the Labor & Workforce Development Agency, Natalie served as Senior Advisor for Strategic Initiatives at Johns Hopkins University, where she lead the university's Global Operations Initiative, establishing both governance frameworks and corporate structuring strategies in support of academic and research expansion globally. She has also spent almost half of her public service career within the U.S. Department of Labor where she served first as a compliance officer with the Office of Federal Contract Compliance Programs and most recently as a Senior Management Advisor for the Secretary of Labor under President Barack Obama's Administration.

Background.

As California moves from the COVID-19 crisis to recovery, urgent labor shortages in all aspects of care delivery are projected to grow even more acute. California has made significant investments to improve health and economic outcomes. However these efforts will not be fully realized without the workforce to deliver these services. In addition, too many workers in these essential positions currently live in poverty, with low wages and limited growth opportunities. The \$1.6 billion investment in workforce development will create innovative and accessible opportunities to recruit, train, hire and advance an inclusive health and human services workforce, with improved diversity and higher wages. This investment will build ladders of opportunity and economic mobility across the health and human services sectors for individuals and families, especially young people of color, across California. The *Workforce for a Healthy California* envisions a comprehensive partnership between CHHS and LWDA that encompasses entry level and advanced training, pathways for career advancement and changes in reimbursement and certification to improve the quality of jobs.

The *Workforce for a Healthy California* initiative calls for multiple program investments to build the healthcare workforce in targeted occupations facing workforce shortages and to increase the

participation of populations who will bring language capability and cultural competency to multiple roles in health care, as well as policy strategies to improve job quality in low-wage healthcare jobs. Proposed program investments include training for Community Health Workers, nurses at all levels, allied health workers, Emergency Medical Technicians, social workers and psychiatric residents. Training will also target English Language Learners, foreign-trained medical professionals, youth and entry-level healthcare workers for career advancement. Planning for this initiative will be conducted in partnership with Health Care Access Information (HCAI) and focus on projected labor market demand and workforce shortages. New training programs to be developed will build on best practice research and utilize multiple training modalities and technology platforms, along with a focus on practical experience: apprenticeship, paid internships and other earn and learn models. Planning will also identify potential policy changes, including licensing and certification requirements, as well as incentives for hiring, retention and career advancement, such as wage increases and expanded access to benefits, in close partnership with healthcare employers.

The Budget includes a one-time \$1.7 billion investment over three years in care economy workforce development—across both the Labor and Workforce Development Agency (Labor Agency) and California Health and Human Services Agency (CalHHS)—that will create more innovative and accessible opportunities to recruit, train, hire, and advance an ethnically and culturally inclusive health and human services workforce, with improved diversity, wages, and health equity outcomes.

The Care Economy investments will be jointly coordinated by the Labor Agency and CalHHS through the CalHHS/Health Care Access and Information (HCAI) Health Workforce Education and Training Council. The following proposals are included in the Governor’s Care Economy Workforce Investments and include coordination with LWDA. Staff notes that some of these proposals are covered in Subcommittee No. 3 on Health and Human Services but the first three proposals will be covered in this agenda.

2022-23 Governor's Budget: Care Economy Workforce Investment Proposal						
Investments	Agency/Dept	Funds (In Millions)	BY	BY+1	BY+2	Source
High Road Training Partnerships	LWDA/CWDB	\$340	\$120	\$110	\$110	GF
Healthcare Workforce Advancement Fund	LWDA/EDD	\$90	\$90	\$0	\$0	GF
Emergency Medical Services Corps	LWDA/EDD	\$60	\$20	\$20	\$20	GF
Community Health Workers	HHS/HCAI	\$350	\$50	\$150	\$150	GF

Comprehensive Nursing Initiative	HHS/HCAI	\$270	\$90	\$90	\$90	GF
Expanding Social Workers	HHS/HCAI	\$210	\$70	\$70	\$70	GF
Psychiatric Resident Program	HHS/HCAI	\$120	\$40	\$40	\$40	GF
Multilingual Health Initiatives	HHS/HCAI	\$60	\$20	\$20	\$20	GF
Opioid Treatment	HHS/HCAI	\$26	\$26	\$0	\$0	Opioid Settlement Fund
Clinical Infrastructure: Reproductive health	HHS/HCAI	\$20	\$20	\$0	\$0	GF
Indian Health Program Grant Restoration	HHS/DHCS	\$12	\$12	\$0	\$0	GF
Workforce Council for Healthcare Training	HHS/HCAI	\$3	\$3	\$0	\$0	GF
English Language Learners health Careers	CA Community College	\$130	\$130	\$0	\$0	Prop 98
Total Funding		\$1,691	\$691	\$500	\$500	

LWDA requires an Assistant Secretary, a Research Data Specialist II, and \$67,000 in temporary staffing and consultation to plan and execute this initiative, and to build a successful and sustainable collaboration with CHHS.

Governor's Budget.

The Governor's budget includes two positions and \$500,000 General Fund for 2022-23, 2023-24, and 2024-25 for staff to develop and implement the Workforce for a Healthy California Initiative in partnership with California Health and Human Services Agency.

Staff Recommendation. Hold Open.

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

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		
		2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
6040	California Workforce Development Board	36.5	76.0	76.0	\$72,100	\$405,542	\$204,490
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		36.5	76.0	76.0	\$72,100	\$405,542	\$204,490

Issue 2: High Road Training Partnerships for Health and Human Services

Background

The CWDB is statutorily responsible (CUIC §14005, §14013) 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 High Road is a specific industry sector approach focused on equity, job quality, and climate resilience. It starts with industry-based partnership and the engagement of private and public sector employers and organized labor to create the conditions for the recruitment, training, retention, and advancement of workers from disadvantaged communities. The High Road also aligns the workforce system, labor training programs, and community organizations to clear workforce pathways to High Road industry partnerships and quality jobs.

As California moves from the COVID-19 crisis to recovery, urgent labor shortages in all aspects of care delivery are projected to grow even more. The State has made significant investments to improve health and economic outcomes, but without the workforce to deliver these services, these efforts will not be fully realized. Too many workers in these essential positions currently live in poverty, with low wages and limited growth opportunities. The state must build a well-trained health and human services workforce and deliver on good paying jobs, as an economic driver for low income communities as well as a force for equity for the whole state.

Governor's Budget.

The Governor's budget proposes \$110 million in 2022-23, and \$120 million in each of 2023-24 and 2024-25, to establish, expand, and improve workforce development programs for health and human service careers.

Use of Funds. According to the Administration, this investment in workforce development, utilizing the High Road approach, will create innovative and accessible opportunities to recruit, train, hire and advance an ethnically and culturally inclusive health and human services workforce, with improved diversity and higher wages. This investment will enhance opportunity and economic mobility across the health and human services sectors for individuals and families, especially young people of color, across California.

The CWDB will contract, using program funds, with the University of California for evaluation work. Metrics tracked will include both quantitative and qualitative elements, including but not limited to participant demographics, employment, wages, education, credentials, and apprenticeship. High Road elements may include understanding partnership development, system alignment, effective models, industry-driven training solutions, worker voice and agency.

Suggested Questions

- How is the department planning to account for differences in skillsets and certification requirements across the fields in healthcare?
- What types of jobs are the focus of this proposal?
- How would this proposal interact with and fit into the Administration's other proposals in the \$1.7 Billion Care Economy Workforce package? How is this proposal distinct from those proposals?
- Who is participating in these initiatives? How are you measuring or tracking these participants?
- What kinds of services are they receiving? How are you measuring or tracking the services that will be delivered to program participants?
- What kinds of labor market outcomes are program participants expected to achieve? How are you measuring the success outcomes for these investments with respect to the goals that the Administration has for these investments?
- What is the Administration's expectations for the types of jobs and benefits that participants of these initiatives would receive after completion?
- Are these aforementioned expectations going to be formalized in trailer or budget bill language?

Staff Recommendation. Hold Open

Issue 3: Climate and Clean Energy Economy**Background**

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% 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. Overall and across various departments and agencies, the Governor's budget includes \$550 million over three years to expand climate workforce strategies.

Port Worker Training Facility. California's ports are critical to the national supply chain. The Ports of Los Angeles and Long Beach move roughly 35 percent of all containers in the United States, approximately 40 percent of U.S. imports, and 25 percent of U.S. exports through the San Pedro Bay. California's nationally significant regional supply chains and goods movement networks have been negatively impacted by global disruptions, resulting in port congestion, extended shipping container dwell times, and bottlenecks farther downstream in the supply chain.

The state has taken several actions to reduce the congestion in California's ports to ensure people in California and across the country and world can access goods and supplies. This request is part of an overall package of \$1.38 billion one-time General Fund over two years for port, freight, and goods movement infrastructure and other supply chain investments across various departments and agencies. The requested funding will improve supply chain resiliency and will help the state leverage federal funding.

The Goods Movement Workforce Training Campus will focus on developing the skilled workforce needed across the goods movement system to build long-term system resiliency. The total project cost is \$150 million and builds on the successful High Road model lashing training, a partnership among the Port employers, the International Longshore and Warehouse Union (ILWU), and the Los Angeles Port Authority, and funded by the California Workforce Development Board in 2018. The Campus will attract new workers, address skill shortages, and provide opportunities for workforce up-skilling or re-skilling to avoid future workforce shortages and address the rapidly changing needs of the industry.

Importantly, the Campus will also facilitate workforce transition in response to the introduction of zero emission (ZE) technologies. The Port of Los Angeles, in coordination with the Port of Long Beach, has identified a 15-acre site that will be the site for the campus. Benefits of this campus include:

- Zero-emission cargo handling equipment training ground for workers to learn how to operate, maintain and repair equipment that directly supports the industry's transition;
- Replicating goods movement environments, such as marine cargo terminals, while giving workers a safe training space away from the busy activities of the terminals;
- Training that impacts the region and the entire supply chain, coordinated with related High Road training in the Inland Empire;
- Space for other High Road employers seeking to train their workforce on freight equipment including trucks, forklifts, and ship-to-shore cranes.

Low Carbon Economy Program. This High Road Training Partnership model is designed to: 1) address the critical needs emerging as that industry or sector faces the challenges of climate change and environmental sustainability; 2) increase the capacity of firms and workers to adapt and compete in a carbon-constrained economy; and 3) help California communities prosper by creating accessible local pathways into safer, healthier, and more highly skilled jobs.

In 2019, the Legislature approved \$165 million in Greenhouse Gas Reduction Fund (GGRF) money over five fiscal years to CWDB for the H RTP and HRCC initiatives (together referred to as the Low Carbon Economy initiative) starting in 2019-20. Only one budget appropriation has been made, for \$35 million for FY 2019-20, which was subsequently reduced by the Department of Finance to \$25.6 million for local assistance and \$4.2 million for operations when subdivision (b) of Control Section 15.14, 2019 Budget Act, was applied due to lower-than-expected revenue to the GGRF.

In June 2021, the CWDB released the \$25.6 million in local assistance funds to 22 new and existing H RTPs 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.

The requested \$20 million General Fund annually starting 2022-23 and running through 2024-25 will ensure the continuation of the CWDB's Low Carbon Economy Workforce grant program initiated under the Greenhouse Gas Reduction Fund. This funding will support existing and new H RTP and HRCC in industries aligned with the California Air Resources Board's Climate Change Scoping Plan.

With this funding it is proposed that 4,300 participants will be trained and employed, and 10 of the 22 H RTPs will expand or build new apprenticeships. The formal evaluation of this funding will be completed in March 2023. The CWDB will contract, using program funds, with the University of California for evaluation work consistent with CUI C §14014.

The CWDB program metrics include both quantitative and qualitative elements including but not limited to number of participants served, participant demographics, employment, wages, education, credentials, and apprenticeship. High Road elements may include understanding partnership development, system alignment, effective models, industry-driven training solutions, worker voice and agency.

Well Capping Workforce Pilot. California contains over 100,000 oil wells, thousands of which have not produced oil in decades, contribute harmful emissions that negatively affect nearby communities, and have no solvent owner to hold responsible for remediation costs. Properly sealing these wells (called “plugging and abandoning”) is critical to protecting the health of Californians and will be increasingly important as more wells cease production in the coming years as the state moves closer to carbon neutrality.

As the state moves toward carbon neutrality, certain regions will require a transitioning of workers in certain impacted industry sectors to high wage jobs. While longer-term economic transition is needed and efforts are underway, immediate investments can be made to recruit and train willing oil and gas industry workers, who are displaced or at-risk of being displaced, to work in quality jobs capping open and abandoned wells.

The CWDB requests \$15 million one-time General Fund to develop the Oil and Gas Well Capping Pilot initiative in Kern County to provide training and employment for impacted oil and gas workers. The CWDB will lead this effort using High Road approach which prioritizes industry engagement, job quality, equity, and climate resilience.

This work is being conducted in partnership with the Department of Conservation which has an associated proposal to assist in transitioning displaced workers from the oil and gas industry into the effort to plug orphan or idle wells, decommission attendant facilities, and complete associated environmental remediation.

The CWDB will use five percent of the \$15 million allocation to launch and manage this program. Metrics tracked include both quantitative and qualitative elements. They include but are not limited to participant demographics, employment, wages, education, credentials, and apprenticeship. High Road elements may include understanding partnership development, system alignment, effective models, industry-driven training solutions, worker voice and agency.

Governor’s Budget.

Port Worker Training Facility. The Governor’s budget proposes \$30 million in 2022-23, and \$40 million in 2023-24 and 2024-25, for a Goods Movement Training Campus in southern California.

Low Carbon Economy Program. The Governor’s budget proposes \$20 million General Fund annually from 2022-23 through 2024-25, to fund the California Workforce Development Board’s Low Carbon Economy Workforce grant program.

Well Capping Workforce Pilot. The Governor’s budget proposes \$15 million one-time General Fund to develop a well capping workforce training pilot program to provide training for short-term employment for impacted oil and gas workers. These funds will require an extended expenditure period, with the liquidation of encumbrances ending on June 30, 2027.

Suggested Questions**For all climate proposals in this agenda,**

- How does the Administration view these proposals in relation to its transportation packages to address the transportation system, related zero-emission vehicle (ZEV) efforts, port infrastructure and supply chain resilience?
- Who is participating in these initiatives? How are you measuring or tracking these participants?
- What kinds of services are they receiving? How are you measuring or tracking the services that will be delivered to program participants?
- What kinds of labor market outcomes are program participants expected to achieve? How are you measuring the success outcomes for these investments with respect to the goals that the Administration has for these investments?
- What is the Administration's expectations for the types of jobs and benefits that participants of these initiatives would receive after completion?
- Are these aforementioned expectations going to be formalized in trailer or budget bill language?

On Low Carbon Economy Program,

- What part of the sector is being targeted?
- What types of jobs are the focus of this proposal?

On Well Capping Workforce Pilot,

- How does the Administration/CWDB plan on rolling out the program for displaced oil and gas workers to cap orphan oil wells?
- How will you ensure these jobs are quality jobs/are these considered public works for the purpose of prevailing wages?

Staff Recommendation. Hold Open

Issue 4: California Youth Leadership Program Language Justice Pathway
--

Background

The California Youth Leadership Corps (CYLC) is a new statewide partnership among the California Labor and Workforce Development Agency, selected California community colleges, the California Community Colleges Chancellor's Office, the Community Learning Partnership, local nonprofit organizations, the California Endowment, the Hilton Foundation, Haas Jr. Fund, and other community partners. This unique partnership was created to prepare a new generation of young people to become community organizers and change agents in their local communities.

In Fall 2021 and Spring 2022, the CYLC will launch learn-and-earn career pathway programs in the cities of Los Angeles, San Jose, Riverside, and Fresno.

This unique partnership grew out of Governor Newsom's economic recovery task force as a response to the staggering number of unemployed young people, particularly in communities of color and low-income communities across the state. To address this crisis, CYLC was created to prepare the next generation of young people to:

- Become community organizers and change agents in their local communities
- Increase civic engagement and power building among marginalized youth and their communities;
- Scale up community change learn-and-earn career pathways; and
- Strengthen the capacity of social justice organizations.

Today, millions of immigrant families are in great need of a comprehensive and humane immigration reform to adjust their immigration status in the United States and to improve their quality of life. Along with a broad-based and just immigration reform at the federal level, immigrants and their families, including Dreamers, immigrants with temporary legal status, refugees, farm workers, and undocumented children, youth, and adults without any legal protections need greater access to community-based immigration legal services providers who can help them adjust their legal status and educate them of their rights.

The CYLC Language Justice Pathways program will strengthen the workforce pipeline for community-based immigration legal services and other immigrant rights and social and climate justice organizations, by expanding language justice pathways for community college students. Expanding the capacity of community-based immigration legal services would help to bring undocumented immigrants and their families out of the shadows and provide them with a greater understanding of immigration laws that impact their daily lives. It would require, however, that local communities have a greater number of well-trained interpreters, paralegals, advocates, and nonprofit leaders who could strengthen the capacity of these legal services providers and immigrant rights organizations.

CYLC will collaborate with deans, faculty and program staff at CYLC community college partnership sites to prepare community college students to pursue careers in pre-law or paralegal services, translation services and leadership or social change in the community-based immigration legal services and nonprofit sectors.

The participants will be able to receive critical supports and mentoring while enrolled. Students will be offered a postsecondary credential, paid internships with community-based immigration legal services providers and immigrant rights organizations, and a living wage of at least \$15 per hour. Funding would extend programs at Mission College in Los Angeles and Fresno City College, De Anza College in San Jose, Los Angeles Trade Tech College and Riverside Community College, with expansion to other community colleges across the state. This language justice pathway will offer students a postsecondary credential and internships with community-based immigration legal services providers and immigrant rights organizations.

CWDB will execute a direct allocation grant agreement and provide the funding to Emerald Cities Collaborative, the fiscal agent for the California Youth Leadership Corps. The funding will be granted to the CYLC Language Justice Pathways initiative in lump sum one advance payment with grant provision for fiscal and program monitoring conducted as required by statutory language to ensure funds are spent appropriately and program goals are met.

Governor's Budget.

The Governor's budget proposes \$10 million one-time General Fund to expand learn-and-earn community change career pathways for community college students.

Suggested Questions

- Why does this proposal only focus on immigrant legal services?
- How is this "Learn and Earn" program proposed to be set up and structured? Is this programs providing wage subsidies, stipends, paid internships to participants?
- Are there expectations for employers that use labor from these investments to contribute and help labor? In other words, what's the Administration's position on a "match requirement" for employers— do you expect employers making use of "learn and earn" labor be required to pay some portion of the wages/stipends?
- After participation in these programs, what types of jobs and benefits do the Administration expect for participants? What is the Administration's position on rewarding earn and learn programs that lead to or support full time employment of program participants once the subsidy goes away?
- Are supportive services also provided to the students? If so, what types?

Staff Recommendation. Hold Open

.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

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		
		2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
5900	Employment and Employment Related Services	1,331.7	1,332.6	1,382.4	\$224,134	\$825,509	\$322,203
5915	California Unemployment Insurance Appeals Board	509.3	658.3	571.0	92,830	116,821	100,166
5920	Unemployment Insurance Program	9,286.2	5,765.3	4,239.8	139,940,888	34,359,842	8,927,370
5925	Disability Insurance Program	1,575.9	1,513.5	1,506.5	10,151,749	10,507,068	10,512,846
5930	Tax Program	1,728.3	1,589.4	1,519.4	455,522	374,629	350,395
5935	Employment Training Panel	85.1	159.8	227.7	103,760	154,701	216,825
5940	Workforce Innovation and Opportunity Act	202.2	202.2	202.2	404,833	417,723	408,261
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)		15,421.2	11,923.6	10,351.5	\$151,419,116	\$46,801,693	\$20,883,466

Issue 5: Addressing Unemployment Insurance (UI) Debt

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.

UI Program Is Financed With State And Federal UI Payroll Taxes Paid by Employers. State UI tax revenues are deposited into the state's UI trust fund to pay benefits to unemployed workers. Each individual employer's state UI tax rate is calculated annually using an experience rating system based in part on the usage of the UI system by the employer's former employees. The tax rates on an employer range from a low of 1.5 percent to a high of 6.2 percent. Due to longstanding solvency issues, the state's UI tax rate has been at the maximum amount since 2004.

The federal UI tax, known as the Federal Unemployment Tax Act (FUTA) is typically used to pay for state UI program administration costs. The tax rate assigned to each employer is then applied to a taxable wage base to determine the amount the employer owes in UI taxes for a particular

employee. Since 1984 and the taxable wage base used to calculate California employers' UI state taxes is the lowest allowed under federal law. The taxable wage base is currently \$7,000, and only Arizona, Florida, Tennessee, and Puerto Rico currently use the same wage base. For California, the maximum tax is \$434 per employee per year. In 2019, the state collected \$5.9 billion in UI taxes from employers and issued about \$5.5 billion in total UI benefits.

States May Borrow From Federal Government During Economic Downturns. During recessions, the state's UI trust fund can become insolvent as the cost of benefits exceeds employer tax contributions and trust fund reserves are exhausted. Federal law allows states, when they exhaust their state UI trust funds, to receive loans from the federal government to continue paying benefits. These loans must be repaid, with interest (currently 2.3 percent annually), at a later time. The loan principal is repaid by automatic increases in the federal UI tax rate that are set out in federal law. The loan interest typically has been paid from states' General Funds.

Under Federal Repayment Plan, Businesses Repay Federal UI Loans Over Time. Under federal law, for states with federal UI loans outstanding, the federal UI tax rate on employers increases by 0.3 percentage points. The additional revenues generated from the tax increase go to paying down the state's federal loan. The federal UI tax rate continues to increase by increments of 0.3 percentage points each year until the loans are fully repaid, at which point the federal tax returns to its usual rate of 0.6 percent. In effect, these federally required tax increases make it so that employers pay for UI benefit costs that were covered by federal loans when the state UI trust fund exhausted its reserves.

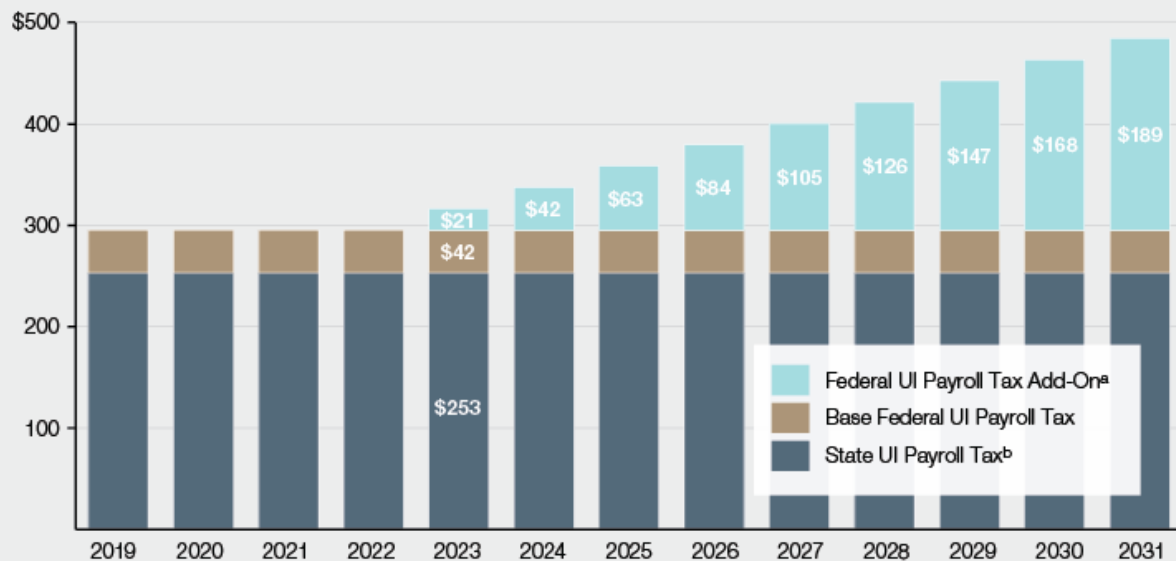
Since Pandemic Began, State Has Received \$20 Billion in Federal UI Loans. Prior to the pandemic, at the start of 2020, the state's UI trust fund held \$3.3 billion in reserves. Despite these reserves, the state's UI trust fund became insolvent during the summer of 2020, a few months following the start of the pandemic and associated job losses. California, like many other states, used federal loans to continue paying benefits during the pandemic. In total, the state needed to borrow about \$20 billion from the federal government, roughly twice the amount the state borrowed for UI benefits during the Great Recession.

Businesses Set to Pay Add-On Federal UI Tax Beginning in 2023. To repay the federal loans, the federal UI payroll tax rate on employers will increase by 0.3 percent for tax year 2022. However, employers will not pay this higher rate until 2023 when employers remit their 2022 federal UI payroll taxes. To give some context to the size of increased federal UI taxes that employers will pay to repay the loans, Figure 1 from the LAO shows a hypothetical employer's combined state and federal UI tax liability for a single employee over the next several years.

Figure 1

Federal Tax Increases to Repay UI Loans in Context

Example of Employers' Annual UI Payroll Taxes Per Employee



^a For states that have outstanding federal UI loans, federal law requires the federal UI tax rate paid by employers to increase by 0.3 percentage point increments until the loans are repaid.

^b State UI tax rates vary by employer and by year. For this figure, we display the average state UI tax rate of 3.62 percent.

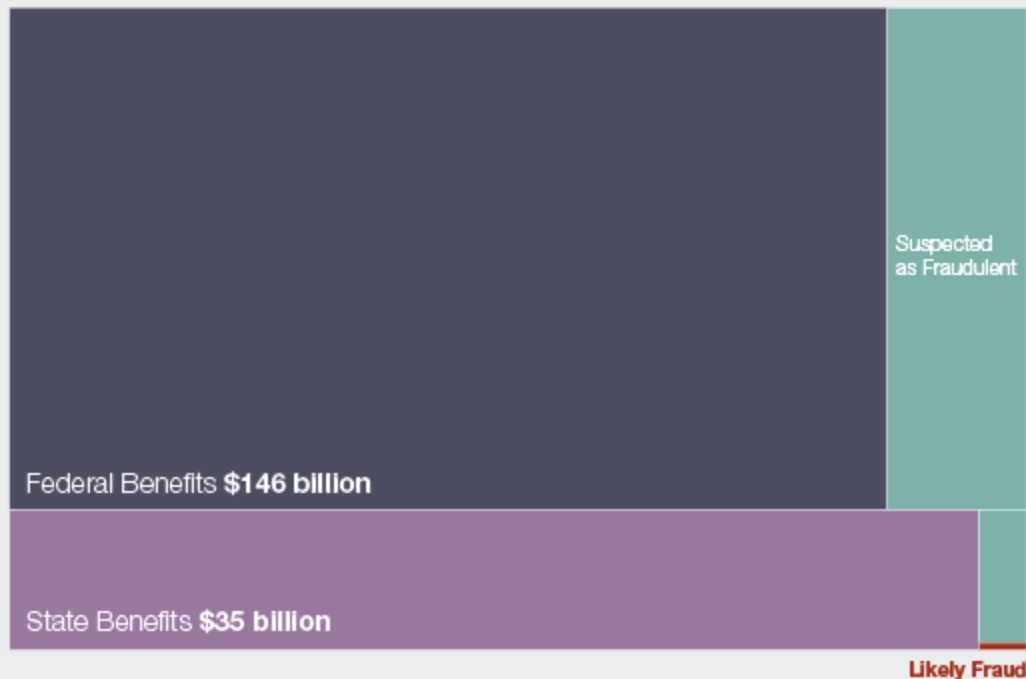
UI = Unemployment Insurance.

LAOA

Recent Fraud Concentrated in Federal UI Benefits That Do Not Affect Loan Repayment. Figure 2 shows the Administration's estimate of possible UI benefit fraud that occurred during the pandemic. Almost all pandemic-era fraud occurred in the temporary federal programs that now have ended. The federal government, not the state UI trust fund, paid these benefits. As a result, the state did not use federal UI loans to pay these fraudulent benefits, meaning California employers are not required to repay any of the fraudulent federal benefits.

Figure 2

Temporary Federal Benefits, Not State Benefits, Were the Primary Target of Fraud



LAOA

State UI Fraud Does Not Appear to Be Major Factor in Size of UI Loans to Be Repaid. Although the figure shows the Administration's estimate of possible state fraud during the pandemic, a more reliable estimate of likely fraud in state UI benefits comes from an audit of claims in 2020. This review suggests about \$100 million of \$35 billion in state benefits paid during the pandemic were fraudulent. This estimate of likely fraud is much smaller than the \$1.3 billion a separate EDD analysis flagged as possible fraud, but this \$1.3 billion estimate likely is overstated. To arrive at the estimate of \$1.3 billion, EDD counts state UI claims as fraudulent if a worker did not respond to a request for additional identity documents after they had started receiving benefits. There are several reasons why workers with legitimate claims may not have followed up with EDD. Many of the suspected claimants had already run out of benefits and thus had little reason to log in to confirm their identity. Other claimants may have given up in frustration after trying unsuccessfully to send requested documentation to EDD. Since state UI fraud was less widespread than fraud in the temporary federal programs, state UI fraud does not appear to have notably increased the amount of federal UI loans that the state and employers are to repay.

Governor's Budget.

The Governor's budget proposes to make a \$1 billion General Fund payment in 2022-23 and an additional \$2 billion General Fund payment in 2023-24 toward repaying the outstanding balance on the state's federal UI loans. The proposed supplemental payment would reduce the state's outstanding loan balance by about 15 percent.

LAO Assessment

Looking Ahead

Updated Forecasts Under Two Economic Scenarios—Low Cost and High Cost. To illustrate state and employer costs to repay the federal UI loans, the LAO's analysis updates their earlier low- and high-costs forecast scenarios for the state's UI system based on different underlying economic scenarios. Under the low-cost scenario, employment quickly returns to pre-pandemic levels and interest rates remain historically low for the entire period. Under the high-cost scenario, the state's full economic recovery is delayed several years, and interest rates paid on the UI loans increase gradually over the next several years.

Loan Will Take Many Years to Repay Under Either Scenario. Under the LAO's low-cost scenario, the state and employers pay off the federal loan in 2030. Under our high-cost scenario, the payoff occurs in 2032. Neither of these scenarios capture the possibility of another recession sometime this decade. Should that occur, payoff of the federal loan would extend well beyond 2032.

Larger State Interest Payments Begin This Year. Figure 3 shows the LAO's projections for upcoming state interest payments under two interest rate scenarios. Under the LAO's low interest rate scenario, the federal interest rate charged on outstanding federal UI loans rises slightly from its current low and remains near 2.5 percent. Under the LAO's high interest rate scenario, the federal interest rate increases from 2.2 percent to 4.5 percent over the next several years and remains at that level.

Figure 3

Looking Ahead at State Costs to Repay the Federal UI Loan

LAO Projections (In Millions)

Fiscal Year	Estimated State Interest Payment	
	Low-Cost Scenario	High-Cost Scenario
2021-22	\$36	\$36
2022-23	460	630
2023-24	520	890
2024-25	480	1,030
2025-26	440	1,020

2026-27	380	970
2027-28	300	880
2028-29	210	750
2029-30	110	600
2030-31	20	430
2031-32	—	240
2032-33	—	50
Totals	\$3,000	\$7,200

Note: low-cost scenario assumes 2.5 percent interest rate, whereas high-cost scenario assumes 4.5 percent interest rate.

UI = Unemployment Insurance.

\$3 Billion Repayment Would Lower State Interest Costs and Employer Costs... According to the LAO, the Governor’s proposal would reduce the amount of outstanding federal UI loans. As a result, the proposal would reduce state interest costs immediately. The state also would face lower interest payments each year the loan remains outstanding. The LAO estimates that the Governor’s proposed \$3 billion payment likely would reduce General Fund interest costs over the repayment period by a total of \$550 million to \$1.1 billion.

...But Provide No Near-Term Economic Relief to Employers or Workers. The proposed state payment also would reduce employer costs in the future. In general, the \$3 billion deposit would reduce the amount employers must repay by \$3 billion. However, employers would not benefit from these lower costs for many years. This is because the federal tax increases remain in place until the loan is fully repaid, which would still take several years even with the \$3 billion payment. Further, although the state payment could shorten the number of years that employers pay the increased federal tax rates, employers may see no direct benefit if the payment is too small to reduce the repayment schedule by a full year. (In this case, employers would nevertheless pay the higher federal UI tax rates, but the carryover revenue would instead be deposited into the state UI trust fund. These funds would be available to pay UI benefits in future years.)

To Provide Immediate Benefit, Legislature Could Instead Provide UI Tax Credits to Businesses. Should the Legislature instead wish to provide immediate tax relief to employers while the economic effects of the pandemic linger, one option to consider would be to provide employers state UI tax credits to offset the upcoming federal UI tax increase. Tax credits could be designed in various ways to meet the Legislature’s policy objectives and priorities.

Suggested Questions

- What is the Administration’s projected date for repaying the UI debt to the federal government?

- How will the \$3 billion payment benefit small businesses? Will it reduce the amount that they have to pay?

Staff Recommendation. Hold Open.

Issue 6: Addressing and Preventing Fraud

Background

Since the surge in pandemic-related California unemployment claims began in March 2020, individuals, news organizations, and law enforcement officials have reported many cases of potential and actual UI fraud. Not surprisingly, the pandemic conditions increased EDD's UI workloads and also resulted in changes to federal UI benefit programs, both of which have created a greater risk of fraud.

UI Program Procedures. The EDD administers the UI program, which provides benefits to workers who lose their job due to no fault of their own. The UI program is administered through a combination of federal and state laws and regulations. When completing an initial application, claimants provide basic information regarding their employment history, including the reason they separated from their most recent employer. The EDD uses this information to determine if the claimant lost their job due to no fault of their own and meets other eligibility criteria. Concurrently, the EDD also contacts the claimant's employer to verify the information provided on the application. The UI program is funded by employers, and employers are therefore incentivized to dispute illegitimate claims made by former employees or individuals claiming to be former employees.

The most commonly identified false statement occurs when a claimant fails to report or underreports wages they earned during the duration of the claim. As a result, the claimant receives benefits to which they are not entitled. The EDD identifies these potential false statements through multiple processes, including claim processing, anonymous tips, and most commonly, Benefit Audit Cross-matches. The cross-match process uses wages and new hire information reported by employers quarterly to identify claimants who may have received wages, but did not report them while collecting UI benefits. In the event the EDD identifies a claimant meeting this criteria, the Department may contact the appropriate employer to gather additional information regarding the wages paid to the claimant. If, after reviewing the information provided by the employer, it is found the claimant may have been overpaid, the EDD will issue the claimant a Notice of Potential Overpayment.

COVID-19 and Unemployment Assistance. Due to the COVID-19 pandemic lockdown, California's unemployment rate jumped from 4.3 percent in February 2020 to 16.2 percent in April of 2020. By March of 2021, EDD processed more than 22 million claims, including Pandemic Unemployment Assistance (PUA) claims. This equates to more than \$140 billion in unemployment insurance benefits. The scale, scope, and speed of the COVID-19 pandemic is simply unprecedented, and it caught EDD unprepared, as it did nearly all governmental entities.

Time Line of Key Events During the Pandemic

2020

- **March**
Governor declares state of emergency due to COVID-19 pandemic. Widespread business closures, layoffs, furloughs, and hours reductions.
- **March through July**
UI application workload 15 to 25 times higher than normal levels.
- **April**
Following USDOL guidance, state begins to fast-track UI claims by issuing payment before confirming final eligibility.
- **July**
Governor forms strike team to address delays at EDD. Benefit delays ranged from four weeks to several months.
- **July and August**
EDD identifies high level of suspected fraud in federal PUA program.
- **September**
 - EDD takes steps to limit fraud exposure, including not automatically backdating claims or allowing multiple claims at same address.
 - Strike team issues exhaustive, critical assessment of delays at EDD.
 - EDD begins implementing key strike team recommendations: two-week reset and setting up a new identity verification tool—ID.me.
 - Backlog of delayed UI claims peaks at 1.7 million delayed claims.
- **October**
EDD begins implementing other recommendations from strike team, including recommendation to revisit its approach to fraud prevention
- **December**
 - EDD hires Thompson-Reuters to assign “fraud score” to pre-ID.me claims. Based on fraud scores, EDD suspends 1.1 million claims with no advanced notice. At least 600,000 of the 1.1 million claims were real.
 - California State Auditor releases two EDD audits, pointing out that EDD must redetermine eligibility for claims that were fast-tracked early the pandemic.

2021

- **July**
Due to long delays for scheduling eligibility interviews, EDD begins paying benefits while awaiting eligibility interviews rather than delaying benefits until after interview.
- **September**
Temporary federal benefits for self-employed workers and add-on UI payments for all recipients end.

UI = Unemployment Insurance; USDOL = United States Department of Labor; EDD = Employment Development Department; and PUA = Pandemic Unemployment Assistance.

LAOA

Timeline of Events.

EDD faced unique challenges in implementing the federal government's response to the COVID-19 pandemic. On March 27, 2020, the former administration signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which extended unemployment insurance benefits to independent contractors through the PUA program. This extension of wage replacement benefits to independent contractors and business owners, which is 100 percent federally funded, was an unprecedented and untried program, and it represented an attempt to provide wage replacement benefits to the broadest range of workers impacted by COVID-19.

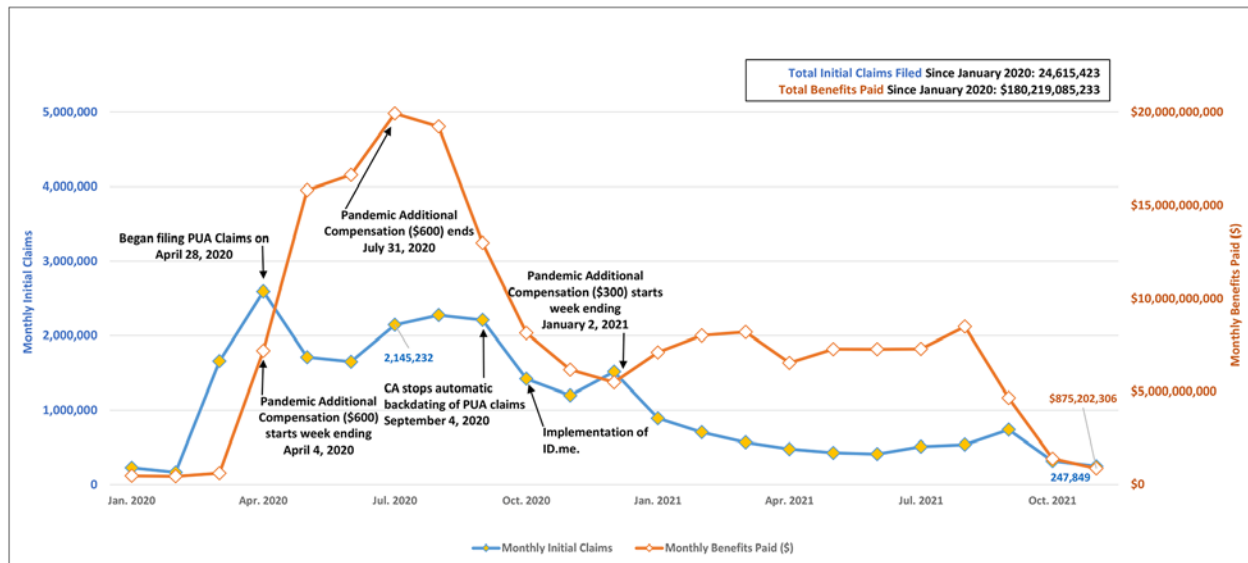
Unfortunately, as structured by the federal government, the PUA program did not have sufficient anti-fraud protections in place. Unlike with traditional unemployment insurance benefits, where employer payroll reports to EDD serve as a verification tool of continued unemployment, the PUA program operated entirely on self-attestations. During the Great Recession, the federal government extended no comparable benefit program, and therefore fraud remained negligible.

Strike Team. In July 2020, Governor Gavin Newsom created the EDD Strike Team to assess and recommend improvements at EDD. The Strike Team was given 45 days to review the EDD and was led by the Government Operations Secretary Yolanda Richardson and Code for America founder and former U.S. Deputy Chief Technology Officer Jennifer Pahlka. On Saturday, September 19, 2020, the Administration released Recommendations to Set Path for Reform at the Employment Development Department. These recommendations were based off a more comprehensive report titled Employment Development Department Strike Team Detailed Assessment and Recommendations (dated September 16, 2020).

Curbing Fraud. In January 2021, the EDD began an analysis of 1.48 million suspicious claims that were suspended until identity or eligibility could be verified. Of those who needed to verify their identity, approximately 37 percent did so and were then cleared to resume obtaining benefits if otherwise eligible, while the others were disqualified and were provided appeal rights. EDD notes that further details will be provided when the full analysis is complete.

The EDD's investigations unit also works with local, state and federal investigators and prosecutors. At the end of April 2021, the Governor's Office of Emergency Services announced the state Task Force on Pandemic Unemployment Assistance Fraud has led to the arrest of 68 suspects and the opening of 1,641 additional investigations. In addition, EDD notes that they have taken the following steps to help curb and address fraud:

- Established partnerships with law enforcement and other states to share data with other jurisdictions to help catch multi-state fraudsters,
- Cross referencing data against law enforcement records,
- Suspending payment to investigate suspicious multiple claims from single addresses,
- Implementing State Auditor recommendations to convene a fraud unit that coordinates fraud prevention and detection, and
- No longer automatically backdating federal PUA claims, a program that was vulnerable to fraud.
- Contracted with Accenture to conduct an evaluation of fraud detection and prevention operations.

Figure: Claims Filed and Benefits Paid by Month**Summary Stats**

New and Reopened Claims Filed Since March 2020

26.4M

Total Benefits Paid Since March 2020

\$180B

Claims Paid Within One Week of First Certification Received

81.7%

Backlog of Claims Past 21 Days Pending EDD Action

7,292

California State Auditor (CSA) Recommendations and Progress. In January 2021, the CSA released two audit reports about EDD's ability to deliver unemployment benefits while preventing fraud and maintaining privacy. As noted in the February 2021 Subcommittee No. 5 hearing, the State Auditor issued 14 recommendations to EDD regarding its operations, all of which EDD agreed to implement.

Audit Recommendations
Operations Audit Recommendations

Recommendation	Status	Resources
To provide a more transparent picture of claims in its backlog, by March 2021 EDD should revise its public dashboards to clearly indicate the number of claims that have waited longer than 21 days for payment because EDD has not yet resolved pending work on the claim.	Fully Implemented	<u>Unemployment Benefits Data Dashboard</u>
To ensure that its identity verification processes are as robust as possible, EDD should determine by June 2021 the reasons why claimants cannot successfully complete their identity verification through ID.me and work with its vendor to resolve these problems. EDD should thereafter regularly monitor the rate of successful identity verifications to ensure that it consistently minimizes unnecessary staff intervention.	In final clearance	
To retain as much automation in initial claims processing as possible, by June 2021 EDD should determine the automation modifications achieved through its emergency processing tool that it can retain and by September 2021 it should make those a permanent feature of its UI Online application.	In final clearance	
To ensure that it does not delay needed improvements to its IT systems, EDD should, by June 2021, identify the elements of the Benefit Systems Modernization project that can assist it in making timely payments and that it can implement incrementally. It should then prioritize implementing the elements most likely to benefit Californians.	In final clearance	
To ensure its ability to respond in a timely fashion to fluctuations in its workload, EDD should immediately begin modeling workload projections that account for possible scenarios that would cause a spike in Unemployment Insurance (UI) claims. EDD should plan its staffing around the likelihood of those scenarios, including having a contingency plan for less likely scenarios that would have a significant impact on its workload.	In progress	

<p>To continue providing timely payment of benefits to Californians in need while also effectively responding to the Department of Labor's directive regarding immediately resuming all eligibility determinations and resolving all suspended determinations, EDD should do the following:</p> <p>Perform a risk assessment of its deferred workloads, including deferred eligibility determinations and retroactive certifications. EDD's assessment should take into account the relative likelihood that it issued payments to ineligible claimants by considering historic overpayment trends as well as the new or altered eligibility requirements the federal government adopted in response to the pandemic. If necessary, EDD should either partner with another state agency or contract for assistance in performing the analysis in support of this assessment.</p>	In progress	
<p>To continue providing timely payment of benefits to Californians in need while also effectively responding to the Department of Labor's directive regarding immediately resuming all eligibility determinations and resolving all suspended determinations, EDD should do the following:</p> <p>Develop a workload plan that prioritizes its deferred workloads based on the risk assessment and determine the staffing and IT resources needed to accomplish the work within expected time frames.</p>	In progress	
<p>To continue providing timely payment of benefits to Californians in need while also effectively responding to the Department of Labor's directive regarding immediately resuming all eligibility determinations and resolving all suspended determinations, EDD should do the following:</p> <p>Hire and train staff as necessary in order to carry out the workload plan.</p>	In progress	
<p>To continue providing timely payment of benefits to Californians in need while also effectively responding to the Department of Labor's directive regarding immediately resuming all eligibility determinations and resolving all suspended determinations, EDD should do the following:</p> <ol style="list-style-type: none"> 1. The need to pay timely benefits to new or continued claimants. 2. Federal expectations about the urgency of the deferred work. 3. Any deadlines by which EDD may no longer be allowed to recoup inappropriately paid benefits. 	In progress	

<p>To ensure that it is able to take informed steps to provide better customer service through improved call center performance, EDD should implement a formal policy by no later than May 2021 that establishes a process for tracking and periodically analyzing the reasons why UI claimants call for assistance. By no later than October 2021, and every six months thereafter, EDD should analyze these data to improve its call center by doing the following:</p> <p>Identifying and resolving weaknesses or problems with the ways in which it provides assistance to UI claimants through self-service and noncall-center options.</p>	In progress	
<p>To ensure that it is able to take informed steps to provide better customer service through improved call center performance, EDD should implement a formal policy by no later than May 2021 that establishes a process for tracking and periodically analyzing the reasons why UI claimants call for assistance. By no later than October 2021, and every six months thereafter, EDD should analyze these data to improve its call center by doing the following:</p> <p>Developing specialized training modules to quickly train its call-center staff on the most commonly requested items with which callers want assistance.</p>	In progress	
<p>To assess the effectiveness of its call center, by May 2021 EDD should implement a policy for tracking and monitoring its rate of first-call resolution. EDD should review first-call resolution data at least monthly to evaluate whether it is providing effective assistance to callers.</p>	In final clearance	
<p>To maximize the number of calls that its staff are able to answer, as soon as possible EDD should add the prerecorded message functionality to its new phone system to advise claimants of their rights and responsibilities after they file their claim with an agent</p>	Fully implemented	
<p>To provide a more convenient customer experience, as soon as possible EDD should implement those features of its new phone system that allow callers to request a callback from an agent instead of waiting on hold for assistance.</p>	In final clearance	

The State Auditor also issued seven recommendations for EDD to implement regarding anti-fraud.

<i>Anti-Fraud Audit Recommendations</i>
Anti-Fraud Audit Recommendations, as listed in CSA Report 2020-628.2

Recommendation	Status	Resources
To prepare to respond to victims of identity theft who receive incorrect tax forms, EDD should, by mid-February 2021, provide information on its website and set up a separate email box for such individuals to contact EDD and receive prompt resolution.	Fully implemented	Form 1099G Information Center
To ensure that it reviews each account that Bank of America reports to it as suspicious or potentially fraudulent, by February 2021, EDD should establish a centralized tracking tool that allows it to review and stop payment on claims, as appropriate. EDD should use this tool to monitor its own internal decisions and track whether the claimant responds to its requests for identity information and should, therefore, have their account unfrozen.	Submitted to State Auditor	
To ensure that its recession planning encompasses its fraud prevention efforts, EDD should identify the fraud prevention and detection efforts it can adjust during periods of high demand for UI benefits. It should ensure that it accounts for all probable consequences of the adjustments and design procedures that appropriately balance the need to provide prompt payment during a recession with the need to guard against fraud in the UI program.	In progress	
To ensure that it provides appropriate assistance to victims of identity theft who report fraud through its online fraud reporting portal, EDD should, by March 2021, establish a working group to coordinate the work needed to resolve each complaint of identity theft, make decisions about staffing levels necessary, and add staffing to accomplish the work.	Fully implemented	
To ensure that it provides legitimate claimants with benefits but does not pay benefits related to fraudulent claims, EDD should immediately obtain from Bank of America a comprehensive list of claimants' accounts that are frozen. EDD should immediately thereafter evaluate the list—including considering using ID.me to verify claimants' identities—to identify accounts that should be unfrozen. By March 2021, it should direct Bank of America to take action to freeze or unfreeze accounts as appropriate.	Fully implemented	
To ensure that it maintains a robust set of safeguards against fraud, EDD should, by March 2021, designate a unit as responsible for coordinating all UI fraud prevention and detection. EDD should assign that unit sufficient authority to carry out its responsibilities and align the unit's duties with the US Government Accountability Office's framework for fraud prevention.	Submitted to State Auditor	
To ensure that it maintains a robust set of safeguards against fraud, EDD should, by May 2021, develop a plan for how it will assess the effectiveness of its fraud prevention and detection tools.	In final clearance	

With the demand of customer needs for online services and making systems available 24 x 7 as well as the need to work remotely and recommendations from the Strike Team and CSA for implementing digital technologies, the EDD expanded its reliance on IT and automation. In addition to the cybersecurity risk that must be managed, the EDD experienced an unprecedented scale of cyber-attacks and fraud against the EDD systems.

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 project.

Vendor Contracts. According to EDD, based on the findings of the report, the EDD took immediate action to implement the recommendations by contracting with vendors to shore up the vulnerabilities within the IT systems with a focus on more efficient claim processing, fraud risk mitigation and detection and identity management. This included contracts that provide critical services for the benefit payments process such as:

- Fraud Prevention and Detection
- Identity Management
- Security Services for IT Systems
- Support for Pandemic Programs
- Customer Experience
- Parallel Modernization for IT Systems
- License Maintenance for Legislative Tracking, Workshare, and AskEDD
- Document Upload Functionality
- Reporting Tool Software
- Testing Consultants
- Disaster Recovery Solution

UI Command Center Division (UICCD). In an effort to optimize program performance and enhance the customer experience, the EDD established the UICCD in January 2021 in a limited

capacity to begin centralizing and providing oversight of the workload planning and staff resource allocations for the Unemployment Insurance (UI) Branch. The UICCD's primary functions are forecasting future UI workload volumes, quality assurance management, enhance customer experience, and staffing levels needed to meet performance objectives. Prior to the establishment of the UICCD, workload management activities and the management of the contact centers were fragmented across the four divisions within the UI Branch, resulting in workload oversight inefficiencies, impacting timely communication to staff and managers, delaying workload distribution, and overall, drastically impacting the UI program's performance. Managers and supervisors who provide workload management and resource management did not have the bandwidth to strategically assess workload distribution and anticipate workload at a holistic and centralized branch level. The distribution of workload at the field office level is granular and often impacts workload assignments made by other offices, therefore, creating inefficient utilization of UI resources.

Information Technology Branch (ITB). The ITB provides leadership and direction to its internal and external customers in the use of technology, and ensures a secure technology infrastructure for the EDD. This includes project planning, policy development, system maintenance, support, operations, and oversight of automated solutions within EDD. The ITB focuses on the identification, development, and deployment of new technologies in an enterprise architecture that leverages technology to meet these needs. In partnership with EDD's UI Branch, the ITB is responsible for providing EDD customers the technology and systems to file benefit claims and access other services through online systems like Unemployment Insurance Online.

Assembly Bill (AB) 110 (Petrie-Norris), Chapter 511, Statutes of 2021. AB 110 requires the Department of Corrections and Rehabilitation (CDCR) to provide the names, known aliases, birth dates, Social Security Numbers, and the booking date and expected release date, if known, of current incarcerated individuals to the EDD for the purposes of preventing payments on fraudulent UI claims. AB 110 requires EDD to complete any necessary system programming or automation to monitor CDCR's inmate data and prevent payments on fraudulent UI claims by the earliest feasible date, but not later than September 1, 2023.

To implement AB 110, EDD would establish an automated system to identify an individual's incarceration status to prevent and deter fraud. Deploying an automated solution would require a one-time cost of approximately \$3.0 million to document business requirements, complete development, conduct testing, and comply with California Department of Technology Project Approval Lifecycle requirements.

EDD will use existing funds for deployment activities that occur in 2021-22. This new technical solution would require an ongoing cost of approximately \$720,000 annually for maintenance and support. The EDD would also incur administrative costs to support this effort.

In the event an individual is disqualified and appeals the EDD's decision, staff would process the appeal and represent the Department at an appeals hearing, as appropriate. The costs to process and administer appeals would depend on the number of appeals filed, however, they are expected to be minimal.

Assembly Bill (AB) 397 (Mayes and Chiu) Chapter 516, Statutes of 2021. AB 397 is regarding the disqualification notice for unemployment insurance (UI) benefits. An individual may be disqualified from receiving UI benefits if they are found to have knowingly provided false information or withheld information in the pursuit of those benefits. Prior to disqualifying an individual from receiving benefits due to a false statement, AB 397 requires the EDD to provide notice and allow a claimant to dispute the potential disqualification. The claimant has 3 to 10 days to respond, as applicable. AB 397 requires EDD to make the necessary changes to its forms and information technology systems by September 1, 2022.

Currently, claimants can contact the EDD by phone to clarify an issue on their claim forms, and EDD's online benefit portal also includes a dedicated option to notify the EDD of potential mistakes. If an issue is not corrected before EDD identifies an eligibility issue, claimants can also respond to the Notice of Potential Overpayment or provide information as part of the eligibility determination interview process, as appropriate. These opportunities are available prior to a formal eligibility determination and disqualification. In addition to those avenues, the EDD can reverse a decision as part of the pre-appeal review process if the claimant provides contrary evidence of the unknown facts.

By requiring a more explicit notice for any applicable potential disqualification, and identifying a specific response timeframe, this law will result in a more robust eligibility determination process. An explicit notice would raise further awareness of the potential eligibility issue identified and encourage claimants to respond with information that could clarify the claim record.

To implement AB 397, the EDD would revise its notices to provide more information related to the false statement or misrepresentation, and provide claimants with an opportunity to respond. The Department would develop business requirements, complete development, conduct testing, comply with California Department of Technology Project Approval Lifecycle requirements and deploy new programming to its legacy information technology systems to accept, store, and utilize information provided by claimants. The EDD estimates requiring approximately \$1,029,000 to implement AB 397. The Department will use existing funds for implementation activities that occur in 2021-22. AB 397 provides EDD until September 1, 2022 to make these revisions. In addition to these one-time costs, the Department would also incur ongoing costs to mail forms and process claimant responses as appropriate, which would depend on the associated workload volumes.

EDD Information Security. EDD is continuously audited by control agencies such as Department of Labor (DOL), Internal Revenue Services (IRS), CA State Auditors, CA Department of Military, CA Department of Technology (CDT), and other internal/external required audits. Prior to the COVID-19 pandemic, the EDD had audit findings that dated as far back to 2016 that were not remediated. Most recently, EDD has accrued over 40 additional findings including business operational issues as a result of an independent security assessment and audit in 2020. According to EDD, the inability to address audit findings timely is due to the lack of resources, ineffectiveness of the current ITB structure of siloed security lines of business and lack of appropriate tools.

Governor's Budget.

The Governor's budget proposes \$133.9 million (\$121.2 million General Fund) in limited-term

resources to continue supporting EDD's development of IT systems, improve service for claimants, and protect the state from fraud, while EDD identifies longer-term plans. These expenditures include the following proposals:

- **Continuing Vendor Contracts.** The Governor's budget proposes \$96.3 million (\$86 million General Fund) in 2022-23 and \$45.1 million (\$36.8 million General Fund) for 2023-24 and 2024-25 to continue benefit service contracts that include essential document upload services, claims review, testing consultants for EDD products, as well as fraud prevention services. The six fraud-related contracts are:
 - **Automated Batch Review.** Thompson Reuters software tool used to flag potentially fraudulent claims. Same tool used in January 2021 to suspend 1.1 million claims.
 - **Identity Risk Analytics.** Thompson Reuters software contract to allow EDD to review new UI claims daily instead of weekly. Aim of more frequent review is to stop fraud.
 - **Identity Verification.** Extension of state's existing contract with ID.me.
 - **Website Managed Security Services.** Expanding an existing statewide partnership with Akamai to detect and prevent organized, automated cyber-attacks—known as “bot attacks”—that could disrupt or disable EDD's benefit application website.
 - **Business Intelligence Competency Center Consulting.** Consulting contract with Executive Information Systems to improve reporting of potentially fraudulent activity and cross-matching that data with Department of State Hospitals patient data or California Department of Corrections and Rehabilitation records.
 - **Fraud Services.** Rehiring Accenture to continue advising EDD on how to identify and prevent future fraud.
- **Information Technology Branch Technology Modernization.** The Governor's budget proposes \$23.5 million General Fund and 122 positions for three years to maintain and improve benefit system usability to better serve claimants and remain hardened against fraud.
- **Cyber Security Resilience and Instrumentation.** The Governor's budget proposes an increase \$10.2 million General Fund in 2022-23, and \$6.1 million General Fund in 2023-24 and 2024-25, and 29.0 positions, for cybersecurity resources to assist with fraud mitigation and to improve cybersecurity and suspicious event monitoring, response, and resiliency. This proposal includes funding for cybersecurity, enhancements, suspicious activity monitoring tools, and staff training and is necessary to proactively address cybersecurity vulnerabilities, threats and security findings, implement technology to mitigate benefit fraud, meet the increasing need in cyber risk management, and strengthen the EDD cybersecurity posture.
- **UI Command Center Division (UICCD).** The Governor's budget proposes \$2.1 million General Fund and 10 positions for three years for a UI Command Center that centralizes UI branch management, supports UI data analytics, and enhances training to improve customer service.

- **AB 110-Fraudulent Claims for Unemployment Compensation Benefits: Inmates.** \$2,199,000 EDD Contingent Fund and 4.6 positions in 2022-23, \$934,000 and 3.6 positions in 2023-24, and \$720,000 and 3.5 positions in 2024-25. These resources will be used to administer provisions of AB 110 that was recently chaptered.
- **AB 397-Unemployment Insurance: Benefits: Disqualification: Notice.** The budget includes \$241,000 EDD Contingent Fund and one position in 2022-23. These resources will be used to administer provisions of AB 397 that was recently chaptered.

Legislative Analyst's Office Assessment and Recommendations on Assessing Proposals to Address Unemployment Insurance Fraud

Striking a Balance Between Fraud Prevention and Program Access. State employment insurance programs must balance the need to prevent fraud with the priority to delivery payments in a timely and straightforward manner. State agencies also have a responsibility to protect the privacy of the constituents they serve. Eliminating all fraud is infeasible. Moreover, attempting to eliminate all fraud necessitates onerous eligibility standards and a lengthy, time-consuming application process. On the other hand, although a program without fraud controls would be quick and simple, such a system would expose the state and employers to substantial financial risk. Given the importance of UI payments to workers, the economy, and the state during economic downturns, EDD's policies and practices should be regularly reviewed by the Legislature and administration to be sure the state is striking a workable balance that manages fraud while providing prompt and straightforward payments to eligible workers.

State Already Set up ID.me, Providing Substantial Protection Against Fraud... EDD's implementation of ID.me during the pandemic has had two major benefits: (1) with ID.me in place, the department now can automate more claims so fewer are redirected to the time-consuming manual review process; and (2) fraudulent actors using stolen identity information are no longer able to successfully claim benefits. With ID.me now in place, EDD has taken steps to substantially limit opportunities for fraud while also addressing the manual review bottleneck that caused the backlog during pandemic.

...But ID.me Has Come Under Scrutiny in Recent Days. The state hired ID.me to confirm workers' identities using so-called "one-to-one" face matching; that is, when a computer algorithm matches the photo or video submitted by the worker to the worker's identification card. In February 2022, the company CEO admitted to misleading ID.me clients: Although ID.me uses one-to-one matching to confirm identity, the company also made so-called "one-to-many" matches without their client's knowledge. One-to-many matches scan one person's face against large databases and therefore could help identify fraudulent actors who claim multiple benefits. However, privacy experts warn that these matching systems are prone to error, suffer from systematic racial bias, and have the potential to be misused. In light of this scrutiny, the Internal Revenue Service recently called off its planned adoption of ID.me for tax filing.

New Anti-Fraud Proposals No Longer Needed and Run Counter to Strike Team Recommendations. Moving forward at this time with additional layers of fraud protection is not necessary because (1) recent fraud was concentrated in temporary federal benefit programs that

have now ended, (2) recent fraud in the state's regular UI program appears to have been minimal, and (3) adopting additional fraud protection now runs counter to the strike team recommendations.

- ***Recent Fraud Concentrated in Temporary Federal Benefits That Have Ended.*** Figure 3 shows the administration's estimate of suspicious or confirmed UI benefit fraud that occurred during the pandemic. The vast majority of fraud occurred in the temporary federal programs that now have ended. According to the Administration, \$18.7 billion (94 percent) of UI benefit fraud may have occurred in the federally funded PUA program, while EDD suspects \$1.3 billion (6 percent) in state UI benefits fraud.
- ***Administration's Estimates of Fraud in State UI Benefits Likely Significantly Overstated.*** The \$1.3 billion estimate of fraud in the state UI benefits program likely is overstated. EDD counts state UI claims as fraudulent if a worker did not confirm their identity when EDD requested additional documentation or verification. Yet there are several reasons why workers with legitimate claims may not have followed up with EDD. Many of the suspected fraudulent claimants already had run out of benefits, meaning legitimate claimants would have had little reason to log in to confirm their identity. Other claimants may have given up in frustration after trying unsuccessfully to send requested documentation to EDD. While widespread frustration and an inability to contact EDD are problematic for other reasons, the claims from this group of workers did not represent fraudulent activity so including them contributes to the overstatement. Another estimate of likely fraud in the state's program (based on findings in the administration's strike team report) suggests that state UI fraud during the pandemic could be much smaller—just \$100 million in fraud out of \$35 billion in benefits paid. (The small red area represents this smaller likely fraud estimate.) Given that relatively little fraud seems to have targeted the state's regular UI program, new, additional layers of fraud prevention are not needed.
- ***Runs Counter to Key Strike Team Recommendation.*** Moving forward at this time with new, additional layers of fraud protection also would move the department further out of balance by again prioritizing fraud elimination at the expense of prompt and straightforward payments. To ensure that an anti-fraud emphasis does not come at the expense of prompt and straightforward payments, the strike team recommended that new anti-fraud proposals must be supported by data and take into consideration how the new protocols might impact legitimate claimants. The department's use of the Thompson Reuters software to suspend 1.1 million claims, of which at least 600,000 were legitimate, raises concerns that EDD has not internalized the strike team's fraud-related recommendations. Moving forward with this contract and others therefore runs counter to the administration's own assessment and recommendations and would move the department further out of balance.

Figure 3

Temporary Federal Benefits, Not State Benefits, Were the Primary Target of Fraud



LAO Recommendation: Approve Contract to Prevent Website Disruptions. The LAO suggests that the Legislature approve the Administration’s contract with Akamai to prevent coordinated bot attacks that could disrupt or shut down EDD’s website at critical times.

LAO Recommendation: Withhold Action on ID.Me. Setting up automated identity verification substantially sped up EDD processes so benefits could be paid promptly during the pandemic. The software likely also reduced fraud in the temporary federal programs. In hindsight, the strike team’s recommendation to set up ID.me was warranted during the pandemic, when the magnitude of the claims backlog called for prompt and decisive action. Now that this critical period has passed, the LAO recommends that the Legislature pause and carefully consider the implications of requiring third-party biometric scanning—in this case, facial recognition performed by artificial intelligence.

LAO Recommendation: Direct Administration to Gather More Information, Assess Alternatives. As the Legislature considers the ongoing use of facial recognition software for the state’s UI system, the LAO recommends that the Legislature directs the Administration to follow through on the strike team recommendation to assess the trade-offs and potential unintended consequences of anti-fraud measures, in this case for ID.me. The Legislature also may wish to task

the administration with presenting alternatives to biometric scanning that achieve the same (or similar) level of automated security but that pose fewer potential privacy risks and equity concerns.

LAO Recommendation: *Reject Proposals to Make Pandemic Era Anti-Fraud Tools Permanent.* The LAO recommends the Legislature reject the pandemic era anti-fraud contracts with Thompson Reuters for *automated batch review* and *identity risk analytics* because the state's use of these programs adversely impacted the experience of several hundred thousand unemployed workers with legitimate claims and are not likely to be useful now that automated identity verification is in place. The Legislature may wish to ask the Administration whether these software tools could be useful in more targeted, special circumstances.

LAO Recommendation: *Reject Anti-Fraud Consulting Contracts, Require EDD to Outline Benefits and Consider Trade-Offs First.* The LAO also recommends that the Legislature reject the Business Intelligence Competency Center Consulting and Fraud Services contracts until the Administration reports on the “the effectiveness, but also the trade-offs and unintended consequences of these practices” as recommended by the strike team.

Suggested Questions

- How many vacancies exist at the department? What is EDD's recruitment and retention strategy overall?
- To date, where is EDD in terms of implementing the Strike Team's recommendations? How/Do these proposals reflect implementation of the Strike Team's recommendations?
- Is cybersecurity a prevailing challenge that EDD currently faces? Are there large ongoing threats?
- How do these proposals interact with the Benefits System Modernization Project that has been placed on hold?
- What security elements of ID.Me does EDD use in its verification processes? What key security element does EDD lose if they “downgrade” ID.me identity verification to do everything but facial recognition?
- We ask for the Administration's/EDD's response to the LAO recommendations.

Staff Recommendation: Hold Open

Issue 7: Workforce Education, Development, and Training Proposals
--

Background

Employment Training Panel Expansion for Health and Social Work. The COVID-19 pandemic has highlighted the need for more skilled workers in all areas of the healthcare industry, and for better training programs, higher wages, increased diversity, and career pathways for workers in the healthcare industry. The healthcare fields often have high barriers to entry (high costs for long training programs), and entry-level positions are often low paid. Increased accessibility, wage progression, and career ladders are needed in order to fill the gaps that are

negatively impacting the healthcare industry.

This investment in the Employment Training Panel will support job entry and career advancement for entry-level and other workers in care, healthcare, and human service social work settings. Funding may go directly to employers to provide their own training, and thereby creating career pathways. Funding may also go to organized labor, community based organizations (nonprofits), or trade associations -training organizations that provide training to workers in multiple employer settings. Training providers that are upskilling existing employees will be required to demonstrate wage increases after training completion in order to receive the funds.

Additionally, these funds will need an extended encumbrance period, using 3 years to encumber the funds and an additional two years to expend and liquidate the funds (for a 5 year period, total). For funds encumbered on the third year, this would allow ETP to utilize its traditional performance based model, thereby allowing the funds to be expended and liquidated in the two following years.

Workforce Literacy. California is home to millions of immigrants and limited English proficient individuals. These individuals are also often lacking in digital and technical skills. Many of these individuals work in low paying jobs without opportunities for advancement. The high poverty and low skill levels of these populations not only causes hardships for these individuals and their families, but also adds to higher unemployment and underemployment figures in California, as well as causing a loss in tax revenue and higher costs for supportive-type services for the state. Therefore, a systems-change approach is needed that removes barriers to licensure and certification, substantially broadens access to skills training, expands evidence-based practices that accelerate learning for English language learners and engages employers in building the skills of their workers to build their business competitiveness.

These funds will support the Employment Training Panel in creating the Workforce Literacy Pilot Program, expanding workplace literacy in contextualized English, digital skills, and technical skills training for incumbent and newly hired workers, as well as for unemployed individuals, who are limited English proficient. This pilot program will enable participating single employers, organized labor, community based organizations (nonprofits), or trade associations-training organizations, to build skilled workforces and increase employee retention, and to provide pathways to higher wages and better jobs for immigrants, refugees, and other limited English proficient individuals.

Displaced Worker Fund for Oil and Gas Workers. Since 1985, California's in-state oil production has declined an average of 65.2 percent per year. As in-state production continues to decline and California moves closer towards carbon neutrality, the Administration is committed to supporting workers on the front-lines of this transition and specifically workers in California's oil and gas industry.

This pilot investment is designed to provide financial awards that would complement the State's existing Workforce Innovation and Opportunity Act (WIOA) Dislocated Worker (DW) program, in an effort to minimize disruptions to the livelihoods of impacted workers and their families. Impacted workers will have access to transitional jobs, career counseling, employment and training services to help them prepare for new careers in growing industries. Additionally, grant awards will provide broad support for impacted Dislocated Workers such as immediate financial support for housing, groceries, utilities, and childcare.

In an effort to maximize the reach of the pilot program, the EDD will collaborate with existing partners to identify existing impacted workers. The EDD will collaborate with partners such as the California Workforce Development Board, the Department of Rehabilitation, the Department of Social Services, and existing workforce initiatives. The goal of the EDD is to reinforce the collaborative efforts to align the pilot with new and existing economic development and displaced worker programs. The EDD will use the information collected during the pilot program to inform discussions regarding the need for future investments in this area.

These funds will need an extended expenditure period using three years to encumber the funds and an additional two years to expend and liquidate the funds. The EDD will use the extended encumbrance period to reinforce existing partnerships, identify new partners and develop further guidance. The liquidation period will allow the grantees to include a start-up period for their pilot programs. The liquidation of encumbrances shall end on June 30, 2027.

Integrated Education and Training. English language learners face cultural, language, educational and other barriers that limit their access to services and opportunities to gain skills and experience leading to family-sustaining jobs. California is investing Workforce Innovation and Opportunity Act (WIOA) funds to expand and enhance workforce development services for English language learners (ELLs).

The training and services offered through the IET for ELL program will help to prepare individuals with limited English skills for good quality jobs and careers in growing local industries. The Immigrants Build Back a California for All Initiative seeks to expand successful ELL pilots to sites across the state. The program will tap the skills and expertise of new immigrants and create pathways out of poverty for immigrants trapped in low wage jobs and precarious employment.

The Workforce Services Branch at EDD will coordinate state efforts across multiple agencies and departments, including adult education partners, for skills training and support services. Community-based organizations and workers' centers that have a demonstrated history of assisting immigrants and refugees in successfully completing education and training programs will provide wrap-around and follow-up services, such as child care, mental health, health, financial literacy, support for documentation and citizenship applications, and other supportive services.

In partnership with the State's adult education providers such as the California Department of Education, the EDD will also assist in creating on-ramps to training for undocumented and other immigrants by working with workers' rights centers across the state. These on-ramps could accelerate training by offering contextualized English language instruction for vocational skills training for in-demand occupations.

The funding will support a comprehensive evaluation of the pilot projects to demonstrate results, as well as, coordinated program development, technical assistance and community of practice. Additionally, the Workforce Services Branch of the EDD will create the Immigrant Integration Workgroup which will focus on items such as, the full implementation of AB 2098, guiding the IET expansion and the development of the California Best program.

Targeted Training for Emergency Medical Technicians. This Targeted EMT Training targets youth and those who may have barriers to employment for roles as Emergency Medical Technicians. These will be developed, in partnership with local public health systems and their contracted emergency medical providers, building on the Emergency Medical Services Corps

Alameda County model, with replication in 5-10 counties throughout the State.

The program, developed and tested in Alameda County, includes 380 hours of classroom instruction following a pre-course in medical terminology. Students will also participate in 20 hours of direct medical treatment and job shadowing, and receive intensive wrap-around support, including case management, mentoring, life coaching and job readiness. A training stipend of \$1,000 a month will allow participants to focus on their training program without part-time or full-time employment.

The initial planning process will identify program sites best suited for success: those at the intersection of high need and administrative capacity and willingness, informed by stakeholder meetings, a scan of the health care workforce, an assessment of each county's population of underserved youth, as well as the partnership potential. The full partnership and commitment of the county health department will be a critical component. Site selection would be followed by program development and capacity building, to include the identification of key partners, staff hiring, mentor recruitment and initial outreach for program participants.

In addition to the projects, the funding will support a comprehensive evaluation of the pilot programs to demonstrate results, as well as, coordinated program development, technical assistance and community of practice.

Each of the appropriations will follow an extended expenditure and liquidation timeline, allowing three years to expend and encumber, with an additional two years to liquidate obligations. This will allow enough time to properly set up, administer and evaluate this new program.

Governor's Budget.

- **Employment Training Panel Expansion for Health and Social Work.** The Governor's Budget proposes \$90 million one-time General Fund to provide training for incumbent health and social workers.
- **Workforce Literacy.** The Governor's Budget proposes \$20 million one-time General Fund to expand workplace literacy training.
- **Displaced Worker Fund for Oil and Gas Workers.** The Governor's Budget proposes \$50 million one-time General Fund to establish a fund to provide assistance for oil and gas workers facing unanticipated displacement.
- **Integrated Education and Training.** The Governor's Budget proposes \$30 million one-time General Fund to the Employment Development Department's Workforce Services Branch to expand the English Language Learner (ELL) pilots in Integrated Education and Training (IET) programs.
- **Targeted Training for Emergency Medical Technicians.** The Governor's Budget proposes \$20 million General Fund from 2022-23 through 2024-25 to provide targeted training for Emergency Medical Technicians.

Suggested Questions

- DOF: Can you explain why the training proposals are housed under EDD as opposed to other departments/entities under the LWDA? How do these proposals relate to the Administration's broader workforce initiatives in the budget?
- Are interagency agreements imagined for these initiatives?
- EDD: What is your capacity to carry out these initiatives?
- How were these proposed amounts determined?
- Who is participating in these initiatives? How are you measuring or tracking these participants?
- What kinds of services are they receiving? How are you measuring or tracking the services that will be delivered to program participants?
- What kinds of labor market outcomes are program participants expected to achieve? How are you measuring the success outcomes for these investments with respect to the goals that the Administration has for these investments?
- What is the Administration's expectations for the types of jobs and benefits that participants of these initiatives would receive after completion?
- Are these aforementioned expectations going to be formalized in additional trailer bill or budget bill language? Will we see some of these formalized expectations by the May Revise?

Regarding the ETP proposals, in addition to the above questions,

- Is ETP requiring job and wage commitments upfront?
- What information is ETP requiring contractors to submit and is this information available to the public?

On ETP expansion for health and social work,

- Why are incumbent health and social workers targeted as part of this investment?
- How would this proposal interact with and fit into the Administration's other proposals in the \$1.7 Billion Care Economy Workforce package? How is this proposal distinct from those proposals?

On Workforce Literacy,

- Please elaborate on the types of workforce literacy efforts that will be provided and why these strategies were identified as the best practices to fund? What are the outcomes expected from this proposal?
- How is this proposal expected to interact with the integrated education and training proposal? Is there overlap between the intent and target population of these two proposals?

On Displaced Worker Fund for Oil and Gas Workers,

- How was this amount determined? How many workers are expected to receive grants from these funds? What is the minimum and maximum award amounts? Will you track outcomes? If so, what outcomes will you track?
- Given the potential coordination between this and other proposals, how does the Administration view this proposal in relation to other Administration workforce climate proposals, including the well-capping efforts mentioned under CWDB in Issue 3? Is this seen as complimentary or separate from these proposals? Does the Administration intend to incorporate these displaced workers into those proposals?
- How does this proposal ensure that displaced workers will find employment with earnings approximate to their former earnings?
- What is the Administration's plan for sector partnerships with employers, industry associations, and worker associations that helps these workers find employment and makes use of their existing skill set?
- What is the Administration's plan for a transition of these oil and gas workers, when appropriate, onto public works projects, other workforce climate proposals, and apprenticeship programs? Will these workers receive prioritization in these processes?

On Targeted Training for EMTs,

- How would this proposal interact with and fit into the Administration's other proposals in the \$1.7 Billion Care Economy Workforce package? How is this proposal distinct from those proposals?
- DOF: Why is EDD the appropriate implementation entity for this proposal?

Staff Recommendation: Hold Open

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

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		
		2020-21	2021-22	2022-23	2020-21*	2021-22*	2022-23*
6080	Self-Insurance Plans	22.8	26.1	26.1	\$6,440	\$6,835	\$6,842
6090	Division of Workers' Compensation	991.0	1,147.0	1,158.0	248,524	270,304	273,740
6095	Commission on Health and Safety and Workers' Compensation	4.8	9.1	9.1	4,053	4,091	3,796
6100	Division of Occupational Safety and Health	738.7	858.9	893.9	172,772	214,245	199,882
6105	Division of Labor Standards Enforcement	658.9	753.4	816.9	139,939	154,717	145,502
6110	Division of Apprenticeship Standards	92.9	94.3	94.3	17,462	47,737	18,526
6120	Claims, Wages, and Contingencies	-	-	-	245,182	238,712	238,712
9900100	Administration	488.7	558.0	565.0	104,620	145,187	100,548
9900200	Administration - Distributed	-	-	-	-104,620	-145,187	-100,548
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		2,997.8	3,446.8	3,563.3	\$834,372	\$936,641	\$887,000

Issue 8: Enhanced Enforcement and Compliance**Background**

SB 62. Before Jan 1, 2022 law (Part 11 of Division 2 commencing with section 2670 of the Labor Code) established a system of registration, penalties, and misdemeanors for violations of laws and regulations applicable to the employment of workers in the garment industry.

SB 62 updates these laws to close existing loopholes that have allowed retailers and manufacturers to circumvent the laws that seek to ensure that workers are fully paid legal minimum and overtime wages for their labor. This legislation, among other things, makes the common practice of “payment by the piece” prohibited except as an incentive bonus, creates a new category of entities called “brand guarantors” (any person contracting for the performance of garment manufacturing as defined), and introduces joint and several liability for payment of wages, reimbursement for expenses, and other compensation due, including interest, between manufacturers and brand guarantors. The bill also establishes joint liability for damages, and penalties between garment manufacturers and contractors.

SB 62 also provides the Division of Labor Standards Enforcement with the authority to issue citations for garment violations, including against upstream defendants along with stop order authority, which can provide strong leverage against the worst violators. The staffing package is as follows:

- Total of 1.5 positions requested for Wage Claim Adjudication Unit. Due to the nature of the changes to law enacted by SB 62 the Division expects an increase in appeals of the Division’s administrative decisions increasing the workload of the Divisions hearing officers.
- Total of one position requested for Bureau of Field Enforcement (BOFE). SB 62 would grant citation and stop order authority to the Division’s BOFE Unit. The Division conservatively estimates an increase in inspections by 20 percent due to the new stop order authority as well as SB 62’s addition of liability for brand guarantors.
- Given the anticipated increase in wage claims and BOFE inspections, the Division’s Legal Unit would need 1.5 additional attorneys. Half an attorney position is needed to aid and advise deputies of full enforcement of the new stop order authority citation issuance. The second attorney would be involved in multiple aspects of enforcement, including advising and working with the deputies who are doing the inspections and adjudicating wage claims, advising on (or prosecuting) any appeal by the employer of a garment stop order or citation, and any work involving registration fees and determinations of payments to be made from the Garment Manufacturers Special Account, or representing the Labor Commissioner in any writs (or other actions) filed by the employer in superior court.

SB 606. In the past, CalOSHA has limited the scope of its inspections to individual workplaces, even if CalOSHA has received complaints alleging similar hazards at more than one work site operated by the same “chain” employer. Prior to SB 606, CalOSHA has lacked authority to issue “enterprise-wide” citations to address occupational safety and health violations committed by employers who implement the same noncompliant written policies and practices at more than one of their workplaces. This law created a rebuttable presumption that a violation committed by an

employer that has multiple worksites is enterprise-wide if the employer has a written policy or procedure that violates these provisions, except as specified, or the division has evidence of a pattern or practice of the same violation committed by that employer involving more than one of the employer's worksites. The law authorized the Division of Occupational Safety and Health (CalOSHA) to issue an enterprise-wide citation requiring enterprise-wide abatement if the employer fails to rebut such a presumption. The law imposed specified requirements for a stay of abatement pending appeal of an enterprise-wide citation. The law subjects an enterprise-wide violation to the same penalty provision as willful or repeated violations. The staffing package is as follows:

- One Attorney III position within the Legal Unit who will be able to undertake the necessary rulemaking to implement SB 606. CalOSHA must promulgate regulations on behalf of the Director in order to implement Section 2 of SB 606. Among other provisions, CalOSHA must amend the Director's penalty regulations (Title 8, CCR §336 et seq.) to codify the calculation for civil penalties for egregious violations. CalOSHA will also need to promulgate a regulation to further develop some of the statutory "characteristics" for finding an egregious violation. The list of characteristics set forth in Labor Code section 6317.8(b)(1-7) includes a number of unquantified terms. In order to allow for consistent application of this section across all of CalOSHA's Enforcement offices, these terms should be further defined in regulation.
- One Attorney IV position to allow CalOSHA to be staffed to review egregious and enterprise-wide citation packages to ensure legal and evidentiary sufficiency. The changes in the Labor Code codified under SB 606 will further increase the complexity of CalOSHA's litigation caseload, even if it does not increase the number of citations CalOSHA issues. CalOSHA estimates, conservatively, that it will issue citations for at least 30 egregious of employer-wide citations in 2022. CalOSHA estimates that it will go to hearing in at least 20 of those cases, and is unable to absorb that additional caseload of complex litigation. The Legal Unit will also be able to assign more-experienced attorneys to litigate these novel and complex citations.

SB 727. SB 727 expands existing direct contractor liability to include liquidated damages and penalties in circumstances where the direct contractor fails to meet payroll monitoring and corrective action requirements, as specified. The law also requires the Labor Commissioner to notify the direct contractor and any subcontractor on a private works project at least 30 days prior to holding a hearing, issuing a citation, or filing a civil action for the failure of a subcontractor to pay specified wage, fringe or other benefits due to workers. This notice need only describe the general nature of the claim, the project name or address, and the name of the employer.

- Total of six positions requested for Wage Claim Adjudication Unit. The bill would impact WCA workload on claims of wages owed to workers employed by subcontractors who fail to pay their employees. Additional staff time would be required to determine who is a "direct contractor" for one or more projects a claimant worked on, to add defendants, provide statutorily required notice, obtain documents, and to prepare subpoenas seeking information held by direct contractors and subcontractors. It would also require additional hearing officer time to hear and determine contractor liability under the proposed statute with particular attention to the factors limiting liability, draft Order, Decision, or Awards construing proposed statute and evidence of relevant factors, and process additional

appeals under Labor Code section 98.2 on the issue of knowledge, if liquidated damages and penalties are assessed. Additionally, the bill has the potential to give rise to litigation regarding the Labor Commissioner's ability to proceed with a claim against a direct contractor if the required notice deadline is not met and will require 0.5 additional staff attorney to address this workload. The additional attorney workload will also include hours assisting deputies in adjudicating wage claims to answer questions regarding points of law and lawful procedure.

- Two positions at BOFE. Given that BOFE citations are of a wider scope than Labor Code section 98 claims (which typically are individual worker claims), they require longer investigations to determine who the contractor is and to determine whether they were given notice of unpaid wages as required. Additional staff time would be required to determine who the direct contractor is on one or more projects a worker worked on and prepare the special notice(s) to the direct contractor(s), to process the notice to direct contractors, prepare subpoenas for workers seeking the information held by the direct contractor and subcontractors, to conduct worker interviews, to hear and determine contractor liability under the new statute with particular attention to the factors limiting liability, and draft Order, Decision, or Awards.

AB 701. AB 701 requires warehouse distribution center employers, as defined, to provide upon hire (or within 30 days of the legislation's effective date) employees with a written description of each quota employees are subject to, including any potential adverse employment action that could result from failure to meet the quota. The law provides that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods or other occupational health and safety laws as specified. AB 701 also prohibits an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or that does not allow a worker to comply with meal or rest periods or occupational health and safety laws. If an employee believes that meeting a quota caused a violation of their right to meal or rest period or health and safety laws, they have a right to request a written description of each quota and a copy of the most recent 90 days of the employee's personal work speed data (if it was being monitored).

AB 701 requires the Labor Commissioner to enforce these provisions by engaging in coordinated and strategic enforcement efforts. In an effort to increase compliance, DLSE is also required to collaborate with stakeholders to educate workers and employers about their rights and obligations under AB 701. Additionally, the bill requires Cal/OSHA to notify DLSE if a particular worksite or employer is found to have an annual employee injury rate of at least 1.5 times higher than the warehousing industry's average annual injury rate, so the Labor Commissioner can determine whether an investigation is appropriate.

- Claims related to AB 701 will need to be investigated by the Occupational Safety & Health (OSH) section of Retaliation Complaints Investigation, given the nature of the claims. Due to the complexity of these complaints, they will require more deputy time than other complaint investigations. While the amount of time required to investigate a single OSH RCI case varies depending on its factual complexity, RCI estimates it would require an average of 48 hours total staff time per case, which breaks down as follows: Attorney III [5 hours], Deputy Labor Commissioner (DLC) III [2 hours], DLC I [37 hours] and Office Technician-Typing (OT) [4 hours]. In total, this proposal requests four positions for RCI.

- Enforcement of the new law will require a targeted enforcement unit comprised of deputies specifically trained to determine what constitutes an unlawful quota system per this bill and the resulting remedies, whether there was a failure to disclose required information; and reporting to the Legislature. The Division estimates that one inspection of a warehouse employer would require 92.5 hours to complete on average and includes pre-inspection activities, on-site inspection (including travel time), post inspection activities including records audits, employer/employee follow-up, determination of violations and citation issuance. The Division estimates that a staff of 2 DLC I, 1 Auditor I, 1 OT, and 1 Attorney III will allow BOFE to inspect 40 warehouse employers per year. In addition, the DLSE will require one Associate Governmental Program Analyst to address the reporting and education requirements along with one DLC III supervisory position.
- In order to monitor warehouse inspections; ensure enforcement staff gather relevant data to calculate the annual employee injury rate; analyze whether it is greater than the industry average injury rate; and coordinate reporting with DLSE, Cal/OSHA requests one Research Data Specialist I.

AB 1023. AB 1023 allows the Labor Commissioner (LC) to impose a penalty on a contractor or subcontractor on a public works project if they fail to furnish payroll records to the LC, as specified. The law revises the requirement to furnish records monthly to instead require that the contractor or subcontractor furnish those records at least once every 30 days while work is being performed on the project, and within 30 days after the final day of work performed on the project. The law also require that the contractor or subcontractor furnish these records in an electronic format, in a manner prescribed by the LC, on the DIR's internet site.

- AB 1023 is projected to have a significant impact on the workload of DLSE's Public Works unit. Approximately 25,000 contractors register with DLSE each year, and of those, approximately 15,000 are required to submit payroll records to DLSE. At present, 10,000 contractors are delinquent in their compliance with this requirement and would be subject to the penalty prescribed by the bill. DLSE estimates that levying the penalty on 50 percent of those delinquent contractors would result in 5,000 penalties levied per year. The time to investigate and process each penalty would vary depending on the complexity of the case, but the Division estimates each penalty would require an average of approximately 8 hours per penalty requiring 22.5 positions in DLSE: 11 Deputy Labor Commissioner (DLC) Is, 2 DLC IIIs, 5.5 Attorney IIIs, 2 Legal Secretaries and 2 Office Technicians.
- If DLSE were to levy 5,000 penalties, then the workload of hearing officers within Office of the Director, Legal Unit would also be increased to handle the increase in appeals. Based on DLSE's estimates of additional cases, Office of the Director, Legal Unit estimates 12 percent (or 600) of the 5,000 penalties levied each year would be appealed, requiring additional legal support from Office of the Director, Legal Unit. To handle the estimated influx of appeals, Office of the Director, Legal Unit would require one Attorney III and one Legal Secretary.
- To implement AB 1023, there will be increased demands on the Division of Administration (Admin) to provide general support in areas such as Human Resources, Business Management, Fiscal Management and Information Services. Currently, there is ratio of approximately 1:12 Admin staff to total Department staff. With an increase of 24.5 positions in DLSE and Office of the Director, Legal Unit, DIR requests 3 Staff Services Analyst positions to provide essential administrative support.

Governor's Budget.

The Governor's budget proposes \$10.4 million and 53.5 positions in 2022-23, decreasing to \$2.7 million and 13 positions by 2025-26, and ongoing, to implement various chaptered legislation. These include the following:

- Senate Bill 62 (Durazo), Chapter 329, Statutes of 2021: Employment: Garment Manufacturing
- SB 606 (Gonzalez), Chapter 336, Statutes of 2021: Workplace Safety: Violations of Statutes: Enterprise-Wide Violations: Egregious Violations
- SB 727 (Leyva), Chapter 338, Statutes of 2021: Labor-Related Liabilities: Direct Contractor
- AB 701 (Lorena Gonzalez), Chapter 197, Statutes of 2021: Warehouse Distribution Centers
- AB 1023 (Flora), Chapter 326, Statutes of 2021: Contractors and Subcontractors – Records: Penalties

Bill	BY FY 2022-23	BY + 1 FY 2023-24	BY + 2 FY 2024-25	BY + 3 FY 2025-26	BY + 4 FY 2026-27
	Pos	Pos	Pos	Pos	Pos
AB 701 (Chapter 197, 2021)	12.0	12.0	12.0	-	-
AB 1023 (Chapter 326, 2021)	27.5	27.5	27.5	-	-
SB 62 (Chapter 329, 2021)	4.0	4.0	4.0	4.0	4.0
SB 606 (Chapter 336, 2021)	2.0	2.0	1.0	1.0	1.0
SB 727 (Chapter 338, 2021)	8.0	8.0	8.0	8.0	8.0
Total	53.5	53.5	52.5	13.0	13.0

Suggested Questions

- The state has enacted many laws to improve conditions for workers but staffing for enforcement and compliance has not kept pace with the growth of our state. Why do we think the need for enforcement staff will be reduced in years 2025-26? What are the underlying assumptions that went into this estimate?
- How many vacancies exist at the department? What is DIR's recruitment and retention strategy overall and specific to these positions?

Regarding implementation of SB 62,

- How many new wage claim cases are estimated for 2022?

Staff Recommendation. Hold Open

**7900 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
7920 CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM
VARIOUS DEPARTMENTS****Issue 9: State Retirement Liabilities****Background**

Three Primary Types of Debts and Liabilities. California's debts and liabilities fit into three broad categories:

- **Retirement Liabilities.** As discussed below, California has unfunded liabilities associated with pension benefits for judges and state employees, retiree health benefits, and the state's share of pension benefits for the state's teachers and school administrators.
- **Bond Debt.** These liabilities include the principal and interest amount of outstanding general obligation and lease revenue bonds issued by the state to finance capital infrastructure.
- **Budgetary Borrowing.** For the purposes of this report, these are the debts the state has incurred in the past to address its budget problems. These include loans from other state funds to the General Fund and outstanding obligations to other entities, like cities, counties, and school and community college districts.

In recent years, the state has enacted reforms to public pension law under the Public Employees' Pension Reform Act of 2013, developed and implemented a funding strategy to pay down CalSTRS' unfunded liability, and made numerous supplemental pension payments to CalPERS and CalSTRS to further eliminate the state's share of unfunded liability. In addition to the state's required annual contributions, from 2017-18 through 2021-22, the state has made supplemental pension payments of \$12.7 billion to CalPERS and CalSTRS, with the goal of improving the funded status of both systems and reducing the state's long-term retirement obligations.

Proposition 2. Proposition 2 was added to the November 2014 ballot in a special legislative session under ACAX2 1 (Pérez) and subsequently was approved by voters. The measure made significant changes to the state constitution concerning budgeting practices. In particular, in addition to requiring annual deposits into the state's rainy day fund, it requires the state to make additional debt payments each year until 2030. The intent of Proposition 2 was to improve the state's fiscal situation—for example, by “repay[ing] state debts and protect[ing] the state from the negative effects of economic downturns.” Among the requirements established by Proposition 2, the law requires that the state spend a minimum amount each year to pay down specified debts through 2029-30.

When Proposition 2 was passed by the voters, there were two major categories of liabilities eligible for repayment using these monies: certain budgetary liabilities and retirement liabilities. Proposition 2 contains a formula that requires the state to spend a minimum amount each year to pay down specified debts. The formula has two parts. First, the state must set aside 1.5 percent of General Fund revenues. Second, the state must set aside a portion of capital gains revenues that

exceed a specified threshold. The state combines these two amounts and then allocates half of the total to pay down eligible debts and the other half to increase the level of the rainy-day fund (the Budget Stabilization Account). Since Proposition 2 passed, the state has repaid all of the eligible budgetary debts, meaning the remaining eligible uses of Proposition 2 are related to unfunded liabilities for pensions and retiree health benefits.

Retirement Liabilities

State Employee Pensions. The California Public Employees' Retirement System (CalPERS) administers pension benefits for state employees, state judges, certain elected state officials, and employees of local governments that contract with CalPERS (and their beneficiaries). Under the Constitution, CalPERS has "full rate setting authority," which means the board has authority to require employers to contribute an amount of money that the board determines is necessary to fund the system. With full rate setting authority, contribution requirements might change year over year in response to actuarial changes. This rate setting authority is important because it allows the system to (1) make up for losses that occur when actuaries determine that more funds are necessary to pay for benefits than what has already been set aside (that is, to address an unfunded liability over time) and (2) not charge employers more than is necessary for the system to become fully funded.

Teacher's Pensions. The California State Teachers' Retirement System (CalSTRS) administers pension and other retirement programs for current, former, and retired K-12 and community college teachers and administrators, as well as their beneficiaries. Under state law, currently about one-third of these liabilities are the responsibility of the state (\$33 billion) and about two-thirds are the responsibility of school districts.

Prior to 2014, base contribution rates paid by districts, teachers, and the state were established in statute, and the CalSTRS board had limited authority to set a supplemental contribution rate for the state. Given its constraints, CalSTRS projected those losses would result in the system running out of assets in the mid-2040s. In 2014, the Legislature approved a plan AB 1469 (Bonta), Chapter 46, Statutes of 2014, to fully fund the CalSTRS defined benefit program by 2046. The funding plan scheduled increases to the contribution rates paid by districts, teachers, and the state to the system for several years and—after that point—granted the CalSTRS board limited rate setting authority. Specifically, the funding plan phased in increases to the state's contribution rates until 2016-17, after which the funding plan gave the CalSTRS board limited authority to adjust those rates. In particular, the board may increase the state's rate by 0.5 percent of pay each year.

Over the past few years, the state has made supplemental payments toward the state's share of CalSTRS' Unfunded Actuarial Obligation (UAO) using Proposition 2 debt payment funding. These supplemental payments have helped offset the gap that has existed between the contribution rate that would be actuarially required if CalSTRS had full rate setting authority and the state's actual rate within the limits of the CalSTRS Funding Plan. Specifically, the supplemental payments the state made in 2019-20, 2020-21, and 2021-22 in aggregate fully offset the gap in those years—which was around \$1.8 billion in sum.

Supplemental and Supplanting Payments. Over the last few years, the Legislature has made over \$7 billion General Fund, Proposition 2, and loan from the Surplus Money Investment Fund (SMIF)

in supplemental pension payments CalPERS state plans and the state share of the CalSTRS unfunded liability.

State Does Not Regularly Make Contributions to School Pool. School and community college district employees who earn pension benefits as part of their compensation but are not members of the CalSTRS receive their pension benefits through the CalPERS School Pool. These CalPERS pension benefits are funded through a combination of contributions from district employers and employees as well as investment returns on those contributions. Unlike CalSTRS, the state does not regularly make contributions to the CalPERS School Pool.

State Made Supplanting Contributions in Recent Years. Across the three years between 2019-20 and 2021-22, the state contributed \$904 million to the CalPERS School Pool. These contributions *supplanted* school district contributions, meaning that they reduced the contributions that school districts otherwise would have been required to make. The figure below from the LAO displays the effect on contribution rates that supplanting payments have provided for CalPERS school employers over the past few years.

CalPERS School Pool Employer Required Contribution Rates				
Percent of Creditable Compensation				
	2019-20	2020-21	2021-22	2022-23 Proposed
Total employer rate collected by CalPERS	20.733%	23.6%	25.07%	25.4%
Offsetting rate paid by state on behalf of employers	-1.012	-2.9	-2.16	—
Effective Rate Paid by Employers	19.721%	20.7%	22.91%	25.4%

State Retiree Health. The state provides health benefits to retired state employees. Prior to 2015, the state essentially put no money aside to pay for this benefit while the eventual retiree was still working. As a result, the state accrued a significant unfunded liability associated with retiree health. In 2015-16 the state began a policy to prefund this benefit by setting aside funds annually. Over the last few years, the state's General Fund costs of prefunding have been paid using Proposition 2. Under the new policy to prefund retiree health, the state and employees each pay a percent of pay intended to equal one-half of the normal cost so that the entire normal cost is paid each year. Normal cost is the amount that actuaries estimate is necessary to be invested today to pay for the benefit in the future.

Through the collective bargaining process, the state's 21 employee bargaining units and related excluded and exempt employees have agreed to prefund retiree health benefits. Based on the most recent actuarial valuation, as of June 30, 2020, the state and employees had set aside \$2.7 billion.

State Has Large Unfunded Retirement Liabilities. The state has significant unfunded liabilities associated with retirement benefits for state employees and teachers. An unfunded liability occurs when the assets that have been set aside during a retiree's working years are insufficient to pay their future benefits.

- The most recent actuarial valuation ([as of June 30, 2020](#)) estimates that the state's unfunded CalPERS pension liabilities are \$63 billion. This estimate does not take into consideration

the higher-than-assumed investment returns in 2020-21 or the new discount rate assumption. CalPERS should release a new initial estimate of the state's unfunded liability (as of June 30, 2021) in the spring.

- As of CalSTRS' most recent actuarial valuation (for the period ending June 30, 2020), CalSTRS' total UAO is \$105.9 billion, with \$31.5 billion assigned to the state and \$74.0 billion assigned to employers, based on the CalSTRS Funding Plan (AB 1469 (Bonta) Chapter 46, Statutes of 2014).
- The state's retiree health unfunded liability is \$95.2 billion.

Governor's Budget Proposals

Proposition 2 Debt Payments

Under the Administration's revenue estimates, the state's required debt payments under Proposition 2 total \$3.9 billion in 2022-23. Of that, the Administration proposes dedicating:

- \$3.5 billion to make a supplemental pension payment to CalPERS,
- \$365 million to pay for the state's portion of normal cost to prefund state retiree health benefits, and
- \$56 million to repay the Surplus Money Investment Fund for a loan the state took in 2017-18 to make a one-time \$6 billion supplemental pension payment to CalPERS.

CalPERS

State's Required Contributions to CalPERS Assumed to be \$8.4 Billion (\$4.8 Billion General Fund) in 2022-23. The Governor's budget assumes that the state will contribute \$8.4 billion (\$4.8 billion General Fund) in 2022-23 to pay for state employee pension benefits (including CSU employees). This assumed contribution level takes into consideration the phased-in effects of (1) higher-than-assumed investment returns in 2020-21, which will reduce pension costs, and (2) a lower discount rate assumption, which will increase pension costs. On net, the full effects of both of these factors will reduce state contributions to CalPERS over time. The Administration's multiyear projection assumes that the state's CalPERS costs will decrease by \$838 million by 2026-27. Compared with the Administration's multiyear projection from May 2021, this represents about a five percent reduction from what the administration expected state CalPERS contributions would have been before the 2020-21 investment returns and change in discount rate assumption.

As Noted Above, The Administration Proposes \$3.5 Billion Supplemental Payment to CalPERS in 2022-23. The Administration proposes using \$3.5 billion of the total \$3.9 billion in Proposition 2 debt payment requirements as a supplemental pension payment to reduce the state's CalPERS unfunded liabilities. As a supplemental pension payment, this contribution is in addition to what the state is required to contribute to CalPERS. The Administration proposes that the supplemental payment would be apportioned across the state's pension plans in proportion to the amount of General Fund contributions to those plans.

No Proposal for State to Make Contribution to School Pool in 2022-23. The Governor does not propose any state resources be used to offset district employer contributions to the CalPERS School Pool in 2022-23.

CalSTRS

State's Required Contribution to CalSTRS is \$3.7 Billion. The Governor's 2022-23 budget proposal includes \$3.7 billion General Fund in required contributions to CalSTRS. This reflects an estimated contribution rate for the state of 8.328 percent of creditable compensation to the Defined Benefit program (the final rate will be determined by CalSTRS' board at its spring meeting), as well as the state's required annual contribution rate of 2.5 percent of creditable compensation (less \$72 million) to the Supplemental Benefit Maintenance Account.

No Supplemental Payments to CalSTRS Proposed in 2022-23, in Contrast to Past Few Years.

In 2022-23, the Administration does not propose to direct any Proposition 2 debt payment funding to CalSTRS. In addition, the Administration no longer proposes to provide an additional General Fund payment—equivalent to 0.5 percent of CalSTRS creditable compensation—in the budget year. The state made such a payment in 2021-22—and the Administration's multiyear forecast submitted to the Legislature at the time assumed the state would do so again in 2022-23—to offset a 2020-21 budget action to hold the state's contribution rate flat on a one-time basis rather than allowing it to increase by 0.5 percent of creditable compensation as recommended by the CalSTRS board.

No Supplanting or Supplemental Payments Proposed for Employers. Between 2019-20 and 2021-22, the state has provided more than \$2 billion in supplanting payments to CalSTRS on behalf of employers, offsetting the effective contribution rate that employers have been required to pay. These payments were made using General Fund resources—not Proposition 2 debt payment requirements. The Administration does not propose to continue these payments in 2022-23. The figure from the LAO displays the effect on contribution rates that supplanting payments have provided for employers over the past few years.

CalSTRS Employer Required Contribution Rates

Percent of Creditable Compensation

	2019-20	2020-21	2021-22	2022-23 Proposed
Total employer rate collected by CalSTRS	18.13%	19.10%	19.10%	19.1%
Offsetting rate paid by state on behalf of employers	-1.03	-2.95	-2.18	—
Effective Rate Paid by Employers	17.10%	16.15%	16.92%	19.1%

Retiree Health

In 2022-23, the Governor's budget assumes that the state will pay \$3 billion (General Fund) to pay for benefits received by retired state and California State University (CSU) employees and, as noted above, dedicates \$365 million in Proposition 2 requirements to prefund state employee benefits.

Legislative Analyst's Office Assessment of Proposition 2 Proposals

Framework for Proposition 2 Payments. In the past, the LAO recommended the state focus on using Proposition 2 to keep funding plans on track for CalSTRS and retiree health—that is, to use the requirements to support the state's plans to fully fund these systems by the mid-2040s. Given recent investment returns, it does not appear that additional payments are needed this year to accomplish this goal. That being said, investment returns in the future might fall short of actuarial assumptions, warranting supplemental payments to CalSTRS or retiree health to put these funding plans back on track. In such a case, the LAO recommends that the state look to addressing unfunded liabilities with an eye toward budgetary benefit and reducing total UAO. As explained by the LAO previously, additional payments to CalPERS would have more budgetary benefit—because the system has a higher discount rate—while additional payments to retiree health could *eventually* result in the state's total unfunded liabilities declining by more—because with enough prefunding, actuaries will eventually grant the state a higher discount rate for that system.

Administration's Proposal Reasonable, but Other Options Available. The state continues to have significant unfunded liabilities attributed to state employee CalPERS pensions. The Administration's proposal to use \$3.5 billion of Proposition 2 funding to make a supplemental payment to CalPERS is reasonable. There are also other reasonable options, however. For example, the Legislature could consider using these funds to make an additional contribution toward the retiree health unfunded liability. While this would have less budgetary benefit compared to a supplemental CalPERS payment, it could eventually have a much larger impact on the state's total unfunded liabilities.

Legislative Analyst's Office Assessment and Recommendations for CalSTRS Proposals

State's Share of UAO Projected to Be Eliminated Within a Few Years. No supplemental payments are proposed for CalSTRS in 2022-23 because the state's share of CalSTRS' UAO is projected to be eliminated in the next few years. This is a result of the extremely high investment returns (27.2 percent) CalSTRS experienced in 2020-21 and the effect that investment return volatility has on the state's share of UAO under the funding plan. According to current law, if the state's share of UAO is eliminated, the state's required contribution rate to CalSTRS' Defined Benefit program would drop to the base rate of 2.017 percent of creditable compensation. As such, assuming no new significant actuarial losses occur over the next few years, the state's Defined Benefit program contribution would decrease from the estimated rate of 8.328 percent in 2022-23 to 2.017 percent in the next few years (around 2024-25). This rate decrease would result in a reduction in required contribution to CalSTRS of more than \$2 billion annually. (Notably, the Administration's multiyear forecast does not currently account for the potential rate drop should the state's share of UAO in fact be fully eliminated. Rather, the administration's estimate holds the state's contribution rate constant at 8.328 percent throughout the multiyear period.)

Counterintuitively, Projected Elimination of State's UAO Could Make Addressing Future Losses More Challenging. As described above, the state's required contribution rate is projected to fall to 2.017 percent in a few years, assuming the state's share of UAO is eliminated in that time frame. However, between then and the end of the funding plan in 2046, CalSTRS may experience lower-than-assumed investment returns in any number of years, resulting in new losses and the accrual of new UAO. Responsibility for paying down that UAO would fall to the state, though

under statute, its contribution rate would be only 2.017 percent. Due to the limitations that the funding plan places on CalSTRS' ability to increase the state's contribution rate (allowing a maximum increase of 0.5 percent annually), once the state's rate drops down to the base, it could take many years to increase the state's rate to required levels to pay down any new UAO that is accrued in future years.

Employers' Share of UAO Projected to Increase, Requiring Higher Long-Term Contribution Rate Relative to What Had Been Projected Previously. In contrast to the projected elimination of the state's share of UAO, the school and community college districts' share of UAO is projected to increase. This is a result of the 2020-21 27.2 percent investment returns and the counterintuitive effect of higher-than-assumed investment returns on the employers' share of UAO. CalSTRS actuaries project employers' UAO will continue growing over the next few years, reaching around \$80 billion before beginning to decrease. To successfully pay down the employers' share of UAO, CalSTRS estimates employers' required contribution rate will need to remain around 19 percent of creditable compensation over the next few decades. Prior to the very high investment returns of 2020-21, CalSTRS had been projecting employers' long-term required contribution rate would have been around 18 percent.

Recent LAO Recommendation: *Allow CalSTRS to Increase the State's Rate by More Than 0.5 Percent Annually.* This change would help ensure CalSTRS could more successfully address future UAO and eliminate the state's portion by 2046, especially if the state's rate drops to 2.017 percent in the next few years.

Recent LAO Recommendation: *Specify a Fixed Proportional Division of UAO Between the State and Employers.* The exceedingly complex theoretical calculations employed by CalSTRS result in an ever-changing proportional division of UAO between the state and employers, extra sensitivity to investment returns in terms of the state's contribution rate, and counterintuitive (but less significant) impacts on the employers' contribution rate. CalSTRS' 27.2 percent investment returns in 2020-21 provide an extreme example of the complex and counterintuitive effects of these calculations. By eschewing the current complex UAO calculations and adopting a fixed proportional division of UAO between the state and employers, the Legislature would be able to lessen the volatile effects of investment returns on the state's actuarially required contribution rate, and align impacts of investment returns across the state's and employers' actuarially required contribution rates.

Staff Recommendation. Hold Open

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Wednesday, March 2, 2022
1:30 p.m.
State Capitol - Room 4203

Consultants: Nora Brackbill and James Hacker

ITEMS FOR DISCUSSION

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)	2
Issue 1: Jail Oversight	2
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)	11
Issue 2: Master Plan Annual Report and Supplemental Reporting Language	11
Issue 3: Capital Outlay Proposals.....	17
Issue 4: Various Facilities and Construction Proposals	22
2600 CALIFORNIA TRANSPORTATION COMMISSION	25
Issue 5: Implementation of SB 671	25

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 (BSCC)

Issue 1: Jail Oversight

Background. Local governments are responsible for operating local detention facilities, which incarcerate people at various stages of the criminal justice process. In total, there are about 550 local detention facilities in California. These include jails, which can house people for significant periods of time while serving sentences or awaiting trial and are typically operated by county sheriffs. California jails had an average daily population of 73,500 in 2019. The population dropped significantly at the beginning of the pandemic, to under 50,000, but has begun to recover¹. Local detention facilities also include short-term detention facilities and holding cells, which can hold people for a few days or less following arrest or during court proceedings and are typically operated by city police departments. Local governments are also largely responsible for juvenile facilities, which are typically operated by county probation departments. With the pending closure of the Division of Juvenile Justice (DJJ) at California Department of Corrections and Rehabilitation (CDCR), counties will assume full responsibility for the juvenile justice system.

Realignment. Local detention facilities are largely supported by local funding, but the state provides some financial support. In 2011, the responsibility for incarcerating and supervising certain felony offenders was realigned from the state to the county level. The state pays counties around \$1 billion per year to cover this workload. With the pending closure of DJJ and the realignment of juvenile justice, the state will provide roughly \$200 million per year to counties. The state has also contributed significantly to facilities and construction and has provided other one-time support to local governments for correctional facilities.

Board of State and Community Corrections (BSCC). 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 realignment. BSCC is tasked with developing minimum standards for local detention facilities and inspecting and reporting on facility compliance. BSCC also sets standards for training correctional staff and administers facility funding and several grant programs for local corrections and law enforcement entities.

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).

¹ https://www.ppic.org/wp-content/uploads/JTF_CountyJailsJTF.pdf

- 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.

In addition, BSCC is 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.

Local Detention Facility Standards and Inspections Program. The state has established minimum standards for local facilities, currently codified in Titles 15 and 24 of the California Code of Regulations. BSCC is responsible for creating these standards, updating them every two years, inspecting each facility once every two years, and reporting on facility compliance. The inspections usually involve a combination of reviewing the facility's written policies and touring the facility to assess implementation. BSCC standards are a minimum requirement, and counties each develop their own policies that at least meet these standards.

Enforcement. Areas of noncompliance are reported by BSCC, and BSCC staff work with the facilities to address any issues. However, for adult facilities, BSCC does not have any enforcement mechanisms if a facility refuses to comply. For juvenile facilities, if the issues are not addressed within sixty days, the facility is prohibited from housing minors until the issues are fixed.

Other Oversight of Local Detention Facilities in California. In addition to BSCC, oversight of local detention facilities in California is provided by other governmental and nongovernmental entities, each with different stakeholders, levels of authority, oversight methods and benchmarks for success. In California, these include:

- *State and Federal Courts.* Courts assess whether violations of law have occurred. At least 11 California counties have recently been subject to class wide court injunctions or consent decrees on jail conditions or are in the process of negotiating them. For example, inmates at the Santa Barbara County Jail sued Santa Barbara County and the Sheriff's Office in 2017 claiming that the jail violated state and federal law by (1) failing to provide basic health care; (2) overusing solitary confinement; (3) discriminating against people with disabilities; and (4) providing inhumane, unsanitary, and unsafe living conditions. In 2020, the parties reached a settlement agreement under which the county will make several

significant changes to jail policies and practices, such as implementing an electronic health records system.

- *United States Department of Justice (U.S. DOJ).* Federal law allows the U.S. DOJ to conduct investigations of alleged civil rights violations at correctional facilities, which may lead to an agreed-upon set of standards that the agency must follow, along with long-term compliance monitoring. For example, after several inmate deaths—including a death following extended use of a restraint chair—the U.S. DOJ initiated an ongoing investigation into the San Luis Obispo County Jail’s provision of medical and mental health care to inmates. The U.S. DOJ also oversees standards and inspections for mitigating sexual abuse in federal, state, and local detention facilities.
- *California Department of Justice.* The California DOJ can investigate local detention facilities and bring legal action against a local government if it determines that a practice or pattern of violation of constitutional rights has occurred in a detention facility administered by the local government.
- *Local Monitoring and Investigation Bodies.* A few counties in California have Inspector Generals and Citizen Oversight Boards, which can have subpoena power. Depending on how they are designed, these entities conduct investigations into specific allegations of wrongdoing and/or conduct ongoing holistic monitoring of the conditions inside the facilities. For example, Los Angeles County has both an Inspector General and a Civilian Oversight Commission². In addition, county grand juries and juvenile justice commissions may inquire into the conditions of county detention facilities.
- *Nongovernmental Entities.* Media and advocacy organizations contribute to oversight by making conditions inside local detention facilities more widely known to the public and can put pressure on local officials to address problems.

Continued Issues and Litigation. Despite these various forms of oversight, significant issues continue at county jails. As noted above, many counties have faced litigation in the last decade relating to conditions in county jails. The Prison Law Office (PLO) alone has successfully litigated cases related to jail conditions in Contra Costa, Riverside, Fresno, Santa Barbara, Sacramento, Santa Clara, and San Bernardino counties³. Most of these lawsuits revolved around use of solitary confinement, inadequate access to medical care (including mental health care), and/or failure to provide disability accommodations. Rosen, Bien, Galvan and Grunfeld (RBGG) has also successfully litigated class action cases related to conditions in jails in Santa Clara, Alameda, Monterey, and Yuba counties⁴, and recently filed suit in San Diego in response to the State Auditor’s report described below. This is by no means a complete list of lawsuits, and each one will not be discussed in detail here. Two recent examples, San Diego County and Alameda County, are discussed below.

² <https://coc.lacounty.gov/>

³ <https://prisonlaw.com/major-cases/>

⁴ <https://rbgg.com/practice-areas/class-actions/>

San Diego County Sheriff's Department. In February 2022, the California State Auditor released a report on the San Diego County Sheriff's Department⁵. The report found that San Diego County's jails had an above average rate of deaths, the Sheriff's Department had not taken adequate action in response to the deaths, and San Diego's local oversight entity, the Citizen's Law Enforcement Review Board (CLERB), had not conducted adequate oversight. The Auditor noted that "Given that the annual number of incarcerated individuals' deaths in county jails across the State increased from 130 in 2006 to 156 in 2020, improving the statewide standards is essential to ensuring the health and safety of individuals in custody in all counties."

The Auditor found several issues at the local level, including:

- Issues with the policies and procedures in place at the jails, including insufficient health evaluations at intake, inconsistent follow-up medical care, inadequate safety checks, and unnecessary delays in responses to medical emergencies.
- Insufficient reviews of in-custody deaths by the Sheriff's Department, which includes a review of the medical care provided in the 30 days preceding the death, and the Critical Incident Review, which focuses on protecting the department against liability and does not review natural deaths.
- Insufficient oversight by CLERB, whose reviews were not independent, timely, or thorough. CLERB failed to investigate roughly 30 percent of in-custody deaths, either because they were natural deaths, CLERB did not complete the investigation within the one-year time limit, or the Sheriff's Department did not inform CLERB of the death. CLERB also relied on evidence provided by the Sheriff's Department rather than conducting their own interviews and investigations.

The Auditor found that some of the Sheriff's Department's policy deficiencies were the result of statewide corrections standards designed by BSCC that are insufficient for maintaining the safety of incarcerated individuals. The Auditor also noted that many BSCC regulations were not specific enough, echoing a comment made by the LAO. Specifically:

- *Safety Checks.* BSCC's standards for safety checks, which are required by state law and require direct, visual observation, were insufficient, and did not even require the staff to check for proof of life, such as breathing or something equivalent, which CDCR staff are required to do at the state prison level.
- *Staff Training.* The Auditor also noted that BSCC regulations only require 24 hours of continuing training for adult correctional staff, which is less than for probation officers and juvenile staff, and that there is no requirement for continuing mental health training.
- *Intake Procedures.* There is no requirement for a mental health professional to conduct an intake screening.

⁵ <http://www.auditor.ca.gov/reports/2021-109/index.html>

Board Composition. The State Auditor also noted that unlike similar boards in New York City and Texas, BSCC does not have any requirement for medical or mental health professionals on its board. While BSCC is required to consult with professionals when developing the standards, requiring that expertise on its board could help prioritize these issues.

Recommendations. The Auditor made several recommendations related to the Sheriff's Departments policies and reviews, as well as to CLERB and the DOJ. Specific to BSCC, the Auditor recommended:

- The following amendments to BSCC standards:
 - County sheriff's departments with jails that have an average daily population of more than 1,000 must have a mental health professional perform mental health evaluations at intake.
 - Safety checks must include a procedure for checking to see that each individual is alive.
 - Local correctional officers working in local detention systems with an average daily population of more than 1,000, complete 40 hours of training annually and that at least four of those hours relate to mental and behavioral health.
- Requiring BSCC to include a medical professional and a mental health professional on its board and requiring BSCC to update all standards as needed once these members are added.

BSCC provided a response to the Auditor's report, which emphasized that BSCC sets a minimum standard that any county across the state, even small counties with minimal resources, can achieve. BSCC said that it is up to the county to decide to establish policies that exceed the minimum standards. BSCC also objected to creating different standards for small and large county systems.

On February 9, 2022, a federal class action lawsuit was filed against various authorities in San Diego County, in response to the Auditor's report and other reports and complaints by incarcerated individuals⁶. The State Auditor also noted that from 2006 through 2020, there were 22 lawsuits filed related to the deaths of incarcerated individuals at the San Diego Sheriff's Department's detention facilities. The Auditor noted that many of the same concerns had been raised previously in a report by Disability Rights California⁷, yet few improvements had been made.

Santa Rita Jail in Alameda County. The Santa Rita Jail is operated by the Alameda County Sheriff's Department and has had numerous reported issues, including inappropriate discipline; lack of an accessible grievance system; inadequate sanitation, clothing, family contact, and food; and lack of access to educational opportunities and legal information⁸. Santa Rita Jail was also under a four-year long investigation by the U.S. DOJ, which found that Alameda County was violating the Americans with Disabilities Act (ADA) and was not protecting the civil rights of people with mental illnesses⁹. The report emphasized a lack of investment in community mental health services and other prevention methods. Partway through the investigation, the U.S. DOJ

⁶ <https://rbgg.com/federal-class-action-lawsuit-seeks-to-improve-dangerous-deadly-conditions-in-san-diego-county-jails/>

⁷ <https://www.disabilityrightsca.org/public-reports/san-diego-jail-suicides-report>

⁸ <https://srjsolidarity.org/>; <https://srjsolidarity.org/wp-content/uploads/2020/04/SRJ-Collective-Grievance.pdf>;

<https://www.ktvu.com/news/protest-at-santa-rita-jail-over-inedible-food-and-sheriffs-profit-on-rising-commissary-prices>

⁹ <https://www.justice.gov/crt/case-document/file/1388891/download>

shared preliminary concerns with the county, but noted that no significant improvements were made.

Babu v. County of Alameda. In 2018, a federal class action lawsuit was filed on behalf of eight plaintiffs against Alameda County, challenging the unconstitutional use of isolation, denial of constitutionally adequate mental health treatment, and unlawful segregation of prisoners with mental illness into units without access to programming and other basic services. The case resulted in a settlement agreement, which was recently confirmed by a federal court¹⁰.

Under the agreement, Santa Rita Jail will be under court supervision for at least six years. The consent decree¹¹ requires the county to limit the use of isolation and solitary confinement, upgrade and expand mental health services, set stricter standards for use of force, and end discrimination against people with disabilities, especially psychiatric disorders. Some advocates oppose the consent decree because it will require the county to spend an estimated \$318 million over three years on jails to implement the reforms, rather than community programs for the diversion of people with mental health issues and re-entry support.

Recent changes to BSCC Oversight. In response to reports of systemic issues in California jails¹², the Governor directed BSCC to modify its standards and inspection program to (1) ensure standards are consistent with national best practices, (2) provide additional inspections and technical assistance for facilities with a history of noncompliance, and (3) ask the agency to attend a public BSCC board meeting to discuss the issue. The 2020 Governor's budget included the intent to strengthen BSCC¹³, and BSCC began plans to make changes, although they were delayed by the onset of the pandemic¹⁴. The 2021 Budget Act included statutory changes to allow BSCC to conduct unannounced inspections and provided \$3.1 million ongoing General Fund for additional positions and electronic data entry. However, additional changes could still be made to improve BSCC's oversight of jail conditions, some of which would require statutory changes and a significant shift in the structure and methods of BSCC¹⁵.

LAO Comments and Recommendations. The LAO reviewed the local detention facility standards and inspection program in February 2021¹⁶. The LAO noted that it was difficult to assess the program's effectiveness primarily because state law does not specify the mission or goals BSCC should pursue as it implements the program. This leaves significant discretion to BSCC and the administration in determining how to operate the program and undermines the Legislature's ability to assess whether the program is operating effectively and is consistent with Legislative priorities.

¹⁰ <https://oaklandside.org/2022/02/08/judge-places-santa-rita-jail-under-external-oversight-ending-mental-health-abuse-lawsuit/>

¹¹ <https://oaklandside.org/wp-content/uploads/2021/08/Dkt-266-1-Janssen-Decl-ISO-PLAINTIFFS-Unopposed-Motion-for-Preliminary-Approval-of-Consent-Decree-08-26-2021-1378-1.pdf>

¹² <https://www.propublica.org/series/overcorrection>

¹³ <https://www.ebudget.ca.gov/2020-21/pdf/BudgetSummary/FullBudgetSummary.pdf>; <https://www.sacbee.com/news/politics-government/capitol-alert/article239181978.html>

¹⁴ <https://www.sacbee.com/news/investigations/california-prisons/article240321881.html>; <http://www.bscc.ca.gov/wp-content/uploads/Agenda-Item-C-FSO-Inspection-FINAL.pdf>

¹⁵ <https://www.bscc.ca.gov/wp-content/uploads/Attachment-2-Listening-Session-Response-Chart-FINAL.pdf>

¹⁶ <https://lao.ca.gov/Publications/Report/4371>

Establish Clear Program Mission and Goals. The LAO recommended that the Legislature establish in statute that the mission of the program is to promote legal, humane, and safe conditions for youth, inmates, and staff in local detention facilities. To further this mission, the LAO recommends establishing four goals for the program: (1) maintain standards that help local leaders determine and meet evolving legal requirements based on case law; (2) facilitate transparency and accountability through standards and inspections; (3) promote equitable provision of legal, humane, and safe conditions; and (4) provide technical assistance and statewide leadership to facilitate systemic improvement in detention conditions.

Balance Board Membership to Facilitate Oversight. The LAO found that the current BSCC membership does not have sufficient expertise and balance of perspectives to oversee local detention facilities based on the above mission and goals. Specifically:

- Six of the thirteen BSCC board members are currently administrators of correctional agencies, with at least four of them overseeing detention facilities that are subject to the BSCC standards and inspection program. While those who operate detention facilities provide critical perspectives for standards development, they have an incentive to avoid approving standards that they believe would be difficult or costly to meet. This raises questions about their ability to provide objective external oversight of their own operations and those of other counties. In addition, the board contains two CDCR representatives, even though BSCC is focused on local, not state, corrections.
- The board does not include designated slots for members with experience providing external oversight of such facilities, such as someone with experience in litigating local detention condition issues. This lack of expertise in external oversight of detention facilities is concerning given that approval of the standards is one of the board's core functions and arguably more important duties given the standards' nexus to health, life, and safety.
- Ten of the 13 board members are appointed by the Governor, two by the Legislature, and one by the Judicial Council.

Accordingly, the LAO recommends that:

- The Legislature adopt legislation to add board members with professional expertise in advocacy for and oversight of detention conditions.
- More board members be appointed by the Legislature, to create a better balance between Governor's and legislative appointees.

Require Plan to Align Program With Mission and Goals. The LAO recommends that the Legislature direct BSCC to develop a detailed plan for how to align the program with the proposed mission and goals. To guide development of the plan, the LAO recommends that the Legislature require that the plan include the following elements:

- *Standards Reflecting Minimum Legal, Safe, and Humane Conditions.* The plan should outline how the standards will be revised to (1) be more specific such that they effectively

communicate what legal, safe, and humane conditions are and (2) ensure that standards equitably address the specialized needs of all inmates and detained youth. In order to develop these standards, BSCC may need to revise its working groups to ensure the process is not dominated by correctional administrators, but also includes the perspectives of experts in standards development and oversight and others, such as formerly incarcerated people.

- *High-Quality, Risk-Based Inspection Strategy to Ensure Pressing Issues Are Found Quickly.* The plan should include consideration of key information (such as reported standards violations) that BSCC could use to more strategically target inspections. For example, the Texas Commission on Jail Standards conducts additional inspections at facilities where data, such as numbers of inmate deaths and public complaints, suggest problems may exist.
- *Specific Benchmarks to Ensure Inspections Effectively Provide Transparency.* The plan should indicate how BSCC will develop clear, transparent benchmarks for inspections; guidance for interpreting subjectivity in the standards; and a quality assurance process to ensure inspectors meet these benchmarks.
- *Quality Reporting to Support Transparency and Accountability.* The plan should outline how BSCC will improve the quality of its reporting on the results of inspections, such as by ensuring reports clearly describe violations and issuing special reports to highlight serious violations, as well as ensure the reports are understandable by a wide audience. BSCC inspectors should also note issues of concern that may not be in direct violation of a specific standard. BSCC should also produce statewide trend reports, which would help identify systematic issues and help BSCC provide statewide leadership.
- *Technical Assistance and Statewide Leadership.* The plan should give consideration to (1) providing longer-term, more complex technical assistance to facilities and (2) how BSCC can help highlight and promote promising practices to facilitate continuous, systemic improvement in detention facilities.

Staff Comment.

Proactive oversight. Many other forms of oversight provided to local facilities are reactive: lawsuits responding to existing mistreatment, or state or federal DOJ investigations of allegations of wrongdoing. BSCC is uniquely positioned to provide proactive oversight, through setting high (but achievable) standards, providing routine monitoring and follow-up, and assisting local entities in interpreting and applying up-to-date best practices and case law. The Legislature should consider how BSCC can help prevent local facilities from reaching the point where there is significant mistreatment of incarcerated people, resulting in lawsuits, audits, and other reports.

Dual roles of BSCC. BSCC currently operates as both the oversight for local detention facilities, and as a member organization for information sharing and assistance across local detention facilities. However, its oversight role has been hampered by its lack of enforcement ability, the composition of the board, and the approach BSCC has taken regarding reviewing facilities and

focusing on technical assistance. For example, many BSCC reports are technical and are designed for jail administrators, not the public. While this is certainly useful, it has not resulted in significant progress at institutions with histories of noncompliance and other issues. By comparison, the Office of the Inspector General has a very different culture, approach, and relationship to CDCR than BSCC has to local correctional facilities. The Legislature should consider whether BSCC is the appropriate entity to apply the type of oversight desired, and if so, what changes are needed for it to be effective.

Board composition. Both the State Auditor and the LAO recommended changes to the composition of the BSCC board. The board is primarily Governor's appointees and is largely made up of correctional administrators and local law enforcement, including at least four who run facilities overseen by BSCC. The State Auditor recommended adding a medical professional and a mental health professional, and the LAO recommended adding people with experience in standards development and detention oversight and advocacy.

Lack of specificity in regulations. Both the State Auditor and the LAO noted that many BSCC standards are too vague to provide meaningful guidance. For example, the LAO noted that BSCC requires policies on the use of restraint devices that include addressing hydration and sanitation needs. However, it does not specify what that means, for example how often those needs should be addressed. The Auditor noted that BSCC requires hourly safety checks by direct, visual observation, but doesn't specify what must be included in a safety check. This lack of specificity allows local facilities to develop policies that are technically in compliance with BSCC standards, but do not result in humane conditions.

Role of BSCC in Juvenile Justice. After the closure of DJJ, juvenile justice will be an entirely local responsibility. BSCC is the entity currently responsible for oversight of conditions in juvenile facilities. Unlike adult facilities, BSCC does have a method for enforcing standards in juvenile facilities – it can declare them unsuitable for youth habitation. However, given the juvenile justice realignment, the Legislature should consider how BSCC's oversight can be further improved.

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

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**Issue 2: Master Plan Annual Report and Supplemental Reporting Language**

Governor’s Budget. Along with the Governor’s budget, CDCR’s Facility Planning, Construction and Management (FPCM) produces a Master Plan Annual Report (MPAR), which outlines major programs and recently completed, active, and proposed capital outlay projects at each institution. In addition, last year’s budget included Supplemental Reporting Language (SRL) that directed CDCR to prepare a prison infrastructure strategy, which was released along with the MPAR¹⁷.

Background.

CDCR’s population is undergoing significant changes in response to policy reforms, realignments, the pandemic, and other factors. Overall, the incarcerated population is declining, and CDCR projects this decline to continue in the long-term (although in the short-term the population is unstable due to pandemic impacts). In addition, CDCR has indicated changing programming needs, including increased rehabilitative programming, the expansion of health care services (such as substance use disorder treatment), and an overall aging population. Other factors to provide better treatment of the incarcerated including improving accessibility in prisons, increasing visitation opportunities, and addressing the use of remotely located facilities and facilities with environmental and health hazards have also been discussed. These factors significantly impact CDCR’s facility needs over the next decade.

Over the past few years, the Legislature has had difficulty assessing CDCR’s infrastructure requests and needs due to the lack of a strategic plan that incorporates the changes discussed above. For example, the state made significant infrastructure investments at prisons that were shortly thereafter slated for closure. Given the continued decrease in the population and other concerns related to prison conditions, additional prison closures may be warranted¹⁸.

CDCR produces a Master Plan Annual Report (MPAR) that provides an overview of CDCR’s current infrastructure portfolio, major infrastructure programs, and a list of recently completed, active, and proposed projects for each institution. This includes both Capital Outlay projects, which alter the function of a building, and special repair/deferred maintenance projects, which are required to keep a building functioning as intended. However, the MPAR does not usually include the type of long-term strategy that the Legislature needs to assess infrastructure proposals.

The 2021 Budget included Supplemental Reporting Language (SRL) to address this need, which directed CDCR to prepare a long-term prison infrastructure strategy that incorporated potential closures and consolidation opportunities and outlined a vision for CDCR’s portfolio of facilities in the future.

Summary of the Master Plan Annual Report. The 2021 MPAR, released in February of this year, identified 45 future projects at 25 institutions with an approximate value of \$1.8 billion (\$1.1

¹⁷ <https://www.cdcr.ca.gov/fpcm/cdcr-master-plan-annual-report/>

¹⁸ <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>

billion capital outlay and \$700 million Deferred 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. Funding and staffing resources required to maintain, repair, and replace aging facility equipment and structures at the rate required to maintain institutions has not been available historically. Budget restrictions in the early 2000s led to a backlog of infrastructure needs and deteriorating buildings. However, recent investments, including additional funding for ongoing repairs and maintenance, will hopefully improve the durability of infrastructure moving forward. Some of the major infrastructure programs are outlined below:

- *Health Care Facility Improvement Program (HCFIP).* HCFIP provides upgrades in existing prisons to provide adequate clinical and support service spaces to meet the health care treatment needs of patients, and to comply with court orders related to the *Plata* and *Coleman* litigation. As of December 2021, HCFIP is approximately 88 percent complete. All construction activities have been completed at 13 prisons: Avenal State Prison (ASP), CCC, CEN, CIM, CIW, CMF, KVSP, LAC, MCSP, PBSP, RJD, SAC, and SVSP. A significant number of new clinics, pharmacies, medication distribution, and other support buildings have been completed at the 17 prisons where construction is ongoing.

Other CDCR health-related capital outlay projects include the Statewide Medication Distribution Improvements, which allow safer and more effective distribution of medications, and a 50-bed Inpatient Mental Health Housing being constructed at CIM to replace a temporary solution and provide additional capacity in Southern California.

- *Roof Replacements.* Approximately \$313 million has been appropriated since 2017 for roof replacements at 11 institutions totaling approximately 7 million sf. This additional funding allows CDCR's SR/DM funding allotment to focus on maintaining sitewide infrastructure systems. CDCR is also requesting \$2 million for the design phase of roof replacements in 2022-23 and \$71 million for the construction phase in 2023-24 at CIM and CMF.
- *Accessibility Plan.* CDCR's Accessibility Plan has been incorporated into the existing Disability Placement Program (DPP), resulting in a comprehensive implementation plan identifying the most appropriate facilities at which incarcerated individuals with disabilities can be clustered and housed and established the scope of work for ADA modification projects at DPP designated institutions. The Accessibility Plan is needed to comply with the ADA and to respond to the *Armstrong* settlement agreement.

Previously appropriated funding is supporting current and phased construction of improvements at 11 prisons: CCWF, CMF, COR, KVSP, MCSP, NKSP, PVSP, SAC, SATF, SVSP, and WSP. CDCR continues to adjust its housing plan for incarcerated individuals based on program needs and ongoing interaction with the *Armstrong* plaintiffs. Construction for additional improvements at CIW were completed in June 2021 and design of improvements at MCSP were completed in December 2020; funding for construction at both locations were included in the 2019 and 2020 Budget Acts. Additional improvements that are needed to complete the agreed upon transition plans at CIM, CIW, LAC, and RJD are currently under design and funding for construction are requested in the 2022-23

Governor's Budget. Additional funding requests in future fiscal years are anticipated to be needed to complete the agreed upon transition plan for other prison locations.

- *Maintenance Funding.* The 2019 Budget Act established a new funding methodology to base the maintenance budget on total statewide building area (square foot), rather than population. This new funding methodology provided approximately \$75 million for prison maintenance in the 2021-22 budget. This methodology allows prison maintenance staff to replace aging equipment before it fails and creates emergency conditions.
- *Rehabilitative Programming.* The Division of Rehabilitative Programs (DRP) offers Cognitive Behavioral Intervention (CBI) programs to incarcerated individuals who are within 24 months of their release date, to prepare individuals for reentry. CBI programs are a component of the Integrated Substance Use Disorder Treatment (ISUDT) program and include SUD treatment, Anger Management, Criminal Thinking, and Family Relationships. Construction to renovate a storage room at PBSP for classroom space was completed in September 2021. In addition, design phase funding was included in the 2018 and 2019 Budget Acts for new classroom buildings at SAC and to renovate a vocational building at SQ for CBI programs. Design is currently underway at SAC and SQ for CBI program space. Construction phase funding for SAC has been requested in the 2022-23 Governor's Budget.
- *Energy Management, Sustainability, and Conservation.* CDCR has taken steps to improve the sustainability of its buildings, including installing renewable energy generators like solar panels, aiming for Zero Net Energy and/or LEED certified green buildings, improving water heating systems and other related systems to improve energy efficiency, reducing water usage, composting, and converting to zero emission vehicles and installing charging stations.

Project Summary

	Infrastructure	SR/DM	Energy	Housing	Health Care	Totals
Number of Projects	48	172	24	0	46	290
Value of Projects (\$ millions)	\$1,432	\$1,410	\$19	\$0	\$1,131	\$3,992

*SR/DM = Special Repair/Deferred Maintenance. Source: CDCR Master Plan Annual Report 2021¹⁹

The projects included in the report are summarized in the above table.

The specific capital outlay items proposed for funding this year will be discussed in the next item.

¹⁹ <https://www.cdcr.ca.gov/fpcm/wp-content/uploads/sites/184/2022/02/MasterPlanAnnualReportforCalendarYear2021.pdf>

Supplemental Reporting Language (SRL). The 2021 Budget included supplemental reporting language (SRL) requiring CDCR to prepare a long-term prison infrastructure strategy. The SRL required CDCR to:

- A. Identify and prioritize all major (over \$5 million) infrastructure projects likely to be needed in the next ten years, and include details such as how these projects were identified and, in cases of significant repairs or rebuilds, what alternatives were considered.
- B. In identifying projects, seek opportunities to consolidate prisons.
- C. Describe how the projects support a long-term, durable portfolio of facilities consistent with the department's mission and long-term capacity needs.
- D. Describe steps taken to minimize investments in prisons that may close.
- E. Provide updates to the budget committees and LAO if the identified projects change.

Item A was largely incorporated into the MPAR, and items B-D were addressed in a separate response. However, the processes for selection and consideration of alternatives in A were addressed generally in the separate response and were not outlined for each anticipated project included in the MPAR. Item E will be incorporated into future MPARs.

Summary of SRL Response.

A: Identifying Major Infrastructure Needs. The Administration included anticipated projects needed at each institution in the next ten years in the MPAR. The MPAR identified 45 future projects at 25 institutions with an approximate value of \$1.8 billion (\$1.1 billion capital outlay and \$700 million Deferred Maintenance).

This section also included direction for CDCR to outline the alternatives considered if a significant portion of a facility was identified for repair or replacement, but CDCR indicated that there were no such significant needs were anticipated. The Administration also outlined its general process for identifying and approving projects, and how alternatives (such as renovation versus replacement) are considered and evaluated.

B: Seeking Opportunities for Consolidation. The Administration included a general description of how consolidation decisions would be made, and what factors would be considered. CDCR indicated that any facility consolidation or relocation would need to consider how CDCR could meet the mission and the needs of the incarcerated population being relocated or consolidated. CDCR's institutions have separate missions to serve different components of CDCR's population that intersect, such as medical, security, and mental health needs, among others.

CDCR indicated that they would consider the following factors in a potential closure or consolidation decision:

- Facility condition and needed improvements.
- Continuity of services for the incarcerated population.

- Ability to recruit and retain employees, particularly specialized medical professionals.
- Annual operating costs.
- Need for secure housing, medical and mental health care, and accessibility to programming.

C: Establishing a Durable Portfolio of Facilities. CDCR stated that a durable portfolio of prison capacity would need to meet a variety of housing and treatment needs, including varying levels of secure housing, medical and mental health needs, rehabilitative programming, educational programming, vocational education programming, and reentry services. CDCR emphasized the need to build flexible spaces that can adapt to future changes in the population. However, no details were provided about what CDCR anticipated its housing and treatment needs to be, or how the proposed projects would address those needs or could work as flexible spaces.

D: Minimizing Investments in Prisons that may Close. The Administration indicated that they are not considering any additional prisons for closure or consolidation at the current time, and therefore the projects proposed here do not take potential closures into account. The Administration included a general description of their project identification process and indicated that projects are reviewed by CDCR leadership and Department of Finance, who would have knowledge of potential closures.

CDCR stated that “prison closure decisions are point-in-time decisions due to the dynamic nature of the inputs that inform the decision.” They indicated that this risk is mitigated by incorporating careful consideration of prison closure factors into the project approval process, including trends in the population, recruitment and retention of staff, and other programmatic goals. However, they indicated that these factors were not considered in the list of the anticipated projects in the MPAR because no prison closures are planned at this time and in the meantime, infrastructure needs must continue to be addressed.

Staff Comment. This report was supposed to help the Legislature assess various infrastructure investments proposed by the Administration. It was intended to provide a long-term view on CDCR’s anticipated infrastructure needs and strategy. However, the Administration’s response lacked the detail necessary for the Legislature to assess the strategy. Specifically:

- The response included general process information on how CDCR selects projects and evaluates alternatives but did not provide any information specific to the list of anticipated projects.
- The Administration did not seek consolidation options, and instead included a general discussion of how a consolidation or closure decision would be made and what factors would be considered.
- The Administration specified that a long-term, durable portfolio of facilities would entail enough space to cover different needs in the population, including levels of security and medical and programming needs. However, it did not discuss what those needs are, either now or in the future, or how the anticipated projects outlined here would fulfill those needs.

- For the anticipated projects listed in the annual infrastructure report, no considerations for potential closures were made. The Administration indicated that prison closures are a point in time decision that cannot be predicted, and as no closures are currently planned, infrastructure improvements must continue as if no closures will occur.

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

Issue 3: Capital Outlay Proposals

Governor's Budget. The proposed budget includes the following resources for capital outlay projects and related facility projects that address a variety of infrastructure needs:

- \$265.3 million one-time General Fund to convert two projects from Lease Revenue Bonds to General Fund.
- \$35.2 million General Fund in 2022-23 to start two new and continue five other capital outlay projects.
- \$8.205 million in reappropriations for five capital outlay projects that have been delayed.

Background.

CDCR operates 36 youth and adult correctional facilities, 35 firefighting and conservation camps, and jointly administers the state financing programs for construction of new county jails with the Board of State and Community Corrections. CDCR's aging infrastructure and changing population drives significant infrastructure needs.

The Administration's Five-Year Infrastructure Plan includes \$776.5 million (\$429.6 million General Fund and \$346.9 million Public Buildings Construction Fund) for CDCR over the next five years for various capital projects statewide²⁰. These projects fall into the following major categories: fire and life safety upgrades; heating, ventilation, and air cooling upgrades; emergency power generation backup; kitchen and dining facilities; and medical facilities and classrooms.

CDCR in 2021 progressed with construction and capital outlay activities at multiple prisons. These projects address a variety of needs including health care facilities, roof replacements, mental health treatment and housing facilities, exercise yards, restrooms, classrooms, cell door retrofits, new kitchen and dining facilities, and infrastructure providing potable water treatment and storage, and heating and cooling. The specific projects requesting funding this year are outlined below.

Conversions of Lease Revenue Bonds to General Fund. CDCR is requesting \$265.3 million one-time General Fund to convert two projects from Lease Revenue Bonds to General Fund. These projects were established and authorized through the Public Buildings Construction Fund. The State Public Works Board typically provides an interim loan for the project, then issues tax-exempt lease revenue bonds upon project completion. Federal tax code for the issuance of tax-exempt bonds requires, among other things, that bonds must be issued within three years of initial project expenditures. Due to delays in the construction completion schedule, these projects no longer qualify for tax-exempt financing, and would likely require the issuance of taxable bonds, which could significantly increase the cost of financing. The Administration is proposing to pay off the loan directly using General Fund, resulting in approximately \$185 million in debt service savings.

²⁰ <https://www.ebudget.ca.gov/2022-Infrastructure-Plan.pdf>

Project	Description	Approximate Debt Service Avoidance
Monterey County AB 900 Jail Project	\$82.9 million to pay off the Pooled Money Investment Account (PMIA) loan that is currently outstanding for the preliminary plans, working drawings, and construction phases of the Monterey County Jail project. The project includes the design and construction of an addition to the existing jail in the City of Salinas. The expansion will include housing and program space and provide approximately 600 beds.	\$45 million over the 15-year life of the bonds
Ironwood State Prison, Blythe: Heating, Ventilation, and Air Conditioning System	\$182.4 million General Fund to pay off a PMIA loan that is currently outstanding for the construction phase of the Ironwood State Prison, Blythe: Heating, Ventilation, and Air Conditioning System project in Riverside County. The project includes the construction of a new central chilled water plant as well as replacement of existing air handling units and improvements to existing roofs, fire dampers, and smoke evacuation systems.	\$140 million over the 25-year life of the bonds

New and Continuing Construction Projects. The proposed budget includes \$35.2 million General Fund in 2022-23 for two new and five continuing capital outlay projects, outlined below.

New Projects	Description	Phase
California State Prison, Corcoran: Radio Tower and Equipment Vault FY 22-23: \$806,000 Total Project Cost: \$9.8 million	This proposal requests funding to design a radio communications system with the necessary infrastructure to support a new radio tower and a new radio communications vault at the California State Prison, Corcoran (COR). The radio equipment vault will provide the space and infrastructure necessary to install a new radio system to support radio communications at both COR and the California Substance Abuse Treatment Facility and State Prison.	Preliminary Plans: July 2022 - September 2023 Working Plans: October 2023 - July 2024 Construction: November 2024 - May 2026
California State Prison, Corcoran: Correctional Treatment Center Individual Exercise Yards FY 22-23: \$381,000 Total Project Cost: \$1.8 million	This proposal requests funding to design two individual exercise yards (IEYs) adjacent to the Correctional Treatment Center at COR. The IEYs will allow maximum custody Mental Health Crisis Bed patients receiving inpatient mental health treatment at COR to participate in out-of-cell recreation therapy that is consistent with their treatment plan.	Preliminary Plans: July 2022 - April 2023 Working Plans: May 2023 - July 2023 Construction: August 2023 - October 2024

Continuing Projects	Description	Phase
Chuckawalla Valley State Prison, Blythe: New Potable Water Wells FY 22-23: \$1.1 million Total Project Cost: \$12.3 million	This proposal requests funding to design two new groundwater wells to supply adequate amounts of potable water for incarcerated individuals and staff at Chuckawalla Valley State Prison (CVSP) and Ironwood State Prison (ISP).	Preliminary Plans: July 2021 - November 2022 Working Plans: November 2022 - August 2023 Construction: December 2023 - February 2025
California State Prison, Sacramento, Folsom: New Cognitive Behavioral Treatment Classrooms FY 22-23: \$14.4 million Total Project Cost: \$15.3 million	This proposal requests reappropriation of funding for the working drawings phase and funding for the construction phase to design and construct three approximately 1,440 square foot (sf) classroom buildings (three classrooms per building) with restrooms for incarcerated individuals and staff and staff offices to support the Cognitive Behavioral Intervention (CBI) program, previously known as Cognitive Behavioral Treatment, at California State Prison, Sacramento (SAC).	Preliminary Plans: July 2018 - February 2020 Working Plans: February 2020 - August 2022 Construction: September 2022 - September 2024
California Health Care Facility, Stockton: Facility B Individual Exercise Yards FY 22-23: \$2 million Total Project Cost: \$2.6 million	This proposal requests funding to construct 10 individual exercise yards (IEYs) in Facility B at the California Health Care Facility (CHCF). The IEYs will allow maximum custody patients receiving inpatient mental health treatment at CHCF to participate in out-of-cell recreation therapy that is consistent with their mental health treatment plan.	Preliminary Plans: July 2021 - April 2022 Working Plans: May 2022 - August 2022 Construction: August 2022 - December 2023
California State Prison, Los Angeles County, Lancaster: Medication Preparation Room Unit D5 FY 22-23: \$3 million Total Project Cost: \$3.7 million	This proposal requests funding to construct a Medication Preparation Room (MPR) at the California State Prison, Los Angeles County (LAC) in housing unit D5. This improvement will increase staff productivity and safety as well as provide timely patient access to medication in compliance with the <i>Plata</i> court directives.	Preliminary Plans: July 2020 - November 2021 Working Plans: November 2021 - December 2022 Construction: December 2022 - July 2024
California Substance Abuse Treatment Facility and State Prison, Corcoran: Air Cooling Facility F and G FY 22-23: \$13.4 million Total Project Cost: \$16.1 million	This proposal requests funding to install air cooling systems with required fire/life/safety improvements in rehabilitative treatment, education, and office space within Facility F and G housing units at the California Substance Abuse Treatment Facility and State Prison, Corcoran (SATF) to provide indoor temperatures suitable for incarcerated individuals to receive treatment and education. High temperatures in these areas lead to missed treatment and education hours for incarcerated individuals through refusal to attend treatment and education, as well as the cancellation of sessions.	Preliminary Plans: July 2021 - April 2022 Working Plans: May 2022 - September 2022 Construction: February 2023 - May 2025

Reappropriations for Continuing Construction Projects. The proposed budget reappropriates \$8.205 million for five projects that have been delayed, outlined below.

Continuing Projects	Description	Phase and Delay Reason
Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant FY 22-23: \$375,000 Total Project Cost: \$32.5 million	This proposal requests reappropriation of funding of an arsenic and manganese removal water treatment plant at Valley State Prison (VSP) due to the increase in the levels of these constituents in the wells at VSP and the adjacent Central California Women's Facility (CCWF). This treatment plant will reduce arsenic and manganese levels to comply with the Environmental Protection Agency and State Water Resources Control Board drinking water quality standards at both VSP and CCWF.	Working Plans: May 2021 - March 2023 Construction: July 2023 - April 2025 Due to water table changes related to the drought, additional water constituent analysis is necessary during the working drawings phase.
Correctional Training Facility, Soledad: Health Care Facility Improvement Program – Specialty Care Clinic FY 22-23: \$1.6 Total Project Cost: \$13.6 million	This project is part of the California Department of Corrections and Rehabilitation's Health Care Facility Improvement Program to remedy deficiencies to health care facilities statewide. The improvements at the Correctional Training Facility have been divided into two phases. Phase I includes new Primary Care Clinics for Facilities A, C, and D, and renovation of Facility B's Primary Care Clinic and Facility C's Triage and Treatment Area. Phase II includes renovations to the Specialty Care Clinic in Facility C.	Construction: July 2019 - May 2023 Due to design errors and omissions, construction will be extended into the 2022-23 fiscal year.
Folsom State Prison, Folsom: Water Storage Tanks FY 22-23: \$1.4 million Total Project Cost: \$9.6 million	This proposal requests reappropriation of funding to construct two new 750,000 gallon water storage tanks necessary to support building fire suppression requirements as part of the Health Care Facility Improvement Program projects constructed at Folsom State Prison and California State Prison, Sacramento.	Construction: December 2020 - July 2022 As a result of additional coordination during the construction phase of electrical, fire alarm and controls, construction will be extended into the 2022-23 fiscal year.
San Quentin State Prison, San Quentin: New Boiler Facility FY 22-23: \$2.9 million Total Project Cost: \$27.8 million	This proposal requests reappropriation of funding of a new central high-pressure steam boiler facility at San Quentin State Prison. Boiler replacement is required for compliance with Bay Area Air Quality Management District regulations for gas-fired boiler emissions standards.	Construction: January 2021 - December 2023 Due to COVID-19 related delays, construction will extend beyond June 30, 2022.

Sierra Conservation Center, Jamestown: Health Care Facility Improvement Program – Central Health Services Building Renovation FY 22-23: \$1.9 million Total Project Cost: \$12.0 million	This project is part of the California Department of Corrections and Rehabilitation's Health Care Facility Improvement Program to remedy deficiencies to health care facilities statewide. The improvements at the Sierra Conservation Center have been divided into two phases. Phase I includes a new Pharmacy and Lab, a new Health Care Administration Building, and Facility C Primary Care Clinic renovation and addition. Phase II includes renovations to the Central Health Services (CHS) building.	Construction: July 2019 - March 2023 As a result of design errors and omissions and COVID-19 related delays, construction will be extended into the 2022-23 fiscal year.
---	---	--

Staff Recommendation. Hold Open.

Issue 4: Various Facilities and Construction Proposals

Governor's Budget. The proposed budget includes \$4.5 million one-time General Fund, \$22.2 million ongoing General Fund, and \$1.1 million reimbursement authority for related construction and facility projects, such as support for statewide capital outlay planning and roof repair projects.

Background.

- ***Statewide: Budget Packages and Advanced Planning.*** The proposed budget includes \$1 million to perform advanced planning functions and prepare budget packages for capital outlay projects to enable CDCR to provide detailed information on scope and costs on requests for planned projects.
- ***Roof Replacement Design and Construction.*** The proposed budget includes \$2 million General Fund in 2022-23 for the design phase and \$71 million General Fund in 2023-24 for the construction phase of roof replacements at the California Institution for Men and California Medical Facility.

Approximately \$313 million over the past five budget years for roof replacements at 11 adult institutions. CDCR has prepared a phased schedule for statewide institution roof replacements that prioritizes roof replacements at prisons housing significant high risk medical populations and those providing accessible housing. Roof replacements at CIM and CMF have been prioritized as the next institutions to be replaced based on the statewide prioritization list.

- ***Support for Inmate-Ward Labor Construction Projections.*** The proposed budget includes \$1.1 million in reimbursement authority and 13 positions ongoing to support the Inmate/Ward Labor (IWL) Program.

Since the 1980s, CDCR has operated the IWL Program, which provides incarcerated individuals on-the-job vocational skills in construction, renovation, and repairing buildings/infrastructure while also providing significant construction and repair benefits to prison infrastructure. The IWL Program has participation from the State Building and Construction Trades Council of California, local trade unions, as well as institutional executive and education staff.

Some of the types of projects that IWL is currently working on include HCFIP projects, statewide roofing projects, Americans with Disabilities Act (ADA) improvements, and medication distribution projects. Nearly 650 incarcerated individuals and juvenile offenders participated in IWL Program construction projects during 2021.

The increased workload is the direct result of both court-mandated construction projects, which address statewide medical, mental health, and disabled accessibility issues, and a variety of other infrastructure projects. These positions will provide necessary administrative support in construction field offices by performing administrative tasks required for current construction projects.

- ***Updating the Utilities and Waste Removal Funding Methodology.*** The proposed budget includes \$22.2 million ongoing General Fund to establish an updated funding methodology for utilities and waste removal expenditures.

Currently, both utilities and waste removal are funded using a combination of base funding and annual population-driven funding adjustments. Over time and with the decreasing incarcerated population, this funding methodology has not kept pace with rising costs, and CDCR has had to realign funding to make up the shortfalls.

CDCR proposes to adjust utilities and waste removal methodologies to disassociate the funding from population changes, and to establish a base of the average of three years of actual expenditures. In future years, CDCR will adjust utilities and waste removal funding annually by applying an adjustment based on the California Consumer Price Index (CPI). This methodology will better match CDCR's annual utilities and waste removal liabilities.

- ***Repurposing Condemned Housing.*** The proposed budget includes \$1.5 million one-time General Fund for a consulting contract to repurpose condemned housing and support spaces at San Quentin State Prison. Over the next two years, CDCR will be shutting down the condemned housing unit at San Quentin and transferring people to other housing, to provide access to work-related programs and enable them to pay court-ordered restitution, as required by Proposition 66.

LAO Comments and Recommendations on Repurposing Condemned Housing.

Governor's Proposal. The Governor proposes \$1.5 million one-time General Fund for the California Department of Corrections and Rehabilitation (CDCR) to hire a consultant to assess and recommend options for repurposing condemned inmate housing facilities at San Quentin State Prison. The department indicates that the scope of the consultant's work has not yet been fully defined. However, it anticipates that the consultant would generally be tasked with recommending ways to modify facilities to house and meet the needs of non-condemned, lower security inmates. For example, the consultant would likely be required to recommend options for identifying space for inmate rehabilitation programs.

Public Health Concerns Identified with San Quentin Facilities. Rapid spread of COVID-19 at San Quentin—particularly during a major outbreak in the summer of 2020—has raised significant public health concerns about the safety of housing facilities at San Quentin, including the condemned inmate housing facilities. This is because these facilities consist of five housing tiers stacked on each other with barred cell doors and generally poor ventilation. According to an infectious disease epidemiologist and professor at the University of California Irvine who testified in a court case related to CDCR's handling of COVID-19 at San Quentin, the architecture of these facilities presents a major problem. Specifically, barred cell doors allow air to flow between neighboring cells and stacked tiers allow infectious droplets to travel from the top to the bottom of the facilities, entering cells along the way. Moreover, there is very little outside air intake to these facilities, meaning that air containing the virus can be recirculated throughout the facility.

Direct CDCR to Provide Additional Information. Although CDCR has not fully defined the scope of the proposed consultant's work, the department indicates that it does not plan to require the consultant to consider the above public health concerns. We note, however, that to the extent CDCR later modified the facility to address public health concerns—such as by improving outside air intake—such changes could require the department to remove or destroy the modifications made resulting from the work of the consultant. In order to ensure that the Governor's proposal is aligned with legislative priorities in assessing and addressing the needs of the housing facilities at San Quentin, we recommend the Legislature direct the department to report the following information at spring budget hearings: (1) the defined scope of the proposed consultant's work, (2) the rationale for not having the consultant consider the public health concerns that have recently been identified, and (3) the cost of requiring the consultant to make recommendations on how to address these concerns.

Staff Comment.

Redirection of resources and new utility and waste calculation. CDCR has indicated that they have been absorbing the excess utility and waste removal costs in their general operating budget. This proposal would free up a significant amount of funding. In addition, the proposed CPI adjustment would not account for increased energy and water efficiency programs, or any eventual prison closures or consolidations that would accompany a significant decline in the incarcerated population. The Legislature should consider how these could be incorporated in the new calculation.

Staff Recommendation. Hold Open.

2600 CALIFORNIA TRANSPORTATION COMMISSION**Issue 5: Implementation of SB 671**

Governor’s Budget. The budget includes \$770,000 in 20223-23, and \$320,000 per year for 2023-24 and 2024-25, for two full-time, limited-term positions and for a one-time consultant contract to implement the provisions of SB 671 (Gonzalez), Chapter 769, Statutes of 2021, relating to the development of the Clean Freight Corridor Efficiency Assessment. This request is consistent with the fiscal estimate of the bill at time of enactment.

Background. SB 671 (Gonzalez, Chapter 769, Statutes of 2021), which establishes the Clean Freight Corridor Efficiency Assessment (Assessment), to be developed by the Commission in coordination with other state agencies. It also codifies parts of the Commission’s Trade Corridor Enhancement Program (TCEP) guidelines that deem eligible for funding projects that employ advanced and innovative technology to improve the flow of freight and environmental and community mitigation of freight movement impacts. The Commission is required to coordinate with the State Air Resources Board (CARB), Public Utilities Commission, State Energy Resources Conservation and Development Commission (CEC), and the Governor’s Office of Business and Economic Development in developing the Assessment, and must submit a report detailing the Assessment and its recommendations for the deployment of zero-emission medium- and heavy-duty vehicles to the Legislature by December 1, 2023. The bill directs the Commission, CARB, CEC, and Caltrans to incorporate the findings of the Assessment, to the extent feasible and applicable, into programs and guideline documents related to freight infrastructure and technology.

Staff Comments. Upon the passage of SB 671, the CTC estimated that implementation of the bill would require one-time costs of approximately \$900,000 for a consultant contract for the performance of research and data analysis necessary to identify the freight corridors and infrastructure needed to support medium- and heavy-duty zero emissions vehicles, and provide other expertise and materials. It also estimated ongoing administrative costs of approximately \$323,000 for three years and \$178,000 annually thereafter for two staff (one three-year limited term, one permanent) to oversee the consultant contract, coordinate with state agencies, and consult with other specified public and private entities to develop the Assessment and recommendations, issue the report and ensure adequate adoption into other programs and guidelines.

The budget proposal here suggests implementation costs that are significantly lower than initially estimated by the CTC. The Legislature may want to consider the extent to which the requested resources are appropriate and sufficient for the requirements of the bill, or if additional resources are required.

Staff Recommendation: Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Wednesday, March 2, 2022
1:30 p.m.
State Capitol - Room 4203

Consultants: Nora Brackbill and James Hacker

ITEMS FOR DISCUSSION

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)	2
Issue 1: Jail Oversight	2
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)	11
Issue 2: Master Plan Annual Report and Supplemental Reporting Language	11
Issue 3: Capital Outlay Proposals.....	17
Issue 4: Various Facilities and Construction Proposals	22
2600 CALIFORNIA TRANSPORTATION COMMISSION	25
Issue 5: Implementation of SB 671	25

Public Comment

ALL ITEMS HELD OPEN

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 (BSCC)

Issue 1: Jail Oversight

Background. Local governments are responsible for operating local detention facilities, which incarcerate people at various stages of the criminal justice process. In total, there are about 550 local detention facilities in California. These include jails, which can house people for significant periods of time while serving sentences or awaiting trial and are typically operated by county sheriffs. California jails had an average daily population of 73,500 in 2019. The population dropped significantly at the beginning of the pandemic, to under 50,000, but has begun to recover¹. Local detention facilities also include short-term detention facilities and holding cells, which can hold people for a few days or less following arrest or during court proceedings and are typically operated by city police departments. Local governments are also largely responsible for juvenile facilities, which are typically operated by county probation departments. With the pending closure of the Division of Juvenile Justice (DJJ) at California Department of Corrections and Rehabilitation (CDCR), counties will assume full responsibility for the juvenile justice system.

Realignment. Local detention facilities are largely supported by local funding, but the state provides some financial support. In 2011, the responsibility for incarcerating and supervising certain felony offenders was realigned from the state to the county level. The state pays counties around \$1 billion per year to cover this workload. With the pending closure of DJJ and the realignment of juvenile justice, the state will provide roughly \$200 million per year to counties. The state has also contributed significantly to facilities and construction and has provided other one-time support to local governments for correctional facilities.

Board of State and Community Corrections (BSCC). 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 realignment. BSCC is tasked with developing minimum standards for local detention facilities and inspecting and reporting on facility compliance. BSCC also sets standards for training correctional staff and administers facility funding and several grant programs for local corrections and law enforcement entities.

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).

¹ https://www.ppic.org/wp-content/uploads/JTF_CountyJailsJTF.pdf

- 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.

In addition, BSCC is 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.

Local Detention Facility Standards and Inspections Program. The state has established minimum standards for local facilities, currently codified in Titles 15 and 24 of the California Code of Regulations. BSCC is responsible for creating these standards, updating them every two years, inspecting each facility once every two years, and reporting on facility compliance. The inspections usually involve a combination of reviewing the facility's written policies and touring the facility to assess implementation. BSCC standards are a minimum requirement, and counties each develop their own policies that at least meet these standards.

Enforcement. Areas of noncompliance are reported by BSCC, and BSCC staff work with the facilities to address any issues. However, for adult facilities, BSCC does not have any enforcement mechanisms if a facility refuses to comply. For juvenile facilities, if the issues are not addressed within sixty days, the facility is prohibited from housing minors until the issues are fixed.

Other Oversight of Local Detention Facilities in California. In addition to BSCC, oversight of local detention facilities in California is provided by other governmental and nongovernmental entities, each with different stakeholders, levels of authority, oversight methods and benchmarks for success. In California, these include:

- *State and Federal Courts.* Courts assess whether violations of law have occurred. At least 11 California counties have recently been subject to class wide court injunctions or consent decrees on jail conditions or are in the process of negotiating them. For example, inmates at the Santa Barbara County Jail sued Santa Barbara County and the Sheriff's Office in 2017 claiming that the jail violated state and federal law by (1) failing to provide basic health care; (2) overusing solitary confinement; (3) discriminating against people with disabilities; and (4) providing inhumane, unsanitary, and unsafe living conditions. In 2020, the parties reached a settlement agreement under which the county will make several

significant changes to jail policies and practices, such as implementing an electronic health records system.

- *United States Department of Justice (U.S. DOJ).* Federal law allows the U.S. DOJ to conduct investigations of alleged civil rights violations at correctional facilities, which may lead to an agreed-upon set of standards that the agency must follow, along with long-term compliance monitoring. For example, after several inmate deaths—including a death following extended use of a restraint chair—the U.S. DOJ initiated an ongoing investigation into the San Luis Obispo County Jail’s provision of medical and mental health care to inmates. The U.S. DOJ also oversees standards and inspections for mitigating sexual abuse in federal, state, and local detention facilities.
- *California Department of Justice.* The California DOJ can investigate local detention facilities and bring legal action against a local government if it determines that a practice or pattern of violation of constitutional rights has occurred in a detention facility administered by the local government.
- *Local Monitoring and Investigation Bodies.* A few counties in California have Inspector Generals and Citizen Oversight Boards, which can have subpoena power. Depending on how they are designed, these entities conduct investigations into specific allegations of wrongdoing and/or conduct ongoing holistic monitoring of the conditions inside the facilities. For example, Los Angeles County has both an Inspector General and a Civilian Oversight Commission². In addition, county grand juries and juvenile justice commissions may inquire into the conditions of county detention facilities.
- *Nongovernmental Entities.* Media and advocacy organizations contribute to oversight by making conditions inside local detention facilities more widely known to the public and can put pressure on local officials to address problems.

Continued Issues and Litigation. Despite these various forms of oversight, significant issues continue at county jails. As noted above, many counties have faced litigation in the last decade relating to conditions in county jails. The Prison Law Office (PLO) alone has successfully litigated cases related to jail conditions in Contra Costa, Riverside, Fresno, Santa Barbara, Sacramento, Santa Clara, and San Bernardino counties³. Most of these lawsuits revolved around use of solitary confinement, inadequate access to medical care (including mental health care), and/or failure to provide disability accommodations. Rosen, Bien, Galvan and Grunfeld (RBGG) has also successfully litigated class action cases related to conditions in jails in Santa Clara, Alameda, Monterey, and Yuba counties⁴, and recently filed suit in San Diego in response to the State Auditor’s report described below. This is by no means a complete list of lawsuits, and each one will not be discussed in detail here. Two recent examples, San Diego County and Alameda County, are discussed below.

² <https://coc.lacounty.gov/>

³ <https://prisonlaw.com/major-cases/>

⁴ <https://rbgg.com/practice-areas/class-actions/>

San Diego County Sheriff's Department. In February 2022, the California State Auditor released a report on the San Diego County Sheriff's Department⁵. The report found that San Diego County's jails had an above average rate of deaths, the Sheriff's Department had not taken adequate action in response to the deaths, and San Diego's local oversight entity, the Citizen's Law Enforcement Review Board (CLERB), had not conducted adequate oversight. The Auditor noted that "Given that the annual number of incarcerated individuals' deaths in county jails across the State increased from 130 in 2006 to 156 in 2020, improving the statewide standards is essential to ensuring the health and safety of individuals in custody in all counties."

The Auditor found several issues at the local level, including:

- Issues with the policies and procedures in place at the jails, including insufficient health evaluations at intake, inconsistent follow-up medical care, inadequate safety checks, and unnecessary delays in responses to medical emergencies.
- Insufficient reviews of in-custody deaths by the Sheriff's Department, which includes a review of the medical care provided in the 30 days preceding the death, and the Critical Incident Review, which focuses on protecting the department against liability and does not review natural deaths.
- Insufficient oversight by CLERB, whose reviews were not independent, timely, or thorough. CLERB failed to investigate roughly 30 percent of in-custody deaths, either because they were natural deaths, CLERB did not complete the investigation within the one-year time limit, or the Sheriff's Department did not inform CLERB of the death. CLERB also relied on evidence provided by the Sheriff's Department rather than conducting their own interviews and investigations.

The Auditor found that some of the Sheriff's Department's policy deficiencies were the result of statewide corrections standards designed by BSCC that are insufficient for maintaining the safety of incarcerated individuals. The Auditor also noted that many BSCC regulations were not specific enough, echoing a comment made by the LAO. Specifically:

- *Safety Checks.* BSCC's standards for safety checks, which are required by state law and require direct, visual observation, were insufficient, and did not even require the staff to check for proof of life, such as breathing or something equivalent, which CDCR staff are required to do at the state prison level.
- *Staff Training.* The Auditor also noted that BSCC regulations only require 24 hours of continuing training for adult correctional staff, which is less than for probation officers and juvenile staff, and that there is no requirement for continuing mental health training.
- *Intake Procedures.* There is no requirement for a mental health professional to conduct an intake screening.

⁵ <http://www.auditor.ca.gov/reports/2021-109/index.html>

Board Composition. The State Auditor also noted that unlike similar boards in New York City and Texas, BSCC does not have any requirement for medical or mental health professionals on its board. While BSCC is required to consult with professionals when developing the standards, requiring that expertise on its board could help prioritize these issues.

Recommendations. The Auditor made several recommendations related to the Sheriff's Departments policies and reviews, as well as to CLERB and the DOJ. Specific to BSCC, the Auditor recommended:

- The following amendments to BSCC standards:
 - County sheriff's departments with jails that have an average daily population of more than 1,000 must have a mental health professional perform mental health evaluations at intake.
 - Safety checks must include a procedure for checking to see that each individual is alive.
 - Local correctional officers working in local detention systems with an average daily population of more than 1,000, complete 40 hours of training annually and that at least four of those hours relate to mental and behavioral health.
- Requiring BSCC to include a medical professional and a mental health professional on its board and requiring BSCC to update all standards as needed once these members are added.

BSCC provided a response to the Auditor's report, which emphasized that BSCC sets a minimum standard that any county across the state, even small counties with minimal resources, can achieve. BSCC said that it is up to the county to decide to establish policies that exceed the minimum standards. BSCC also objected to creating different standards for small and large county systems.

On February 9, 2022, a federal class action lawsuit was filed against various authorities in San Diego County, in response to the Auditor's report and other reports and complaints by incarcerated individuals⁶. The State Auditor also noted that from 2006 through 2020, there were 22 lawsuits filed related to the deaths of incarcerated individuals at the San Diego Sheriff's Department's detention facilities. The Auditor noted that many of the same concerns had been raised previously in a report by Disability Rights California⁷, yet few improvements had been made.

Santa Rita Jail in Alameda County. The Santa Rita Jail is operated by the Alameda County Sheriff's Department and has had numerous reported issues, including inappropriate discipline; lack of an accessible grievance system; inadequate sanitation, clothing, family contact, and food; and lack of access to educational opportunities and legal information⁸. Santa Rita Jail was also under a four-year long investigation by the U.S. DOJ, which found that Alameda County was violating the Americans with Disabilities Act (ADA) and was not protecting the civil rights of people with mental illnesses⁹. The report emphasized a lack of investment in community mental health services and other prevention methods. Partway through the investigation, the U.S. DOJ

⁶ <https://rbgg.com/federal-class-action-lawsuit-seeks-to-improve-dangerous-deadly-conditions-in-san-diego-county-jails/>

⁷ <https://www.disabilityrightsca.org/public-reports/san-diego-jail-suicides-report>

⁸ <https://srjsolidarity.org/>; <https://srjsolidarity.org/wp-content/uploads/2020/04/SRJ-Collective-Grievance.pdf>;

<https://www.ktvu.com/news/protest-at-santa-rita-jail-over-inedible-food-and-sheriffs-profit-on-rising-commissary-prices>

⁹ <https://www.justice.gov/crt/case-document/file/1388891/download>

shared preliminary concerns with the county, but noted that no significant improvements were made.

Babu v. County of Alameda. In 2018, a federal class action lawsuit was filed on behalf of eight plaintiffs against Alameda County, challenging the unconstitutional use of isolation, denial of constitutionally adequate mental health treatment, and unlawful segregation of prisoners with mental illness into units without access to programming and other basic services. The case resulted in a settlement agreement, which was recently confirmed by a federal court¹⁰.

Under the agreement, Santa Rita Jail will be under court supervision for at least six years. The consent decree¹¹ requires the county to limit the use of isolation and solitary confinement, upgrade and expand mental health services, set stricter standards for use of force, and end discrimination against people with disabilities, especially psychiatric disorders. Some advocates oppose the consent decree because it will require the county to spend an estimated \$318 million over three years on jails to implement the reforms, rather than community programs for the diversion of people with mental health issues and re-entry support.

Recent changes to BSCC Oversight. In response to reports of systemic issues in California jails¹², the Governor directed BSCC to modify its standards and inspection program to (1) ensure standards are consistent with national best practices, (2) provide additional inspections and technical assistance for facilities with a history of noncompliance, and (3) ask the agency to attend a public BSCC board meeting to discuss the issue. The 2020 Governor's budget included the intent to strengthen BSCC¹³, and BSCC began plans to make changes, although they were delayed by the onset of the pandemic¹⁴. The 2021 Budget Act included statutory changes to allow BSCC to conduct unannounced inspections and provided \$3.1 million ongoing General Fund for additional positions and electronic data entry. However, additional changes could still be made to improve BSCC's oversight of jail conditions, some of which would require statutory changes and a significant shift in the structure and methods of BSCC¹⁵.

LAO Comments and Recommendations. The LAO reviewed the local detention facility standards and inspection program in February 2021¹⁶. The LAO noted that it was difficult to assess the program's effectiveness primarily because state law does not specify the mission or goals BSCC should pursue as it implements the program. This leaves significant discretion to BSCC and the administration in determining how to operate the program and undermines the Legislature's ability to assess whether the program is operating effectively and is consistent with Legislative priorities.

¹⁰ <https://oaklandside.org/2022/02/08/judge-places-santa-rita-jail-under-external-oversight-ending-mental-health-abuse-lawsuit/>

¹¹ <https://oaklandside.org/wp-content/uploads/2021/08/Dkt-266-1-Janssen-Decl-ISO-PLAINTIFFS-Unopposed-Motion-for-Preliminary-Approval-of-Consent-Decree-08-26-2021-1378-1.pdf>

¹² <https://www.propublica.org/series/overcorrection>

¹³ <https://www.ebudget.ca.gov/2020-21/pdf/BudgetSummary/FullBudgetSummary.pdf>; <https://www.sacbee.com/news/politics-government/capitol-alert/article239181978.html>

¹⁴ <https://www.sacbee.com/news/investigations/california-prisons/article240321881.html>; <http://www.bscc.ca.gov/wp-content/uploads/Agenda-Item-C-FSO-Inspection-FINAL.pdf>

¹⁵ <https://www.bscc.ca.gov/wp-content/uploads/Attachment-2-Listening-Session-Response-Chart-FINAL.pdf>

¹⁶ <https://lao.ca.gov/Publications/Report/4371>

Establish Clear Program Mission and Goals. The LAO recommended that the Legislature establish in statute that the mission of the program is to promote legal, humane, and safe conditions for youth, inmates, and staff in local detention facilities. To further this mission, the LAO recommends establishing four goals for the program: (1) maintain standards that help local leaders determine and meet evolving legal requirements based on case law; (2) facilitate transparency and accountability through standards and inspections; (3) promote equitable provision of legal, humane, and safe conditions; and (4) provide technical assistance and statewide leadership to facilitate systemic improvement in detention conditions.

Balance Board Membership to Facilitate Oversight. The LAO found that the current BSCC membership does not have sufficient expertise and balance of perspectives to oversee local detention facilities based on the above mission and goals. Specifically:

- Six of the thirteen BSCC board members are currently administrators of correctional agencies, with at least four of them overseeing detention facilities that are subject to the BSCC standards and inspection program. While those who operate detention facilities provide critical perspectives for standards development, they have an incentive to avoid approving standards that they believe would be difficult or costly to meet. This raises questions about their ability to provide objective external oversight of their own operations and those of other counties. In addition, the board contains two CDCR representatives, even though BSCC is focused on local, not state, corrections.
- The board does not include designated slots for members with experience providing external oversight of such facilities, such as someone with experience in litigating local detention condition issues. This lack of expertise in external oversight of detention facilities is concerning given that approval of the standards is one of the board's core functions and arguably more important duties given the standards' nexus to health, life, and safety.
- Ten of the 13 board members are appointed by the Governor, two by the Legislature, and one by the Judicial Council.

Accordingly, the LAO recommends that:

- The Legislature adopt legislation to add board members with professional expertise in advocacy for and oversight of detention conditions.
- More board members be appointed by the Legislature, to create a better balance between Governor's and legislative appointees.

Require Plan to Align Program With Mission and Goals. The LAO recommends that the Legislature direct BSCC to develop a detailed plan for how to align the program with the proposed mission and goals. To guide development of the plan, the LAO recommends that the Legislature require that the plan include the following elements:

- *Standards Reflecting Minimum Legal, Safe, and Humane Conditions.* The plan should outline how the standards will be revised to (1) be more specific such that they effectively

communicate what legal, safe, and humane conditions are and (2) ensure that standards equitably address the specialized needs of all inmates and detained youth. In order to develop these standards, BSCC may need to revise its working groups to ensure the process is not dominated by correctional administrators, but also includes the perspectives of experts in standards development and oversight and others, such as formerly incarcerated people.

- *High-Quality, Risk-Based Inspection Strategy to Ensure Pressing Issues Are Found Quickly.* The plan should include consideration of key information (such as reported standards violations) that BSCC could use to more strategically target inspections. For example, the Texas Commission on Jail Standards conducts additional inspections at facilities where data, such as numbers of inmate deaths and public complaints, suggest problems may exist.
- *Specific Benchmarks to Ensure Inspections Effectively Provide Transparency.* The plan should indicate how BSCC will develop clear, transparent benchmarks for inspections; guidance for interpreting subjectivity in the standards; and a quality assurance process to ensure inspectors meet these benchmarks.
- *Quality Reporting to Support Transparency and Accountability.* The plan should outline how BSCC will improve the quality of its reporting on the results of inspections, such as by ensuring reports clearly describe violations and issuing special reports to highlight serious violations, as well as ensure the reports are understandable by a wide audience. BSCC inspectors should also note issues of concern that may not be in direct violation of a specific standard. BSCC should also produce statewide trend reports, which would help identify systematic issues and help BSCC provide statewide leadership.
- *Technical Assistance and Statewide Leadership.* The plan should give consideration to (1) providing longer-term, more complex technical assistance to facilities and (2) how BSCC can help highlight and promote promising practices to facilitate continuous, systemic improvement in detention facilities.

Staff Comment.

Proactive oversight. Many other forms of oversight provided to local facilities are reactive: lawsuits responding to existing mistreatment, or state or federal DOJ investigations of allegations of wrongdoing. BSCC is uniquely positioned to provide proactive oversight, through setting high (but achievable) standards, providing routine monitoring and follow-up, and assisting local entities in interpreting and applying up-to-date best practices and case law. The Legislature should consider how BSCC can help prevent local facilities from reaching the point where there is significant mistreatment of incarcerated people, resulting in lawsuits, audits, and other reports.

Dual roles of BSCC. BSCC currently operates as both the oversight for local detention facilities, and as a member organization for information sharing and assistance across local detention facilities. However, its oversight role has been hampered by its lack of enforcement ability, the composition of the board, and the approach BSCC has taken regarding reviewing facilities and

focusing on technical assistance. For example, many BSCC reports are technical and are designed for jail administrators, not the public. While this is certainly useful, it has not resulted in significant progress at institutions with histories of noncompliance and other issues. By comparison, the Office of the Inspector General has a very different culture, approach, and relationship to CDCR than BSCC has to local correctional facilities. The Legislature should consider whether BSCC is the appropriate entity to apply the type of oversight desired, and if so, what changes are needed for it to be effective.

Board composition. Both the State Auditor and the LAO recommended changes to the composition of the BSCC board. The board is primarily Governor's appointees and is largely made up of correctional administrators and local law enforcement, including at least four who run facilities overseen by BSCC. The State Auditor recommended adding a medical professional and a mental health professional, and the LAO recommended adding people with experience in standards development and detention oversight and advocacy.

Lack of specificity in regulations. Both the State Auditor and the LAO noted that many BSCC standards are too vague to provide meaningful guidance. For example, the LAO noted that BSCC requires policies on the use of restraint devices that include addressing hydration and sanitation needs. However, it does not specify what that means, for example how often those needs should be addressed. The Auditor noted that BSCC requires hourly safety checks by direct, visual observation, but doesn't specify what must be included in a safety check. This lack of specificity allows local facilities to develop policies that are technically in compliance with BSCC standards, but do not result in humane conditions.

Role of BSCC in Juvenile Justice. After the closure of DJJ, juvenile justice will be an entirely local responsibility. BSCC is the entity currently responsible for oversight of conditions in juvenile facilities. Unlike adult facilities, BSCC does have a method for enforcing standards in juvenile facilities – it can declare them unsuitable for youth habitation. However, given the juvenile justice realignment, the Legislature should consider how BSCC's oversight can be further improved.

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

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**Issue 2: Master Plan Annual Report and Supplemental Reporting Language**

Governor's Budget. Along with the Governor's budget, CDCR's Facility Planning, Construction and Management (FPCM) produces a Master Plan Annual Report (MPAR), which outlines major programs and recently completed, active, and proposed capital outlay projects at each institution. In addition, last year's budget included Supplemental Reporting Language (SRL) that directed CDCR to prepare a prison infrastructure strategy, which was released along with the MPAR¹⁷.

Background.

CDCR's population is undergoing significant changes in response to policy reforms, realignments, the pandemic, and other factors. Overall, the incarcerated population is declining, and CDCR projects this decline to continue in the long-term (although in the short-term the population is unstable due to pandemic impacts). In addition, CDCR has indicated changing programming needs, including increased rehabilitative programming, the expansion of health care services (such as substance use disorder treatment), and an overall aging population. Other factors to provide better treatment of the incarcerated including improving accessibility in prisons, increasing visitation opportunities, and addressing the use of remotely located facilities and facilities with environmental and health hazards have also been discussed. These factors significantly impact CDCR's facility needs over the next decade.

Over the past few years, the Legislature has had difficulty assessing CDCR's infrastructure requests and needs due to the lack of a strategic plan that incorporates the changes discussed above. For example, the state made significant infrastructure investments at prisons that were shortly thereafter slated for closure. Given the continued decrease in the population and other concerns related to prison conditions, additional prison closures may be warranted¹⁸.

CDCR produces a Master Plan Annual Report (MPAR) that provides an overview of CDCR's current infrastructure portfolio, major infrastructure programs, and a list of recently completed, active, and proposed projects for each institution. This includes both Capital Outlay projects, which alter the function of a building, and special repair/deferred maintenance projects, which are required to keep a building functioning as intended. However, the MPAR does not usually include the type of long-term strategy that the Legislature needs to assess infrastructure proposals.

The 2021 Budget included Supplemental Reporting Language (SRL) to address this need, which directed CDCR to prepare a long-term prison infrastructure strategy that incorporated potential closures and consolidation opportunities and outlined a vision for CDCR's portfolio of facilities in the future.

Summary of the Master Plan Annual Report. The 2021 MPAR, released in February of this year, identified 45 future projects at 25 institutions with an approximate value of \$1.8 billion (\$1.1

¹⁷ <https://www.cdcr.ca.gov/fpcm/cdcr-master-plan-annual-report/>

¹⁸ <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>

billion capital outlay and \$700 million Deferred 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. Funding and staffing resources required to maintain, repair, and replace aging facility equipment and structures at the rate required to maintain institutions has not been available historically. Budget restrictions in the early 2000s led to a backlog of infrastructure needs and deteriorating buildings. However, recent investments, including additional funding for ongoing repairs and maintenance, will hopefully improve the durability of infrastructure moving forward. Some of the major infrastructure programs are outlined below:

- *Health Care Facility Improvement Program (HCFIP).* HCFIP provides upgrades in existing prisons to provide adequate clinical and support service spaces to meet the health care treatment needs of patients, and to comply with court orders related to the *Plata* and *Coleman* litigation. As of December 2021, HCFIP is approximately 88 percent complete. All construction activities have been completed at 13 prisons: Avenal State Prison (ASP), CCC, CEN, CIM, CIW, CMF, KVSP, LAC, MCSP, PBSP, RJD, SAC, and SVSP. A significant number of new clinics, pharmacies, medication distribution, and other support buildings have been completed at the 17 prisons where construction is ongoing.

Other CDCR health-related capital outlay projects include the Statewide Medication Distribution Improvements, which allow safer and more effective distribution of medications, and a 50-bed Inpatient Mental Health Housing being constructed at CIM to replace a temporary solution and provide additional capacity in Southern California.

- *Roof Replacements.* Approximately \$313 million has been appropriated since 2017 for roof replacements at 11 institutions totaling approximately 7 million sf. This additional funding allows CDCR's SR/DM funding allotment to focus on maintaining sitewide infrastructure systems. CDCR is also requesting \$2 million for the design phase of roof replacements in 2022-23 and \$71 million for the construction phase in 2023-24 at CIM and CMF.
- *Accessibility Plan.* CDCR's Accessibility Plan has been incorporated into the existing Disability Placement Program (DPP), resulting in a comprehensive implementation plan identifying the most appropriate facilities at which incarcerated individuals with disabilities can be clustered and housed and established the scope of work for ADA modification projects at DPP designated institutions. The Accessibility Plan is needed to comply with the ADA and to respond to the *Armstrong* settlement agreement.

Previously appropriated funding is supporting current and phased construction of improvements at 11 prisons: CCWF, CMF, COR, KVSP, MCSP, NKSP, PVSP, SAC, SATF, SVSP, and WSP. CDCR continues to adjust its housing plan for incarcerated individuals based on program needs and ongoing interaction with the *Armstrong* plaintiffs. Construction for additional improvements at CIW were completed in June 2021 and design of improvements at MCSP were completed in December 2020; funding for construction at both locations were included in the 2019 and 2020 Budget Acts. Additional improvements that are needed to complete the agreed upon transition plans at CIM, CIW, LAC, and RJD are currently under design and funding for construction are requested in the 2022-23

Governor's Budget. Additional funding requests in future fiscal years are anticipated to be needed to complete the agreed upon transition plan for other prison locations.

- *Maintenance Funding.* The 2019 Budget Act established a new funding methodology to base the maintenance budget on total statewide building area (square foot), rather than population. This new funding methodology provided approximately \$75 million for prison maintenance in the 2021-22 budget. This methodology allows prison maintenance staff to replace aging equipment before it fails and creates emergency conditions.
- *Rehabilitative Programming.* The Division of Rehabilitative Programs (DRP) offers Cognitive Behavioral Intervention (CBI) programs to incarcerated individuals who are within 24 months of their release date, to prepare individuals for reentry. CBI programs are a component of the Integrated Substance Use Disorder Treatment (ISUDT) program and include SUD treatment, Anger Management, Criminal Thinking, and Family Relationships. Construction to renovate a storage room at PBSP for classroom space was completed in September 2021. In addition, design phase funding was included in the 2018 and 2019 Budget Acts for new classroom buildings at SAC and to renovate a vocational building at SQ for CBI programs. Design is currently underway at SAC and SQ for CBI program space. Construction phase funding for SAC has been requested in the 2022-23 Governor's Budget.
- *Energy Management, Sustainability, and Conservation.* CDCR has taken steps to improve the sustainability of its buildings, including installing renewable energy generators like solar panels, aiming for Zero Net Energy and/or LEED certified green buildings, improving water heating systems and other related systems to improve energy efficiency, reducing water usage, composting, and converting to zero emission vehicles and installing charging stations.

Project Summary

	Infrastructure	SR/DM	Energy	Housing	Health Care	Totals
Number of Projects	48	172	24	0	46	290
Value of Projects (\$ millions)	\$1,432	\$1,410	\$19	\$0	\$1,131	\$3,992

*SR/DM = Special Repair/Deferred Maintenance. Source: CDCR Master Plan Annual Report 2021¹⁹

The projects included in the report are summarized in the above table.

The specific capital outlay items proposed for funding this year will be discussed in the next item.

¹⁹ <https://www.cdcr.ca.gov/fpcm/wp-content/uploads/sites/184/2022/02/MasterPlanAnnualReportforCalendarYear2021.pdf>

Supplemental Reporting Language (SRL). The 2021 Budget included supplemental reporting language (SRL) requiring CDCR to prepare a long-term prison infrastructure strategy. The SRL required CDCR to:

- A. Identify and prioritize all major (over \$5 million) infrastructure projects likely to be needed in the next ten years, and include details such as how these projects were identified and, in cases of significant repairs or rebuilds, what alternatives were considered.
- B. In identifying projects, seek opportunities to consolidate prisons.
- C. Describe how the projects support a long-term, durable portfolio of facilities consistent with the department's mission and long-term capacity needs.
- D. Describe steps taken to minimize investments in prisons that may close.
- E. Provide updates to the budget committees and LAO if the identified projects change.

Item A was largely incorporated into the MPAR, and items B-D were addressed in a separate response. However, the processes for selection and consideration of alternatives in A were addressed generally in the separate response and were not outlined for each anticipated project included in the MPAR. Item E will be incorporated into future MPARs.

Summary of SRL Response.

A: Identifying Major Infrastructure Needs. The Administration included anticipated projects needed at each institution in the next ten years in the MPAR. The MPAR identified 45 future projects at 25 institutions with an approximate value of \$1.8 billion (\$1.1 billion capital outlay and \$700 million Deferred Maintenance).

This section also included direction for CDCR to outline the alternatives considered if a significant portion of a facility was identified for repair or replacement, but CDCR indicated that there were no such significant needs were anticipated. The Administration also outlined its general process for identifying and approving projects, and how alternatives (such as renovation versus replacement) are considered and evaluated.

B: Seeking Opportunities for Consolidation. The Administration included a general description of how consolidation decisions would be made, and what factors would be considered. CDCR indicated that any facility consolidation or relocation would need to consider how CDCR could meet the mission and the needs of the incarcerated population being relocated or consolidated. CDCR's institutions have separate missions to serve different components of CDCR's population that intersect, such as medical, security, and mental health needs, among others.

CDCR indicated that they would consider the following factors in a potential closure or consolidation decision:

- Facility condition and needed improvements.
- Continuity of services for the incarcerated population.

- Ability to recruit and retain employees, particularly specialized medical professionals.
- Annual operating costs.
- Need for secure housing, medical and mental health care, and accessibility to programming.

C: Establishing a Durable Portfolio of Facilities. CDCR stated that a durable portfolio of prison capacity would need to meet a variety of housing and treatment needs, including varying levels of secure housing, medical and mental health needs, rehabilitative programming, educational programming, vocational education programming, and reentry services. CDCR emphasized the need to build flexible spaces that can adapt to future changes in the population. However, no details were provided about what CDCR anticipated its housing and treatment needs to be, or how the proposed projects would address those needs or could work as flexible spaces.

D: Minimizing Investments in Prisons that may Close. The Administration indicated that they are not considering any additional prisons for closure or consolidation at the current time, and therefore the projects proposed here do not take potential closures into account. The Administration included a general description of their project identification process and indicated that projects are reviewed by CDCR leadership and Department of Finance, who would have knowledge of potential closures.

CDCR stated that “prison closure decisions are point-in-time decisions due to the dynamic nature of the inputs that inform the decision.” They indicated that this risk is mitigated by incorporating careful consideration of prison closure factors into the project approval process, including trends in the population, recruitment and retention of staff, and other programmatic goals. However, they indicated that these factors were not considered in the list of the anticipated projects in the MPAR because no prison closures are planned at this time and in the meantime, infrastructure needs must continue to be addressed.

Staff Comment. This report was supposed to help the Legislature assess various infrastructure investments proposed by the Administration. It was intended to provide a long-term view on CDCR’s anticipated infrastructure needs and strategy. However, the Administration’s response lacked the detail necessary for the Legislature to assess the strategy. Specifically:

- The response included general process information on how CDCR selects projects and evaluates alternatives but did not provide any information specific to the list of anticipated projects.
- The Administration did not seek consolidation options, and instead included a general discussion of how a consolidation or closure decision would be made and what factors would be considered.
- The Administration specified that a long-term, durable portfolio of facilities would entail enough space to cover different needs in the population, including levels of security and medical and programming needs. However, it did not discuss what those needs are, either now or in the future, or how the anticipated projects outlined here would fulfill those needs.

- For the anticipated projects listed in the annual infrastructure report, no considerations for potential closures were made. The Administration indicated that prison closures are a point in time decision that cannot be predicted, and as no closures are currently planned, infrastructure improvements must continue as if no closures will occur.

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

Issue 3: Capital Outlay Proposals

Governor's Budget. The proposed budget includes the following resources for capital outlay projects and related facility projects that address a variety of infrastructure needs:

- \$265.3 million one-time General Fund to convert two projects from Lease Revenue Bonds to General Fund.
- \$35.2 million General Fund in 2022-23 to start two new and continue five other capital outlay projects.
- \$8.205 million in reappropriations for five capital outlay projects that have been delayed.

Background.

CDCR operates 36 youth and adult correctional facilities, 35 firefighting and conservation camps, and jointly administers the state financing programs for construction of new county jails with the Board of State and Community Corrections. CDCR's aging infrastructure and changing population drives significant infrastructure needs.

The Administration's Five-Year Infrastructure Plan includes \$776.5 million (\$429.6 million General Fund and \$346.9 million Public Buildings Construction Fund) for CDCR over the next five years for various capital projects statewide²⁰. These projects fall into the following major categories: fire and life safety upgrades; heating, ventilation, and air cooling upgrades; emergency power generation backup; kitchen and dining facilities; and medical facilities and classrooms.

CDCR in 2021 progressed with construction and capital outlay activities at multiple prisons. These projects address a variety of needs including health care facilities, roof replacements, mental health treatment and housing facilities, exercise yards, restrooms, classrooms, cell door retrofits, new kitchen and dining facilities, and infrastructure providing potable water treatment and storage, and heating and cooling. The specific projects requesting funding this year are outlined below.

Conversions of Lease Revenue Bonds to General Fund. CDCR is requesting \$265.3 million one-time General Fund to convert two projects from Lease Revenue Bonds to General Fund. These projects were established and authorized through the Public Buildings Construction Fund. The State Public Works Board typically provides an interim loan for the project, then issues tax-exempt lease revenue bonds upon project completion. Federal tax code for the issuance of tax-exempt bonds requires, among other things, that bonds must be issued within three years of initial project expenditures. Due to delays in the construction completion schedule, these projects no longer qualify for tax-exempt financing, and would likely require the issuance of taxable bonds, which could significantly increase the cost of financing. The Administration is proposing to pay off the loan directly using General Fund, resulting in approximately \$185 million in debt service savings.

²⁰ <https://www.ebudget.ca.gov/2022-Infrastructure-Plan.pdf>

Project	Description	Approximate Debt Service Avoidance
Monterey County AB 900 Jail Project	\$82.9 million to pay off the Pooled Money Investment Account (PMIA) loan that is currently outstanding for the preliminary plans, working drawings, and construction phases of the Monterey County Jail project. The project includes the design and construction of an addition to the existing jail in the City of Salinas. The expansion will include housing and program space and provide approximately 600 beds.	\$45 million over the 15-year life of the bonds
Ironwood State Prison, Blythe: Heating, Ventilation, and Air Conditioning System	\$182.4 million General Fund to pay off a PMIA loan that is currently outstanding for the construction phase of the Ironwood State Prison, Blythe: Heating, Ventilation, and Air Conditioning System project in Riverside County. The project includes the construction of a new central chilled water plant as well as replacement of existing air handling units and improvements to existing roofs, fire dampers, and smoke evacuation systems.	\$140 million over the 25-year life of the bonds

New and Continuing Construction Projects. The proposed budget includes \$35.2 million General Fund in 2022-23 for two new and five continuing capital outlay projects, outlined below.

New Projects	Description	Phase
California State Prison, Corcoran: Radio Tower and Equipment Vault FY 22-23: \$806,000 Total Project Cost: \$9.8 million	This proposal requests funding to design a radio communications system with the necessary infrastructure to support a new radio tower and a new radio communications vault at the California State Prison, Corcoran (COR). The radio equipment vault will provide the space and infrastructure necessary to install a new radio system to support radio communications at both COR and the California Substance Abuse Treatment Facility and State Prison.	Preliminary Plans: July 2022 - September 2023 Working Plans: October 2023 - July 2024 Construction: November 2024 - May 2026
California State Prison, Corcoran: Correctional Treatment Center Individual Exercise Yards FY 22-23: \$381,000 Total Project Cost: \$1.8 million	This proposal requests funding to design two individual exercise yards (IEYs) adjacent to the Correctional Treatment Center at COR. The IEYs will allow maximum custody Mental Health Crisis Bed patients receiving inpatient mental health treatment at COR to participate in out-of-cell recreation therapy that is consistent with their treatment plan.	Preliminary Plans: July 2022 - April 2023 Working Plans: May 2023 - July 2023 Construction: August 2023 - October 2024

Continuing Projects	Description	Phase
Chuckawalla Valley State Prison, Blythe: New Potable Water Wells FY 22-23: \$1.1 million Total Project Cost: \$12.3 million	This proposal requests funding to design two new groundwater wells to supply adequate amounts of potable water for incarcerated individuals and staff at Chuckawalla Valley State Prison (CVSP) and Ironwood State Prison (ISP).	Preliminary Plans: July 2021 - November 2022 Working Plans: November 2022 - August 2023 Construction: December 2023 - February 2025
California State Prison, Sacramento, Folsom: New Cognitive Behavioral Treatment Classrooms FY 22-23: \$14.4 million Total Project Cost: \$15.3 million	This proposal requests reappropriation of funding for the working drawings phase and funding for the construction phase to design and construct three approximately 1,440 square foot (sf) classroom buildings (three classrooms per building) with restrooms for incarcerated individuals and staff and staff offices to support the Cognitive Behavioral Intervention (CBI) program, previously known as Cognitive Behavioral Treatment, at California State Prison, Sacramento (SAC).	Preliminary Plans: July 2018 - February 2020 Working Plans: February 2020 - August 2022 Construction: September 2022 - September 2024
California Health Care Facility, Stockton: Facility B Individual Exercise Yards FY 22-23: \$2 million Total Project Cost: \$2.6 million	This proposal requests funding to construct 10 individual exercise yards (IEYs) in Facility B at the California Health Care Facility (CHCF). The IEYs will allow maximum custody patients receiving inpatient mental health treatment at CHCF to participate in out-of-cell recreation therapy that is consistent with their mental health treatment plan.	Preliminary Plans: July 2021 - April 2022 Working Plans: May 2022 - August 2022 Construction: August 2022 - December 2023
California State Prison, Los Angeles County, Lancaster: Medication Preparation Room Unit D5 FY 22-23: \$3 million Total Project Cost: \$3.7 million	This proposal requests funding to construct a Medication Preparation Room (MPR) at the California State Prison, Los Angeles County (LAC) in housing unit D5. This improvement will increase staff productivity and safety as well as provide timely patient access to medication in compliance with the <i>Plata</i> court directives.	Preliminary Plans: July 2020 - November 2021 Working Plans: November 2021 - December 2022 Construction: December 2022 - July 2024
California Substance Abuse Treatment Facility and State Prison, Corcoran: Air Cooling Facility F and G FY 22-23: \$13.4 million Total Project Cost: \$16.1 million	This proposal requests funding to install air cooling systems with required fire/life/safety improvements in rehabilitative treatment, education, and office space within Facility F and G housing units at the California Substance Abuse Treatment Facility and State Prison, Corcoran (SATF) to provide indoor temperatures suitable for incarcerated individuals to receive treatment and education. High temperatures in these areas lead to missed treatment and education hours for incarcerated individuals through refusal to attend treatment and education, as well as the cancellation of sessions.	Preliminary Plans: July 2021 - April 2022 Working Plans: May 2022 - September 2022 Construction: February 2023 - May 2025

Reappropriations for Continuing Construction Projects. The proposed budget reappropriates \$8.205 million for five projects that have been delayed, outlined below.

Continuing Projects	Description	Phase and Delay Reason
Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant FY 22-23: \$375,000 Total Project Cost: \$32.5 million	This proposal requests reappropriation of funding of an arsenic and manganese removal water treatment plant at Valley State Prison (VSP) due to the increase in the levels of these constituents in the wells at VSP and the adjacent Central California Women's Facility (CCWF). This treatment plant will reduce arsenic and manganese levels to comply with the Environmental Protection Agency and State Water Resources Control Board drinking water quality standards at both VSP and CCWF.	Working Plans: May 2021 - March 2023 Construction: July 2023 - April 2025 Due to water table changes related to the drought, additional water constituent analysis is necessary during the working drawings phase.
Correctional Training Facility, Soledad: Health Care Facility Improvement Program – Specialty Care Clinic FY 22-23: \$1.6 Total Project Cost: \$13.6 million	This project is part of the California Department of Corrections and Rehabilitation's Health Care Facility Improvement Program to remedy deficiencies to health care facilities statewide. The improvements at the Correctional Training Facility have been divided into two phases. Phase I includes new Primary Care Clinics for Facilities A, C, and D, and renovation of Facility B's Primary Care Clinic and Facility C's Triage and Treatment Area. Phase II includes renovations to the Specialty Care Clinic in Facility C.	Construction: July 2019 - May 2023 Due to design errors and omissions, construction will be extended into the 2022-23 fiscal year.
Folsom State Prison, Folsom: Water Storage Tanks FY 22-23: \$1.4 million Total Project Cost: \$9.6 million	This proposal requests reappropriation of funding to construct two new 750,000 gallon water storage tanks necessary to support building fire suppression requirements as part of the Health Care Facility Improvement Program projects constructed at Folsom State Prison and California State Prison, Sacramento.	Construction: December 2020 - July 2022 As a result of additional coordination during the construction phase of electrical, fire alarm and controls, construction will be extended into the 2022-23 fiscal year.
San Quentin State Prison, San Quentin: New Boiler Facility FY 22-23: \$2.9 million Total Project Cost: \$27.8 million	This proposal requests reappropriation of funding of a new central high-pressure steam boiler facility at San Quentin State Prison. Boiler replacement is required for compliance with Bay Area Air Quality Management District regulations for gas-fired boiler emissions standards.	Construction: January 2021 - December 2023 Due to COVID-19 related delays, construction will extend beyond June 30, 2022.

Sierra Conservation Center, Jamestown: Health Care Facility Improvement Program – Central Health Services Building Renovation FY 22-23: \$1.9 million Total Project Cost: \$12.0 million	This project is part of the California Department of Corrections and Rehabilitation's Health Care Facility Improvement Program to remedy deficiencies to health care facilities statewide. The improvements at the Sierra Conservation Center have been divided into two phases. Phase I includes a new Pharmacy and Lab, a new Health Care Administration Building, and Facility C Primary Care Clinic renovation and addition. Phase II includes renovations to the Central Health Services (CHS) building.	Construction: July 2019 - March 2023 As a result of design errors and omissions and COVID-19 related delays, construction will be extended into the 2022-23 fiscal year.
---	---	--

Staff Recommendation. Hold Open.

Issue 4: Various Facilities and Construction Proposals

Governor's Budget. The proposed budget includes \$4.5 million one-time General Fund, \$22.2 million ongoing General Fund, and \$1.1 million reimbursement authority for related construction and facility projects, such as support for statewide capital outlay planning and roof repair projects.

Background.

- ***Statewide: Budget Packages and Advanced Planning.*** The proposed budget includes \$1 million to perform advanced planning functions and prepare budget packages for capital outlay projects to enable CDCR to provide detailed information on scope and costs on requests for planned projects.
- ***Roof Replacement Design and Construction.*** The proposed budget includes \$2 million General Fund in 2022-23 for the design phase and \$71 million General Fund in 2023-24 for the construction phase of roof replacements at the California Institution for Men and California Medical Facility.

Approximately \$313 million over the past five budget years for roof replacements at 11 adult institutions. CDCR has prepared a phased schedule for statewide institution roof replacements that prioritizes roof replacements at prisons housing significant high risk medical populations and those providing accessible housing. Roof replacements at CIM and CMF have been prioritized as the next institutions to be replaced based on the statewide prioritization list.

- ***Support for Inmate-Ward Labor Construction Projections.*** The proposed budget includes \$1.1 million in reimbursement authority and 13 positions ongoing to support the Inmate/Ward Labor (IWL) Program.

Since the 1980s, CDCR has operated the IWL Program, which provides incarcerated individuals on-the-job vocational skills in construction, renovation, and repairing buildings/infrastructure while also providing significant construction and repair benefits to prison infrastructure. The IWL Program has participation from the State Building and Construction Trades Council of California, local trade unions, as well as institutional executive and education staff.

Some of the types of projects that IWL is currently working on include HCFIP projects, statewide roofing projects, Americans with Disabilities Act (ADA) improvements, and medication distribution projects. Nearly 650 incarcerated individuals and juvenile offenders participated in IWL Program construction projects during 2021.

The increased workload is the direct result of both court-mandated construction projects, which address statewide medical, mental health, and disabled accessibility issues, and a variety of other infrastructure projects. These positions will provide necessary administrative support in construction field offices by performing administrative tasks required for current construction projects.

- ***Updating the Utilities and Waste Removal Funding Methodology.*** The proposed budget includes \$22.2 million ongoing General Fund to establish an updated funding methodology for utilities and waste removal expenditures.

Currently, both utilities and waste removal are funded using a combination of base funding and annual population-driven funding adjustments. Over time and with the decreasing incarcerated population, this funding methodology has not kept pace with rising costs, and CDCR has had to realign funding to make up the shortfalls.

CDCR proposes to adjust utilities and waste removal methodologies to disassociate the funding from population changes, and to establish a base of the average of three years of actual expenditures. In future years, CDCR will adjust utilities and waste removal funding annually by applying an adjustment based on the California Consumer Price Index (CPI). This methodology will better match CDCR's annual utilities and waste removal liabilities.

- ***Repurposing Condemned Housing.*** The proposed budget includes \$1.5 million one-time General Fund for a consulting contract to repurpose condemned housing and support spaces at San Quentin State Prison. Over the next two years, CDCR will be shutting down the condemned housing unit at San Quentin and transferring people to other housing, to provide access to work-related programs and enable them to pay court-ordered restitution, as required by Proposition 66.

LAO Comments and Recommendations on Repurposing Condemned Housing.

Governor's Proposal. The Governor proposes \$1.5 million one-time General Fund for the California Department of Corrections and Rehabilitation (CDCR) to hire a consultant to assess and recommend options for repurposing condemned inmate housing facilities at San Quentin State Prison. The department indicates that the scope of the consultant's work has not yet been fully defined. However, it anticipates that the consultant would generally be tasked with recommending ways to modify facilities to house and meet the needs of non-condemned, lower security inmates. For example, the consultant would likely be required to recommend options for identifying space for inmate rehabilitation programs.

Public Health Concerns Identified with San Quentin Facilities. Rapid spread of COVID-19 at San Quentin—particularly during a major outbreak in the summer of 2020—has raised significant public health concerns about the safety of housing facilities at San Quentin, including the condemned inmate housing facilities. This is because these facilities consist of five housing tiers stacked on each other with barred cell doors and generally poor ventilation. According to an infectious disease epidemiologist and professor at the University of California Irvine who testified in a court case related to CDCR's handling of COVID-19 at San Quentin, the architecture of these facilities presents a major problem. Specifically, barred cell doors allow air to flow between neighboring cells and stacked tiers allow infectious droplets to travel from the top to the bottom of the facilities, entering cells along the way. Moreover, there is very little outside air intake to these facilities, meaning that air containing the virus can be recirculated throughout the facility.

Direct CDCR to Provide Additional Information. Although CDCR has not fully defined the scope of the proposed consultant's work, the department indicates that it does not plan to require the consultant to consider the above public health concerns. We note, however, that to the extent CDCR later modified the facility to address public health concerns—such as by improving outside air intake—such changes could require the department to remove or destroy the modifications made resulting from the work of the consultant. In order to ensure that the Governor's proposal is aligned with legislative priorities in assessing and addressing the needs of the housing facilities at San Quentin, we recommend the Legislature direct the department to report the following information at spring budget hearings: (1) the defined scope of the proposed consultant's work, (2) the rationale for not having the consultant consider the public health concerns that have recently been identified, and (3) the cost of requiring the consultant to make recommendations on how to address these concerns.

Staff Comment.

Redirection of resources and new utility and waste calculation. CDCR has indicated that they have been absorbing the excess utility and waste removal costs in their general operating budget. This proposal would free up a significant amount of funding. In addition, the proposed CPI adjustment would not account for increased energy and water efficiency programs, or any eventual prison closures or consolidations that would accompany a significant decline in the incarcerated population. The Legislature should consider how these could be incorporated in the new calculation.

Staff Recommendation. Hold Open.

2600 CALIFORNIA TRANSPORTATION COMMISSION**Issue 5: Implementation of SB 671**

Governor’s Budget. The budget includes \$770,000 in 20223-23, and \$320,000 per year for 2023-24 and 2024-25, for two full-time, limited-term positions and for a one-time consultant contract to implement the provisions of SB 671 (Gonzalez), Chapter 769, Statutes of 2021, relating to the development of the Clean Freight Corridor Efficiency Assessment. This request is consistent with the fiscal estimate of the bill at time of enactment.

Background. SB 671 (Gonzalez, Chapter 769, Statutes of 2021), which establishes the Clean Freight Corridor Efficiency Assessment (Assessment), to be developed by the Commission in coordination with other state agencies. It also codifies parts of the Commission’s Trade Corridor Enhancement Program (TCEP) guidelines that deem eligible for funding projects that employ advanced and innovative technology to improve the flow of freight and environmental and community mitigation of freight movement impacts. The Commission is required to coordinate with the State Air Resources Board (CARB), Public Utilities Commission, State Energy Resources Conservation and Development Commission (CEC), and the Governor’s Office of Business and Economic Development in developing the Assessment, and must submit a report detailing the Assessment and its recommendations for the deployment of zero-emission medium- and heavy-duty vehicles to the Legislature by December 1, 2023. The bill directs the Commission, CARB, CEC, and Caltrans to incorporate the findings of the Assessment, to the extent feasible and applicable, into programs and guideline documents related to freight infrastructure and technology.

Staff Comments. Upon the passage of SB 671, the CTC estimated that implementation of the bill would require one-time costs of approximately \$900,000 for a consultant contract for the performance of research and data analysis necessary to identify the freight corridors and infrastructure needed to support medium- and heavy-duty zero emissions vehicles, and provide other expertise and materials. It also estimated ongoing administrative costs of approximately \$323,000 for three years and \$178,000 annually thereafter for two staff (one three-year limited term, one permanent) to oversee the consultant contract, coordinate with state agencies, and consult with other specified public and private entities to develop the Assessment and recommendations, issue the report and ensure adequate adoption into other programs and guidelines.

The budget proposal here suggests implementation costs that are significantly lower than initially estimated by the CTC. The Legislature may want to consider the extent to which the requested resources are appropriate and sufficient for the requirements of the bill, or if additional resources are required.

Staff Recommendation: Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Thursday, April 28, 2022
Upon adjournment of session
1021 O Street - Room 2200

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION	2
Issue 1: Visitation and Remote Communication Opportunities.....	2
Issue 2: Control Section 20.00	4
Issue 3: Community Reentry Programs	6
Issue 4: Real-Time Measurement of Parole Programming and Outcomes	9
Issue 5: Community Corrections Performance Incentive Fund Stabilization	10
5227 BOARD OF STATE AND COMMUNITY CORRECTIONS	13
Issue 6: Adult Reentry Grant.....	13

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

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

Issue 1: Visitation and Remote Communication Opportunities

Background. Numerous studies have demonstrated the benefits of contact between incarcerated people and their loved ones¹. 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. Therefore, increasing opportunities for in-person visitation and remote communications is both humane and promotes public safety for the community.

Visitation. In 1975, the Legislature laid out a list of rights for the incarcerated population, such as the right to correspond confidentially with a lawyer (PEN 2601). This section originally included the right “To have personal visits; provided that the department may provide such restrictions as are necessary for the reasonable security of the institution.” However, this clause was repealed in 1996 (SB 1221, Statutes of 1996, Chapter 132), to allow for visitation to be used as a reward (or lack of visitation as a punishment). During this time, visitation days and hours were also severely curtailed. As of January 2020, institutions only offered two days of in-person visitation per week. According to the Coalition for Family Unity, only 34 percent of incarcerated people in California receive one or more visit a year.

The enacted 2021-22 budget included a third day of in-person visitation on Fridays at all institutions. In addition, it provides visitors with free transportation on select days throughout the year to all prisons via chartered busses. The budget appropriated \$20.3 million ongoing General Fund to support this change.

COVID-19 and Visitation. In March 2020, due to the COVID-19 pandemic, CDCR stopped in-person visiting to curtail the spread of the virus into the prison. CDCR resumed in-person visitation on April 10, 2021, but it has been suspended at various points due to increases in cases. Currently, CDCR classifies institutions as either “Outbreak Phase” if there have been three or more related cases of COVID-19 among incarcerated persons within 14 days, or “Open Phase” otherwise. Institutions in the outbreak phase are closed to visitation and have limited opportunities for programming and other non-essential health care and other functions. As of April 24, 2022, all CDCR institutions were classified as open.

Remote Communication Options. Several measures were implemented to increase remote communications during the pandemic. These include increasing the number of free phone calls, offering one-hour video visits (beginning December 2020), and expanding a tablet program that will allow for text messaging and emails.

Most of these services are provided by ViaPath Technology (formerly known as Global Tel Link or GTL)². ViaPath also is taking over the tablet program, which was piloted by JPay³. Through

¹ https://www.prisonpolicy.org/blog/2021/12/21/family_contact/

² <https://www.cdcr.ca.gov/family-resources/gtl-tablets/>

³ <https://prisonjournalismproject.org/2021/03/26/when-california-prisons-switch-tablet-vendors/>

this program, ViaPath will provide tablets to the entire incarcerated population, which they can use for video calling, text messaging, and other functions. Incarcerated persons receive some free services, including limited phone calls and messaging, and access to certain books and reading materials. They can also pay for additional services, including music, videos, audiobooks and additional communications. These contracts are no cost to the state, and ViaPath provides the equipment, including the tablets. In May 2021, CDCR renegotiated the phone contract 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.

The enacted 2021-22 budget included \$12 million General Fund one-time for CDCR to add an additional 60 minutes of free telephone calls to each incarcerated person every two weeks, bringing the total amount of free calling to 75 minutes every two weeks. This funding was also intended to cover 60 free electronically transmitted outgoing written messages, equivalent to an email or instant message, per month.

Visiting Scheduling Application (VSA). Through a separate contract, ViaPath also operates the application through which people sign up for in-person and video visits. This process was migrated earlier this year from a different application called Vpass. However, significant issues with VSA have been reported, exacerbated by extremely high demand for still limited appointment availability. This include technical issues such as freezing and crashing due to high traffic when appointments are released. In addition, due to limited availability, appointments are often immediately booked. This has led to considerable frustration, as family members wake up early (many appointments are released at 6am) and spend a long time trying to get into and through the system only to find that all the appointments are gone already.

This is an informational item to receive an update from the Administration on the status of visitation and communication options at CDCR, including the implementation of the referenced items from the 2021-22 Budget and, with acknowledgement of the necessary pandemic restrictions, what additional steps could be taken to improve the visitation process for incarcerated persons and their loved ones.

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

Issue 2: Control Section 20.00

Governor's Budget. The Administration proposes to add control section language to the annual budget act that would allow the Department of Finance (DOF) to extend the encumbrance and liquidation deadlines for and revert various bond and non-governmental cost funds upon providing the Joint Legislative Budget Committee (JLBC) with a 30-day notification.

Background. Each year, the budget includes a significant amount of language to reappropriate funding, extend encumbrance periods, and otherwise adjust previously approved funding. The proposed control section language would change the process for approving changes to funding approved for projects funded by certain bonds and accounts. The funds proposed to be covered by this process include, for example, lease revenue bonds, as well as several General Obligation bond funds. The change would not apply to General Fund expenditures and would largely affect resources-related projects.

Currently, the administration must submit a budget change proposal through the traditional budget process to request reappropriations and reversions associated with such funds. According to DOF, this proposal is intended to reduce the amount of technical workload associated with making reappropriation and reversion requests. DOF further indicates that its intent is to retain transparency by including a spreadsheet with certain key information about the requested extensions and reversions (such as relevant dates and dollar amounts) along with the JLBC notification, and to limit its use of this new authority to technical actions that would not be expected to raise concerns. Under the proposed language, notifications could be submitted at any time during the year. However, DOF indicates that it anticipates submitting most proposed extensions and reversions as part of two submissions per year, likely January/February and April/May.

This language does not affect General Fund expenditures, which constitute most of CDCR's capital outlay projects. There is currently one lease revenue bond-funded project at CDCR, which was reappropriated in 2021-22. This project is to build a 50-bed Mental Health Crisis Facility at the California Institute for Men, Chino⁴. This project was submitted as a Capital Outlay Budget Change Proposal in 2021-22 and had to be approved through the standard BCP process. Under the new process, the reappropriation could be made through a JLBC notification.

LAO Comments.

Proposal Has Some Merit, But Recommend Modifications to Increase Legislative Oversight. We find the concept of streamlining the process for the administration to request technical, non-controversial reappropriations/extensions and reversions of certain bond and non-governmental funds to be reasonable. However, in general, the JLBC process can make it more challenging for the Legislature to perform its oversight role than the traditional budget process. Accordingly, ensuring that the administration limits its use to cases that are indeed technical and non-controversial will be important, and any revised process should provide the Legislature with the time and information necessary to facilitate its review. We therefore recommend that the Legislature consider modifying the proposed language in the following areas:

⁴ https://esd.dof.ca.gov/Documents/bcp/2122/FY2122_ORG5225_BCP4624.pdf

Types of Projects Covered. We recommend that the Legislature consider adding additional limitations on this new authority to ensure that it only applies to projects and programs for which the Legislature is comfortable that a JLBC process would provide adequate oversight. For example, the Legislature could consider excluding certain bond-funded projects from this process if there are concerns that these projects may require additional oversight. For example, greater oversight of prison projects that are not on track to be completed in the timeline initially presented to the Legislature could be warranted. This is because inmate population projections indicate that the state could be in a position to close around four additional prisons (beyond the one prison already identified by the administration for closure) within the next several years and it would not be cost-effective to reappropriate funds to continue projects at prisons that could be closed. Accordingly, the Legislature may wish to consider excluding the California Department of Corrections and Rehabilitation's (CDCR's) prison projects from this process to preserve its current oversight of prison infrastructure projects. Alternatively or additionally, the Legislature could consider excluding bond-funded projects that meet certain criteria from this process. For example, the Legislature could exclude lease-revenue funded projects that (1) are above a certain dollar threshold if it is concerned about applying the proposed process to very large legislatively-established projects or programs (such as CDCR's Health Care Facility Improvement Program, which totaled over \$1 billion in lease revenue bonds) or (2) have already received one or more previous reappropriations/extensions due to concerns about projects that have continuously experienced lengthy delays.

Timing. It is more difficult for the Legislature to adequately review JLBC notifications that are received during periods of peak budget workload. Accordingly, we recommend the Legislature consider adding language to the proposed control section requiring corresponding JLBC notifications to be submitted prior to May 1st each year. If the administration would like to request additional funding extensions or reversions after May 1st, it could do so through a traditional budget request.

Information Provided. As mentioned above, in our conversations with DOF, we understand that it intends to provide a spreadsheet with certain key information on the proposed extensions along with the JLBC notification in order to facilitate legislative review. In order to memorialize DOF's intent for the benefit of future policymakers, we recommend that the Legislature add language to the control section *requiring* that this information be provided as part of the notification.

Staff Recommendation. Hold Open.

Issue 3: Community Reentry Programs

Proposal. The Senate is considering a proposal to expand community reentry programs, which provide incarcerated persons with a community-based residential setting for the last portion of their sentence.

Background. More than 30,000 people are released from California's prisons each year. Approximately 46 percent of released inmates in California are reconvicted within three years of release. This high rate of recidivism results in significant increases in crime and cost to the state and reflects the significant barriers to successful reentry. Many incarcerated persons are in prisons located far from their homes, with limited opportunities to stay connected with their families, communities, and the resources they will need to successfully reenter.

Existing Programs. CDCR currently operates the Male Community Reentry Program (MCRP) and the Custody to Community Transitional Reentry Program (CCTRP) to provide community settings for men and women, respectively, nearing the end of their sentences. There is capacity for around 1,000 people in these programs, who participate for up to two years at the end of their sentence. 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. 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.

Eligibility. CDCR has the authority to set regulations for MCRP and CCTRP eligibility. Generally, incarcerated persons must apply to participate. Incarcerated persons with certain convictions (including sexually violent offenses), who are deemed high-risk, or have attempted escapes or had other misconduct are not eligible for MCRP and CCTRP. In addition, there must be a facility in the person's County of Last Legal Residence, or they may request to transfer post-release supervision to a county with a facility. Participants may also be returned to state prison at CDCR's discretion.

Cost. CDCR contracts with outside entities to operate the facilities. In FY 20-21, CDCR was authorized to spend \$36 million on MCRP. The average daily cost per inmate in CDCR is \$291⁵. However, many of these are fixed costs (for example facility costs). The LAO estimates that the marginal cost of housing one person at CDCR is around \$35 per day.

According to Amity, building out a single 200-bed facility costs \$10 to \$15 million and the average daily cost per person in an MCRP is \$100 to \$150. If the facility were full, the short-term operational costs to the state would be around \$8 million per year (the difference between the marginal cost of housing 200 people at CDCR and the estimated cost of housing 200 people at an MCRP). However, in the long term, the facility would save the state around \$10 million per year (the difference between the full cost of housing 200 people at CDCR and the estimated cost of housing 200 people at an MCRP). This estimate also does not include the additional savings and other benefits the state would receive from reducing the reconviction rate.

⁵ https://lao.ca.gov/policyareas/cj/6_cj_inmatecost

Healthcare Costs. CDCR is responsible for the health care of people in its custody, which accounts for around 30 percent of the cost of incarcerating an individual. Currently, individuals in MCRP and CCTRP are not eligible to draw down federal funding through Medi-Cal. However, some states, including California, have been granted waivers to provide transitional care for re-entry⁶. If an agreement or waiver can be worked out to use federal funding for some health care services in community reentry programs, that would represent significant additional savings to the state.

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 programs for nine months or longer were 92% less likely to be reconvicted than a control group that completed their full sentences within California prisons⁷. The results also suggest that while some effects were seen at 7 months, the programs were most effective if people participated for at least 9 months. The authors recommended that the state ensure MCRP stays are at least nine months long, expand MCRP to additional sites and locations, and continue to collect data and analyze outcomes.

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% for participants in the program compared to 35% overall)⁸, and numerous other studies have found similar positive effects in other states and in federal 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.

Recommendation of the Committee on Revision of the Penal Code. The 2021 Annual Report from the Committee on Revision of Penal Code⁹ included a recommendation to expand CDCR's existing community-based residential reentry programs.

The Committee made two specific recommendations:

1. Expand the current programs so that eventually all people serve up to their last two years of prison in community-based residential reentry programs.
2. Allow the Board of Parole Hearings to grant release to a residential reentry program.

The Committee also included two additional points for consideration:

- The location of the community-based reentry housing programs should be within close proximity to participants' counties of origin in order to best help them transition back to their communities.

⁶ https://www.shadac.org/sites/default/files/publications/Justice-involved1115-waiver-initiatives_01.2020.pdf

⁷ https://stacks.stanford.edu/file/druid:bs374hx3899/MCRP_Final_060421.pdf

⁸ <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/09/Recidivism-Report-for-Offenders-Released-in-Fiscal-Year-2015-16.pdf>

⁹ http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2021.pdf

- The Committee noted concerns about the operation of residential reentry programs by for-profit entities, as some believe they employ “exploitative practices,” and their incentives may not be best-aligned with assisting people to successfully transition back to their communities and lower recidivism.

Staff Recommendation. Hold Open.

Issue 4: Real-Time Measurement of Parole Programming and Outcomes

Proposal. The Senate is considering a proposal to enable additional analysis of CDCR's data on reentry programming and outcomes.

Background.

CDCR collects a significant amount of data about its in-custody population, as well as the parolees it supervises. Despite this, it is often difficult to get data about the successes or failures of various reentry programs, such as those providing short-term housing, substance use disorder treatment, or other supportive services.

Recidiviz is a non-profit that specializes in analyzing criminal justice data. They currently work with eight other states to analyze corrections and parole data, and they have a data sharing agreement with CDCR. The budget proposal is for \$12 million over three years and includes the develop of a data collection and visualization tool that would enable easier access to data about reentry outcomes. The proposal includes analyzing reentry outcomes in the context of community characteristics such as availability of housing, transportation, employment, and treatment or reentry programming. Proposed metrics include outcomes, such as recidivism rates, and intermediate steps, such as securing housing.

Staff Recommendation. Hold Open.

Issue 5: Community Corrections Performance Incentive Fund Stabilization

Governor’s Budget. The Administration is requesting statutory changes be adopted to appropriate \$122,829,397 from the General Fund to the State Community Corrections Performance Incentives Fund, established pursuant to Penal Code section 1233.6, for the community corrections program for three years. These changes would establish the same level and allocation of funding specified in Chapter 80, Statutes of 2021 (AB 145) through 2024-25.

Background.

SB 678 and modifications. The Legislature designed the California Community Corrections Performance Incentives Act of 2009, or SB 678 program with two purposes: 1) to alleviate state prison overcrowding and 2) save state General Fund. These purposes are to be accomplished without compromising public safety by reducing the number of individuals on felony supervision (i.e. felony probation, mandatory supervision, post release community supervision) who are sent to state prison. The program is also designed to encourage county probation departments to use evidence-based supervision practices to accomplish these goals.

Since passage of the act, the State of California has adopted significant changes in criminal justice policies that directly impacted SB 678—most notably the 2011 Public Safety Realignment, which reduced the number of probationers eligible for revocation to state prison and created two new groups of offenders subject to local supervision. In order to maintain effective incentives and account for the significant changes in criminal justice policy, SB 85, adopted as a trailer bill to the 2015–2016 State Budget, revises the SB 678 funding formula and creates a funding methodology that should serve as a long-term formula.

The existing statutory formula is based on year-to-year prison revocation metrics and is intended to serve as a financial incentive for probation departments successfully keeping individuals on probation from returning to state prison. Below is a summary of the SB 678 funding formula, which includes three funding components:

- *Funding Component #1: Comparison of county to statewide return to prison rates.* The first funding component measures each county’s performance against statewide failure rates. Each county’s return to prison rate (RPR), which equals the number of individuals on felony probation, mandatory supervision, and PRCS sent to prison as a percentage of the total supervised population, is compared to statewide RPRs since the original SB 678 baseline period (2006– 2008).
- *Funding Component #2: Comparison of each county’s return to prison rate and its failure rate in the previous year.* The second funding component is based on how each county performs in comparison to its performance the previous year. Each year a county’s RPR from the previous year is applied to its current year’s felony supervised populations to calculate the expected number of prison revocations. If a county sends fewer individuals on felony supervision to prison than the expected number, the county will receive 35% of the state’s costs to incarcerate an individual in prison multiplied by the number of avoided prison stays. The number of avoided prison revocations are calculated separately for each

felony supervised population (i.e. felony probation, mandatory supervision, Post-Release Community Supervision).

- *Funding Component #3: \$200,000 minimum payment.* The third funding component guarantees a minimum payment of \$200,000 to support ongoing implementation of evidence-based practices. If a county's total payment (from funding components 1 and 2) is less than \$200,000, the Department of Finance will increase the final award amount so that it totals \$200,000.

Yearly Allocations from SB 678. At the end of each calendar year the California Department of Finance determines each probation department's SB 678 funding allocation based on each county's performance as described above. County probation departments must spend SB 678 funds on the implementation or enhancement of evidence-based practices, including, but not limited to, risk/needs assessment, use of graduated sanctions, and provision of evidence-based treatment modalities such as cognitive behavioral therapy.

Recent Policy Changes that Impact Probation Departments. The following changes will or have had impacts on probation departments:

- *Reduction in Maximum Probation Terms AB 1950 (Kamlager), Chapter 328, Statutes of 2020.* AB 1950 reduced maximum probation terms to one year for misdemeanors and two years for felonies. Previously, misdemeanor probation terms could last up to three years and felony probation terms could last up to five years or the maximum sentence for the offender's crime, whichever was greater.
- *COVID-19-Related Prison Releases to PRCS.* Beginning in April 2020, CDCR began releasing certain incarcerated persons with nonviolent offenses who are within 180 days of their release date in order to mitigate the spread COVID-19 by reducing the population density in prisons. This policy has resulted in a temporary increase in the PRCS population. The state has been providing county probation departments with about \$28 per day for each day that an inmate is released early.
- *Juvenile Justice Realignment.* SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020 established a plan to fully realign the state's juvenile justice responsibilities to counties. DJJ stopped intake on July 1, 2021. Going forward, youths who would otherwise have been placed in DJJ will instead be supervised by county probation departments. The 2020-21 budget provided BSCC with \$9.6 million (one-time General Fund) for competitive grants to counties intended to support the implementation of SB 823. Funds can be used for infrastructure-related needs and improvements associated with the realigned responsibilities. Recipients must submit a report on how the funding is used. Pursuant to SB 823, the state will provide annual General Fund support to counties beginning in 2021-22 with \$46.5 million—increasing to about \$208 million by 2024-25—to support the juvenile justice realignment. Funding will be distributed based on each county's total youth population, historical use of DJJ, and the number of youth with adjudications for certain serious or violent crimes. Beginning in 2022-23, counties will need to submit for state approval plans on how the funding would be utilized.

According to the Administration, the revocation data used in the formula has been significantly impacted by the pandemic and is complicated by factors beyond county probation departments' control. Providing payments based on current statutory requirements could impact individual counties unrelated to their performance.

Staff Comments.

Maintaining the intent of the funding. This funding is intended to serve as a financial incentive for probation departments to prevent individuals under their supervision from returning to state prison. Freezing the funding reduces this incentive, and it may be difficult to revert to the formula at the end of the three-year period. While the pandemic has complicated the data used in the formula, the Legislature should consider how to maintain the intent of the fund in light of the ongoing nature of the pandemic.

Staff Recommendation. Hold Open.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**Issue 6: Adult Reentry Grant**

Background. In an effort to address some of the barriers to reentry, the Budget Act of 2018 allocated \$50 million on a one-time basis for reentry and diversion efforts. Budget bill language within SB 840 (Mitchell), Chapter 29, Statutes of 2018, specified that the funding should be allocated for reentry grants to community-based organizations for rental assistance (\$25 million), the rehabilitation of property or buildings for housing offenders released from prison (\$15 million), the warm hand-off and reentry of offenders transitioning from prison to communities (\$9.4 million), and the Berkeley Underground Scholars Initiative (\$150,000). The BSCC was selected as the entity to administer grant funding. Additional funding was provided in subsequent budgets, resulting in an ongoing baseline of \$37 million General Fund for the Adult Reentry Grant (ARG).

The 2021-22 budget included a one-time \$30 million General Fund augmentation to provide additional grant funding to organizations that provide rental assistance and warm handoff and reentry services for individuals released from state prisons. This brings the total funding level for 2021-22 to \$67 million, including \$31.825 million for Rental Assistance, \$31.825 for Warm Handoff and Reentry Services, and up to 5 percent to BSCC for administrative costs.

Permissible use of grant funds includes but is not limited to the following:

- Case management services
- Housing Navigation
- Permanent supportive housing
- Rent subsidies
- Short-term emergency housing assistance
- Transitional housing

As of February 2022, a total of 115 projects have been awarded \$105,727,500 in ARG funding. Cohort 1 funded 70 projects: 53 Warm Handoff projects, 16 Rental Assistance projects and 1 Rehabilitation of Property project. Cohort 2 funded 45 projects: 8 Rental Assistance projects and 37 Warm Handoff Reentry Services projects. A new competitive-bid process is currently under way and BSCC expects to award Cohort 3 Rental Assistance and Warm Handoff Reentry Services projects in Fall 2022.

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

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, May 3, 2022
9 a.m.
1021 O Street - Room 2200

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

0250 JUDICIAL BRANCH.....	2
Issue 1: Legal Aid Proposals	2
Issue 2: Court Filing Fees	4
Issue 3: Court Appointed Special Advocates	5
VARIOUS DEPARTMENTS.....	6
Issue 4: Firearm Relinquishment Improvement Program	6
Issue 5: Victim Services	9
Issue 6: Regional Public Safety Collaboratives	14

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

0250 JUDICIAL COUNCIL

Issue 1: Legal Aid Proposals

Proposal. The Senate is considering a proposal to strengthen access to legal assistance for Californians, including increasing legal aid funding for eviction and consumer debt cases and creating a loan repayment program to recruit legal aid lawyers.

Background.

According to the 2022 Justice Gap Study by 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 programs¹. In addition, 33 percent of low-income Americans had at least one civil legal problem linked to the COVID-19 pandemic in the last year, typically involving access to resources (such as unemployment) or related to housing.

California provides 104 nonprofit legal aid organizations with funding through the IOLTA (Interest on Lawyers' Trust Accounts) program and the Equal Access Fund (EAF)². These organizations provide free legal services to indigent clients, defined as having income 200 percent or less of the federal poverty threshold, being eligible for Supplemental Security Income, and/or being eligible for free services under services under the Older Americans Act or Developmentally Disabled Assistance Act. The 2021-22 budget included \$70 million for the EAF, including \$40 million ongoing and \$30 million one-time.

Eviction and Consumer Cases. According to the National Equity Atlas, over 700,000 households in California are behind on an estimated \$3.1 billion in rent³. Of the households behind on rent, 80 percent are low-income, 78 percent are people of color, and 50 percent are families with children. In addition to the EAF funding mentioned above, the 2021-22 Budget included \$80 million over three years ARPA funds to provide legal aid services for renters and homeowners.

In addition, according to the Justice Gap Study, "One-half (50%) of low-income households experienced a problem related to consumer issues. Common problems in this area include difficulties with medical debt (affecting 26% of all low-income households), having utilities disconnected (18%), dealing with harassment from creditors (16%), and falling victim to a scam (15%)." In addition, debt collection lawsuits doubled nationwide from 1993 to 2013 and have continued to grow in both number and share of civil dockets, and less than 10 percent of defendants have counsel⁴. More than 70 percent of debt collection lawsuits are resolved with default judgements for the plaintiff.

¹ <https://justicegap.lsc.gov/resource/executive-summary/>

² <https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Legal-Aid-Grant-Recipients.pdf>

³ <https://nationalequityatlas.org/rent-debt>

⁴ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts>

Loan Repayment Assistance Programs (LRAPs). According to the California Access to Justice Commission (ATJ), there is one legal aid attorney for every 7,000 Californians who are eligible for legal help. Legal aid attorneys are paid significantly less than other comparable jobs in government agencies or the private sector, and they face significant educational debt. Educational debt repayment is a common recruitment tool used for high-need professions, including teaching and health care. For legal aid attorneys, a typical loan payment in an income-based repayment program is \$5,000 or less annually. LRAPs can help relieve the burden of this debt and are tax-exempt up to \$5,250 per year. A \$10 million appropriation could provide 2,000 attorneys with up to \$5,000 each in loan repayment. According to ATJ, there are 1800 attorneys working at organizations funded through IOLTA and 850 immigration attorneys funded by the Department of Social Services.

Staff Recommendation. Hold Open.

Issue 2: Court Filing Fees

Proposal. The Senate is considering a proposal to increase the income threshold for automatic waivers of court filing fees. Fee waivers are currently automatically granted to individuals with incomes below 125% of the federal poverty threshold and/or on certain types of government assistance. This proposal would raise the income threshold, and base it on a percentage of the state median income to reflect California's cost of living.

Background.

The Legislature has taken significant action through the state budget process to address fines and fees in the criminal system. However, there are also significant fees on the civil side. As discussed in the previous item, low-income Californians are likely to face civil legal issues. In civil cases, even defendants must pay a fee to file a response. The statewide civil filing fee to respond to a debt collection lawsuit is currently \$435. Thus, even if the lawsuits are groundless, the cost of simply filing a response to the suit in court is too much for many Californians to pay. As mentioned in the previous item, more than 70 percent of debt collection lawsuits are resolved with default judgements for the plaintiff⁵.

Under current law, to get the court to waive the filing fee automatically, a person must receive certain government benefits or have an income under 125 percent of the federal poverty threshold. Individuals who do not qualify automatically may petition for a fee waiver, but it is an intensive process requiring significant documentation about household expenses. For comparison, the definition of an indigent client for legal aid purposes is 200 percent of the federal poverty threshold (SB 498 (Umberg), Chapter 688, Statutes of 2021), which is \$55,500 for a family of four. Raising the income threshold for automatic fee waiver to this level would cost the state an estimated \$18 million annually. Raising the income threshold to \$72,080, which is 80 percent of the state median income, would cost the state an estimated \$32 million annually.

Staff Recommendation. Hold Open.

⁵ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts>

Issue 3: Court Appointed Special Advocates

Proposal. The Senate is considering a proposal to provide additional funding to the California Court Appointed Special Advocate (CASA) Association to expand CASA services in the state. CASAs are volunteers appointed by judges to provide direct support and advocacy to youth in foster care. Currently, 13,000 foster children have CASA volunteers, representing 16 percent of the roughly 80,000 youth in foster care. The California CASA Association is requesting \$75 million over three years to expand their services to additional youth.

Background.

CASAs are volunteers appointed by judges to provide direct, one-on-one, consistent support and advocacy to children in foster care. These volunteers are trained and supervised by professional staff through a network of local programs, and typically stay with the same child throughout the entire court process. Children with a CASA tend to experience better outcomes⁶.

In California, there are 44 local programs serving 51 counties. Last year, nearly 13,000 foster children had CASA volunteers. However, that represents only 16 percent of the roughly 80,000 youth in foster care. It costs roughly \$4,000 per CASA per year, amounting to around \$50 million per year in California. The state contributes \$2.7 million annually, which provides paid staff members to oversee the local programs. CASA programs also receive Victims of Crime Act (VOCA) and philanthropic funding.

The California CASA Association is requesting \$75 million over three years to expand outreach and recruitment efforts, improve CASA training, and expand infrastructure so they can serve additional youth in foster care. The California CASA Association proposes to distribute \$60 million of the funding to local CASA programs to expand recruitment and training programs and stabilize local budgets and staffing. The remaining funding would be used statewide for volunteer recruitment initiatives, shared resources and infrastructure, development of statewide training curriculum, and other uses.

Staff Recommendation. Hold Open.

⁶ <https://nationalcasagal.org/our-impact/research-and-effectiveness/>

VARIOUS DEPARTMENTS**Issue 4: Firearm Relinquishment Improvement Program**

Proposal. The Senate is considering a proposal to implement a relinquishment program to remove firearms more promptly from individuals with court-ordered prohibitions on owning firearms.

Background.

According to a 2018 survey from the Firearm Violence Research Center at UC Davis⁷, 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 rate⁸.

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 2020⁹. 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 access¹⁰.

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 danger to themselves or others due to mental illness, or have a restraining order against them. From 2008 to 2021, the number of such persons more than doubled—from 10,266 to 23,598 individuals. 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 31 percent increase in homicides and a 9 percent increase in aggravated assaults between 2019 and 2020. In a July 2021 analysis of violent crime in large California counties, PPIC found that the share of crimes involving guns increased for homicides, aggravated assaults, and robberies. These increases mirror nationwide trends. Preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

As shown below, total firearm-related deaths increased from 2,925 deaths in 2019 to 3,428 deaths in 2020—an increase of 503 deaths (or 17 percent). Of this amount, homicide firearm deaths increased from 1,246 deaths in 2019 to 1,731 deaths in 2020—an increase of 485 deaths (or

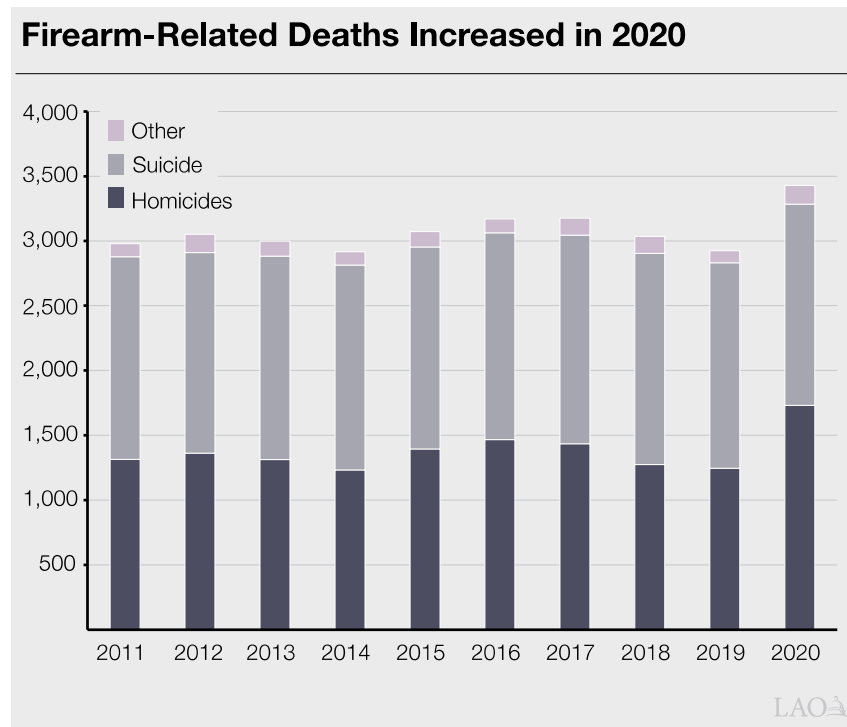
⁷ https://health.ucdavis.edu/vprp/UCFC/Fact_Sheets/CSaWSBrief_InjPrev_Kravitz-Wirtz.pdf

⁸ <https://journalistsresource.org/health/gun-buybacks-what-the-research-says/>

⁹ <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>

¹⁰ <https://www.nejm.org/doi/full/10.1056/NEJMSa1916744>; <https://www.latimes.com/science/la-sci-guns-20140121-story.html>

39 percent). In contrast, while there are slight fluctuations over the past decade, suicide firearm deaths were roughly the same in 2019 (1,586 deaths) and 2020 (1,552 deaths).



LAO Recommendations. The Governor’s Budget included \$25 million for a gun buyback program. In response, the LAO presented several alternatives for addressing firearm violence, summarized below.

Options to Expand Existing Programs. The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include:

- *Gun Violence Reduction Program to Reduce Number of Armed and Prohibited Persons.* As previously discussed, APPS identified nearly 23,600 armed and prohibited persons as of January 2021. The 2021-22 budget provided \$10 million one-time General Fund to DOJ’s Gun Violence Reduction Program for competitive grants to county sheriff’s departments to reduce the number of armed and prohibited persons by seizing firearms and ammunition from them. To the extent the Legislature would like to further reduce the number of armed and prohibited persons, it could provide additional funding to the Gun Violence Reduction Program and make other law enforcement agencies (such as city police) eligible for grants.

- *Firearm Removal From Individuals Immediately When They Become Prohibited.* Beginning in 2018, courts have been required to inform individuals upon conviction of a felony or certain misdemeanors that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. Courts are also required to assign probation officers to report on what offenders have done with their firearms. Probation officers are required to report to DOJ if any firearms are relinquished to ensure the APPS armed and prohibited persons list is updated. To the extent the Legislature would like to limit growth in the number of armed and prohibited persons, providing funding to local law enforcement agencies and probation departments to ensure this process is followed can be effective as firearms would be surrendered at the time of conviction.

In addition, there is no consistent, statewide process for collecting weapons from people with court-ordered firearm prohibitions unrelated to a criminal conviction, such as domestic violence protection orders or gun violence restraining orders. The Senate is considering a proposal to create a standard process to ensure that individuals who become prohibited from possessing firearms pursuant to court orders promptly relinquish their firearms. This will require the courts and law enforcement to coordinate on identifying individuals who have firearms and become subject to relinquishment orders. The proposal includes \$15 million over three years to fund dedicated staff positions to oversee this coordination for each court.

Staff Recommendation. Hold Open.

Issue 5: Victim Services

Proposal. The Senate is considering proposals to expand services to victims of crimes. The current process for victim compensation is reimbursement-based and has significant limits on eligibility, acceptable evidence, and compensation amounts. The proposals being considered include an immediate financial assistance program, various changes to eligibility and compensation limits, additional support for the Restitution Fund, and funding to expand trauma recovery centers.

Background. Victim services are currently spread across four state departments, with most grants and programs residing in the Victim Compensation Board (CalVCB) and the Office of Emergency Services (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). OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, 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.

CalVCB 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. CalVCB 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. Over the last three years, CalVCB has processed an average of 49,180 applications per year and provided \$57.7 million in compensation to victims annually.

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. CalVCB'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:

- CA 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 filing 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 is 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

Currently, CalVCB provides materials in 13 languages as required by state law. They have in-house Spanish speakers and have contracts with interpretation and translation service providers. CalVCB's website is also integrated with Google Translate so that each page can be automatically translated.

During the COVID-19 pandemic, CalVCB worked to improve its digital outreach, updated and translated publications that are mailed to organizations that assist victims/survivors. In May of 2021, CalVCB overhauled its website to create an easier interface that is also accessible on mobile devices. They also worked with law enforcement agencies and victim witness centers to provide resources to victims/survivors. CalVCB assesses the efficacy of these efforts based on the number of contacts made and the resulting application trends. At this time, CalVCB has not used any user surveys to collect feedback from applicants who utilize the website and other services provided by the board.

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

	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 CalVCB to approve and process a claim. In 2021, it took 32 days on average to approve a claim. The time it takes CalVCB to then process the claim depends on the category of the claim, with the slowest being 62 days on average to process is income/support loss claims.

Compensation Limits. There are statutory limits on the amount of total compensation, as well as compensation for specific expenses such as crime scene cleanup and relocation. Those benefit limits have not been adjusted since they were established approximately 20 years ago. The funeral/burial and relocation limits are frequently cited by advocates as insufficient to meet the needs of victims. Correspondingly, the Governor's Budget included a proposal to raise the caps for three categories: crime scene cleanup costs, funeral/burial costs, and relocation claims. The following table summarizes the unmet need due to these statutory limitations and the overall \$70,000 lifetime benefit maximum across all benefit types.

Total Unmet Needs Due to Benefit Caps, By Category				
	2018	2019	2020	2021
<i>Crime Scene Cleanup</i>	\$99,420.66	\$25,779.45	\$91,660.12	\$47,645.77
Dental	\$0.00	\$0.00	\$94,456.00	\$103,611.75
<i>Funeral/Burial</i>	\$2,981,932.68	\$2,940,356.44	\$4,134,788.14	\$6,582,997.55
Home Modification	\$0.00	\$0.00	\$0.00	\$80,000.00
Medical	\$214,801.41	\$1,128,654.10	\$833,425.57	\$1,531,422.39
Mental Health	\$344,249.50	\$860,537.78	\$1,199,048.91	\$988,868.98
Rehabilitation	\$0.00	\$0.00	\$0.00	\$0.00
<i>Relocation</i>	\$2,591,083.69	\$3,243,571.62	\$3,775,319.82	\$5,250,386.70
Residential Security	\$191,237.86	\$265,188.77	\$372,177.69	\$397,916.85
Vehicle Purchase/Mod	\$134,764.40	\$217,892.78	\$347,610.19	\$194,388.38
Total Unmet Needs	\$6,557,490.20	\$8,681,980.94	\$10,848,486.44	\$15,177,238.37

Source: CalVCB

There are several challenges that victims face while trying to receive assistance. These include:

- It often takes weeks or months to get a claim approved, and then additional time to get reimbursed. This leaves victims with significant financial burdens in the immediate aftermath of the crime.
- California is one of only eight states that denies victim compensation to people based on past conviction or their status on probation or parole.
- Claims typically require the victims to cooperate with law enforcement and file police reports. California allows alternatives to police reports for certain victims/survivors (typically human trafficking, domestic violence, sexual assault) but not all victims/survivors. The federal VOCA Fix Act, which passed in July of 2021, clarified that states are not required under federal rules to deny victims/survivors compensation for noncooperation with law enforcement, providing the opportunity for states to change their policies. Some states, like Hawaii and Vermont have already removed their cooperation requirement. Illinois changed its policy such that if a victim/survivor seeks medical care, this alone qualifies as cooperation.

The Senate is considering the following proposals to expand services to victims of crimes:

- *Immediate Assistance for Survivors of Violence.* \$100 million one-time to create a pilot grant program to community-based organizations to provide immediate cash assistance to victims.
- *Various Changes to Victims Compensation.* \$50 million to make changes to the victims compensation process, including further increasing compensation limits and the total award amount, and streamlining the application process to provide responses to victims more quickly and ease the documentation burdens.
- *Stabilization of the Restitution Fund.* \$115 million ongoing General Fund to stabilize the Restitution Fund in the face of ongoing declines in fine and fee revenue.
- *Expanded funding for Trauma Recovery Centers (TRCs).* \$15 million to increase the funding distributed by CalVCB to fund TRCs throughout the state. TRCs are comprehensive centers that provide a variety of services to survivors, such as mental health treatment and legal advocacy. CalVCB funds TRCs through a competitive grant process, which provides roughly \$16 million annually in funding for 18 TRCs.

Related Legislation. SB 993 (Skinner) includes some of the proposals being considered. The purpose of the bill is to: 1) establish the Flexible Assistance for Survivors of Violence Pilot Grant Program; 2) make various changes to the California Victim Compensation Program; and 3) expand wrongful conviction compensation to include compensation for each day served on parole or supervised release and reasonable attorney fees.

Staff Recommendation. Hold Open.

Issue 6: Regional Public Safety Collaboratives

Proposal. The Senate is considering a proposal to expand a pilot Regional Public Safety Collaborative program. The state currently funds the North Orange County Collaborative, which includes law enforcement agencies and community-based organizations to address issues including housing, youth violence, and post-incarceration reentry.

Background.

The North Orange County Collaborative is a cooperative effort between local law enforcement and community-based organizations to address complex issues related to homelessness, youth violence, and the challenges associated with post-incarceration reentry. It was originally established through the 2017-18 state budget act with an appropriation of \$20 million across its first four years. The Collaborative, which initially included six cities, was subsequently expanded to include eleven cities in Northern Orange County, after receiving an additional \$7.8 million allocation in last year's budget to fund its operation through the end of the current fiscal year.

Under the design of the collaborative model, of the overall funding provided by the state, 40 percent is allocated for use by law enforcement to improve and enhance their homeless and community liaison efforts, with the remaining 60 percent of funds distributed among community-based organizations on a grant basis to fund specific programs deemed effective or promising at addressing the needs of a particular population. The funding for the Collaborative has been used to conduct a homeless census report, help 3,962 people secure housing, and fund 33 programs for youth, among other efforts.

This proposal would provide \$8 million ongoing to continue to fund the collaborative, and additional funding to assist other regions in establishing similar programs in their regions.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair

Senator David Cortese

Senator Shannon Grove

Senator Josh Newman



**Wednesday, May 4, 2022
1:30 p.m.
O Street Building - Room 2100**

Consultant: James Hacker

ITEMS FOR VOTE ONLY

2600 California Transportation Commission.....	4
2660 California Department of Transportation.....	4
2740 California Department of Motor Vehicles.....	4
Issue 1: Implementation of SB 339.....	4
0521 California State Transportation Agency	4
Issue 2: CalSTA Operational Needs.....	4
2600 California Transportation Commission.....	5
Issue 3: Implementation of SB 671	5
2660 California Department of Transportation	6
Issue 4: Unmanned Aerial Systems.....	6
Issue 5: IT Proposals	6
Issue 6: Pedestrian and Bicycle Safety.....	7
Issue 7: Advantage Management System Augmentation.....	7
2720 California Highway Patrol.....	7
Issue 8: Centralized Custodian of Records Unit	7
Issue 9: Highway Violence Task Force.....	8

Issue 10: Increased Funding for Recruitment Advertising.....	8
Issue 11: IT Baseline Cost Increase	9
Issue 12: Capital Outlay Proposals.....	9
Issue 13: Resources and Office Space for Swing Space	10
2740 Department of Motor Vehicles	11
Issue 14: Legislative Proposals	11
Issue 15: Capital Outlay Proposals.....	11
Issue 16: Supply Chain Resilience – Commercial Driver’s Licenses	12

ISSUES FOR DISCUSSION

0521 California State Transportation Agency	13
2660 California Department of Transportation.....	13
Issue 17: Transportation and Freight Infrastructure Package.....	13
0521 California State Transportation Agency	16
Issue 18: Office of Traffic Safety Program Planning and Outreach	16
2600 California Transportation Commission.....	17
Issue 19: Transportation Equity Workload	17
2660 California Department of Transportation.....	18
Issue 20: Audits and Investigations Workload Transfer	18
2720 California Highway Patrol.....	19
Issue 21: Emergency 911 and Dispatch Audio Logging System Replacement	19
2740 Department of Motor Vehicles	20
Issue 22: Enterprise Content Management (ECM) Project	20

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

2600 CALIFORNIA TRANSPORTATION COMMISSION
2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION
2740 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Issue 1: Implementation of SB 339

Governor's Budget: The budget includes \$6,010,000 in State Highway Account (SHA) over two years and 6 two-year, limited-term positions for Caltrans to conduct the road charge revenue collection pilot authorize by Senate Bill 339 (Chapter 308, statutes of 2001, Wiener). Additionally, The Department of Motor Vehicles (DMV) requests \$171,000 SHA and 1 two-year, limited term position and the California Transportation Commission (CTC) requests \$200,000 in one-time funding to support the pilot.

Senate Bill 339 (Wiener, Chapter 308, Statutes of 2021) was signed by the Governor on September 24, 2021 to continue the state's exploration into the feasibility of transportation revenue from a fee charged per mile of vehicle travel (a road charge). SB 339 directs CalSTA to implement a pilot that assesses two different mileage rate options and collects actual road charge revenue into state funds. An interim report to the Legislature is due July 1, 2024, with the final report no later than December 31, 2026. The final report will evaluate the road charge collection effort and the potential of a road charge for sustainable and equitable transportation funding.

The request is generally reasonable, and consistent with the intent of the bill. However, the proposed funding for the CTC is significantly less than the original cost estimate for the implementation of the bill. Increasing the funding for CTC to the original estimate of \$450,000 in one-time resources would allow the CTC to expand the scope of its work and result in a higher-quality final report to the legislature.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve \$6,010,000 SHA over two years for Caltrans, \$171,000 SHA for DMV, and \$450,000 SHA for CTC.

0521 CALIFORNIA STATE TRANSPORTATION AGENCY

Issue 2: CalSTA Operational Needs

Governor's Budget: The budget includes 3.0 positions and \$1.156 million ongoing for multiple operational needs, including establishing an agency-level freight policy team, funding transportation research projects, and supporting increased rent costs.

Specifically, this includes:

- 1.0 Deputy Secretary for Freight Policy, 1.0 Senior Transportation Planner, 1.0 Associate Governmental Program Analyst (AGPA), and \$522,000 ongoing to establish a freight policy team that would oversee and coordinate freight policy across the state.
- \$500,000 ongoing to provide the agency with a baseline budget to conduct research projects that will inform transportation policy and support CalSTA in achieving its strategic priorities.
- \$135,000 to support increased rent costs from CalSTA's move from the Jesse Unruh building to a new facility.

The funding for increased rent costs is necessary to provide for CalSTA's move to new office space. Additionally, given the increased prominence of freight issues in the state, providing CalSTA with additional positions to increase its involvement in the space is appropriate. However, as this would be an expansion of CalSTA's traditional role, limited-term positions are appropriate, to allow the Legislature to evaluate the work of the new freight unit before approving permanent, ongoing funding.

The requested funding for research is not appropriate, as CalSTA predominantly serves as a coordinating and policy-setting entity, and already oversees several departments with dedicated research budgets. If additional flexibility is required to allow the state to contract for time-sensitive research, the legislature could consider whether the existing research structures within the state's transportation departments could be granted additional flexibility or further streamlined.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve \$135,000 ongoing for increased rent costs. Approve \$522,000 and three positions for three years. Reject the requested \$500,000 for research funding.

2600 CALIFORNIA TRANSPORTATION COMMISSION

Issue 3: Implementation of SB 671

Governor's Budget. The budget includes \$770,000 in 2022-23, and \$320,000 per year for 2023-24 and 2024-25, for two full-time, limited-term positions and for a one-time consultant contract to implement the provisions of SB 671 (Gonzalez), Chapter 769, Statutes of 2021, relating to the development of the Clean Freight Corridor Efficiency Assessment.

The request is generally reasonable, and consistent with the intent of the bill. However, the proposed funding for the CTC is significantly less than the original cost estimate for the implementation of the bill. Increasing the funding for CTC to the original estimate of \$900,000 in one-time resources would allow the CTC to expand the scope of its work and result in a higher-quality final report to the legislature.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve \$900,000 in 2022-23 and \$320,000 for 2023-24 and 2024-25.

2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 4: Unmanned Aerial Systems

Governor's Budget. The budget includes \$414,000 from the State Highway Account for two permanent positions, software, and ongoing training to establish the Unmanned Aircraft System (UAS) Program in the department.

While Caltrans has yet to select a tool, the cost of a fleet management system for expanded use of UAS is estimated at \$60,000 for the first year and increasing along with number of UAS and operations each subsequent per year. Along with additional training software and other hardware and software associated with this technological advancement, it is estimated that \$100,000 is needed for the fleet management system.

This should be compared against potential cost savings from the adoption of UAS for certain Caltrans activities. North Region Surveys began limited UAS implementation and reported savings of nearly \$500,000 in 2020-21. Approving this request could increase these savings as the department deploys UAS statewide.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Comment: Approve as Budgeted.

Issue 5: IT Proposals

Governor's Budget. The budget includes several IT-related proposals. These include:

- A one-time increase of \$535,000 State Highway Account to complete Project Approval Lifecycle stage 3 for the Enterprise Data Governance Technology Solution project.
- \$18,640,000 in 2022-23, \$16,749,000 in 2023-24, and \$937,000 in 2024-25 and ongoing from the State Highway Account for six permanent positions, contract resources, and equipment to increase data storage and protection.
- \$6,858,000 in 2022-23 for ten positions for Transportation System Network Replacement (TSNR) Year 2 project costs.
- \$8,251,000 in 2022-23, \$8,901,000 in 2023-24, and \$4,469,000 in 2024-25 and ongoing State Highway Account for 26 permanent positions and Traffic Operations Systems Network (TOSNet) cybersecurity enhancements.

These requests, taken independently, correctly identify several issues with Caltrans' technological infrastructure and operations, though they are also likely to increase out year costs.

These proposals were first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted.

Issue 6: Pedestrian and Bicycle Safety

Governor's Budget. The budget includes a two-year limited-term increase of 12 positions and \$2,256,000 State Highway Account funds for Pedestrian and Bicyclist Safety Investigation Programs consistent with the Federal Highway Safety Improvement Program (HSIP) and Caltrans' Strategic Management Plan (SMP) pedestrian and bicyclist safety targets.

The Administration has indicated that the requested positions would allow Caltrans to perform 400 investigations per year, helping the department to identify dangerous sections of highway and develop solutions to reduce pedestrian and bicyclist accidents. This request would allow Caltrans to pilot the creation of such a mechanism before deciding whether to make it a permanent part of the department's budget.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted.

Issue 7: Advantage Management System Augmentation

Governor's Budget. The budget includes \$8,000,000 in one time funding from the State Highway Account to upgrade the department's Financial Management System to a supported version of the CGI Advantage software.

This request is broadly reasonable and is necessary to extend the life of the current system before Caltrans completes the switch over to Fi\$Cal.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation. Approve as Budgeted.

2720 CALIFORNIA HIGHWAY PATROL

Issue 8: Centralized Custodian of Records Unit

Governor's Budget. The budget includes two-year limited-term funding of \$696,000 for six positions from the Motor Vehicle Account in Fiscal Year (FY) 2022/23 and FY 2023/24 to establish a centralized Custodian of Records (COR) Unit within the CHP headquarters.

CHP has indicated that the requested resources would centralize the processing of records requests for these four centers, ideally addressing the backlog of records requests while preventing it from

expanding. The two-year nature of the request would allow the department to evaluate the effectiveness of the new unit before deciding whether to extend or expand the unit's resources.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted.

Issue 9: Highway Violence Task Force

Governor's Budget. The budget includes \$4.034 million in Fiscal Year (FY) 2022/23, \$3.314 million in FY 2023/24 and \$3.314 million in FY 2024/25, all from the General Fund, to address violent crime occurring on state highways through a Highway Violence Task Force.

Of the \$4 million proposed for 2022-23, \$2.2 million would support overtime costs to fund additional CHP officers on road patrol duty, particularly in locations where higher rates of violent crime are occurring. (As we discuss in more detail below, CHP is proposing to use overtime due to its high vacancy rate for uniformed officer positions.) The proposed amount also includes \$879,000 for seven Associate Governmental Program Analyst positions and \$995,000 for training, information technology (IT), and equipment to support criminal investigations.

In recent years, the number of shootings occurring on state highways has increased. According to CHP, the number of highway shootings increased from 210 in 2019 to 471 in 2021. Shootings have increased in all CHP geographic divisions across the state, except the Northern division, which is a relatively rural area. In 2021, CHP began collecting statewide data on other forms of violent crime on the state highway system, such as non-shooting homicides and thrown objects. CHP reported 355 of these types of crimes in 2021. The requested resources are appropriate, given this increase in violent crime. The data CHP began collecting in 2021 will be useful to identify causes of and solutions to this increase.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted. Adopt Supplemental Reporting Language requiring CHP to report by January 1, 2024 on the numbers and locations of highway shootings, the associated factors in these shootings, as well as the outcomes of the investigatory resources (such as the number of arrests, training provided, and the benefits of requested software and equipment).

Issue 10: Increased Funding for Recruitment Advertising

Governor's Budget. The budget includes \$2 million annually from the Motor Vehicle Account for three years to support recruitment efforts. Funding would support the increased costs of advertising campaigns, expand the scope of recruitment efforts, and improve diversity and inclusiveness when advertising.

The CHP currently has 1,107 vacant uniformed positions. The department has indicated that the goal for the recruitment effort this request would fund would be 1,000 new uniformed officers for

the department. Given the high vacancy rate in the CHP, and the importance of a fully staffed CHP in ensuring the safety of the motoring public, additional effort to recruit officers is reasonable.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted.

Issue 11: IT Baseline Cost Increase

Governor's Budget. The budget includes one-time funding of \$15 million in Fiscal Year 2022/23 from the Motor Vehicle Account to cover increased technology costs.

The Administration has indicated that the CHP has experienced an increase of approximately \$13.3 million in baseline costs over the last decade. This amounts to approximately a 100% increase in a ten-year period. This does not include critical updates to aging infrastructure or future projects under development, estimated to cost an additional \$1.7 million, for a total of \$15 million. This \$1.7M will fund the modernization of the Academy infrastructure and virtualization of Division and Area offices.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted.

Issue 12: Capital Outlay Proposals

Governor's Budget. The budget includes a number of capital outlay proposals for the California Highway Patrol. These include:

- \$1,797,000 from the General Fund for the acquisition phase of the Antelope Valley Area Office Replacement.
- \$3,018,000 from the General Fund for the acquisition phase of the Barstow Area Office Replacement.
- \$2,167,000 from the General Fund for the performance criteria phase of the Gold Run Area Office Replacement.
- \$2,538,000 from the General Fund for the acquisition phase of the Los Banos Area Office Replacement.
- \$1,262,000 from the General Fund for the acquisition phase of the Porterville Area Office Replacement.
- \$1,764,000 from the General Fund for the acquisition phase of the Redding Area Office Replacement.
- \$5,476,000 from the Motor Vehicle Account for the relocation of the Tracy Area office to a new, build-to-suit facility.
- \$1,500,000 from the General Fund to identify suitable parcels for replacing up to five additional field offices and to develop studies for those sites.

- \$5,486,000 from the General Fund for the construction phase of one site of the California Highway Patrol Enhanced Radio System: Replace Tower and Vault, Phase 1 project, at Leviathan Peak.

The CHP has a large portfolio of properties, many of which are aging and in need of replacement. The requested projects are generally reasonable.

The Administration has also requested statutory changes to allow the California Highway Patrol to pursue a build-to-suit lease procurement process for the replacement of the Santa Ana area office. Authority for this project was initially provided in the 2017 Budget Act and has since expired.

These proposals were first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted.

Issue 13: Resources and Office Space for Swing Space

Governor's Budget. The budget includes \$18.529 million in Fiscal Year (FY) 2022/23, \$12.927 million in FY 2023/24, \$9.963 million in FY 2024/25, and \$7.002 million in FY 2025/26, all from the Motor Vehicle Account, for the protection and security of the new State Capitol Swing Space and the new State Capitol Annex.

Currently, the CHP's CPS location houses both CPS and the CHP's Dignitary Protection Section (DPS). The facility is approximately 14,791 square feet and costs approximately \$300,000 annually. They have been located at this facility since 1995.

The Department of General Services (DGS) conducted a review of the spacing requirements for CPS and DPS, along with the required additional CHP staffing necessary for the protection of the Capitol, Annex, and other state buildings in the downtown Sacramento area. It was determined that a new facility would need to be at least 44,781 square feet to accommodate the current and additional staffing. This request includes 10 additional uniformed positions to provide management and administration of CPS and related duties in and around the Capitol and Swing Space.

Given the additional CHP workload related to the protection of the new swing space, and other state office buildings, additional uniformed officers, and an improved Sacramento facility, are appropriate. The Legislature will want to provide continued oversight of this important CHP function.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted.

2740 DEPARTMENT OF MOTOR VEHICLES

Issue 14: Legislative Proposals

Governor’s Budget. The budget includes several requests related to recently enacted legislation. This includes:

- \$3.6 million in FY 2022/23, \$3.1 million in FY 2023/24, and \$2.6 million in FY 2024/25 Air Pollution Control Fund to continue implementation of SB 210 (Leyva), Chapter 298, Statutes of 2019.
- \$1.4 million in one-time General Fund to implement Chapter 314, Statutes of 2021 (AB 796, Berman).
- \$6.2 million in FY 2022/23, \$193,000 in FY 2023/24, \$1.8 million in FY 2024/25, \$193,000 in FY 2025/26, and \$1.7 million in FY 2026/27, all from the MVA, to continue implementation activities associated with Chapter 485, Statutes of 2017 (SB 611, Hill), which related to how the department handles disabled placards (DP). This request includes trailer bill language to allow DP parking placard renewals to be completed through alternative customer service channels (i.e. virtual field office, etc.) and to add flexibility in the vital statistics verification required.
- \$414,000 in FY 2022/23, \$299,000 in FY 2023/24, and \$164,000 in FY 2024/25, all from the MVA, to implement Chapter 601, statutes of 2021 (SB366, Umberg), which reinstates the seven-agency Vehicle Dismantling Industry Strike Team to investigate unlicensed and unregulated vehicle dismantling through January 1, 2025 and implements several recommendations from the Strike Team’s 2020 report to the Legislature.

The requested resources are necessary to implement enacted legislation and are broadly in line with earlier fiscal estimates for the implementation of these bills.

These proposals were first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted. Adopt placeholder trailer bill language related to disabled placards.

Issue 15: Capital Outlay Proposals

Governor’s Budget. The budget includes a number of capital outlay proposals for the Department of Motor Vehicles. These include:

- \$833,000 from the General Fund (GF) to fund the preliminary plans phase (\$320,000) and the working drawing phase (\$513,000) with a two-year expiration date to complete an elevator modernization project for the DMV Headquarters (HQ) Campus in Sacramento.
- \$3,063,000 from the General Fund (GF) to fund the acquisition phase of the DMV El Centro/Brawley DMV Field Office Replacement/Commercial Drive Test Center project.

- \$1,224,000 in FY 2022/23, \$1,814,000 in FY 2023/24, and \$1,907,000 in FY 2024/25 and ongoing for a new leased Laguna Hills Field Office due to the loss of the lease at the current office.
- \$50,000 in Fiscal Year (FY) 2022/23, \$660,000 in FY 2023/24, and \$718,000 in FY 2024/25 and ongoing to consolidate and relocate the Vallejo Investigations District into one office.
- \$600,000 from the General Fund (GF) Account to perform advanced planning and identify suitable parcels to replace two field offices.

Background. The Department of Motor Vehicles currently has 172 field offices statewide. Out of these 172 field offices, DMV has determined that approximately 30 offices need an off-site replacement and another 30 may need an off-site replacement pending further research. These requests are part of an ongoing effort at DMV to address this issue.

These proposals were first heard in Subcommittee 5 on February 22.

Staff Recommendation. Approve as Budgeted.

Issue 16: Supply Chain Resilience – Commercial Driver’s Licenses

Governor’s Budget. The budget includes \$40 million limited-term General Fund to expand California’s capacity to issue Commercial Driver’s Licenses (CDLs). This funding includes \$34 million (\$3.5 million in fiscal year 2022-23 and \$10 million annually through 2025-26) to fund leasing costs to establish dedicated commercial drive test centers in the Bay Area and Northern Los Angeles County. In addition, this proposal includes one-time funding of \$6 million in 2022-23 to fund overtime on Saturdays for Licensing Registration Examiners and necessary support staff which will be directed to offices throughout the state that have appointment wait times above 30 days.

This request, while not a short-term solution to the state’s freight bottlenecks, could help improve department operations. Additional information on the demand for CDLs would allow the Legislature to determine whether ongoing funding for the additional staffing is needed beyond 2025-26.

This proposal was first heard in Subcommittee 5 on February 22.

Staff Recommendation: Approve as Budgeted. Adopt Supplemental Reporting Language requiring DMV to report, as part of the annual budget process, monthly wait times for commercial drive tests, the number of CDL applications received each month, and the number of CDL applicants served by region per month for the four years of proposed funding.

ITEMS FOR DISCUSSION

0521 CALIFORNIA STATE TRANSPORTATION AGENCY 2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 17: Transportation and Freight Infrastructure Package

Governor's Budget: The budget includes \$6.2 billion General Fund for a transportation infrastructure package. The transportation infrastructure package is comprised of the following investments in the transportation system:

- \$2 billion General Fund for statewide transit and rail projects
- \$1.25 billion General Fund for Southern California transit projects
- \$1.2 billion for port and freight infrastructure projects
- \$750 million General Fund for active transportation and projects for connecting communities
- \$500 million for high priority grade separation projects
- \$400 million for climate adaptation projects
- \$100 million in 2023-24 for the Clean California Program

This proposal is split over multiple years, with a large portion accelerated into the 2021-22 budget year. This breakdown is detailed below.

Activity	Department	Fund	21-22	22-23	23-24
Transit Infrastructure	0521-CalSTA	GF	\$ 3,250,000,000	\$ -	\$ -
Port Infrastructure	0521-CalSTA	GF	\$ -	\$ 600,000,000	\$ 600,000,000
Grade Separations	0521-CalSTA	GF	\$ 250,000,000	\$ -	\$ -
Grade Separations	2660-Caltrans	GF	\$ 250,000,000	\$ -	\$ -
Active Transportation Program	2660-Caltrans	GF	\$ 250,000,000	\$ 250,000,000	\$ -
Climate Adaptation	2660-Caltrans	GF	\$ 300,000,000	\$ 100,000,000	\$ -
Highways to Boulevards	2660-Caltrans	GF	\$ -	\$ 150,000,000	\$ -
Bicycle & Pedestrian Safety	2660-Caltrans	GF	\$ -	\$ 100,000,000	\$ -
Clean CA	2660-Caltrans	GF	\$ -	\$ -	\$ 100,000,000
TOTAL			\$ 4,300,000,000	\$ 1,200,000,000	\$ 700,000,000

These proposals were first heard in Subcommittee 5 on February 22.

Background. California has a robust and expansive transportation system that helps to move people and goods around and through the state. This system is made up of multiple interlinking components, including state highways, local streets and roads, public transit networks (including intercity rail lines), freight rail lines, airports, and water ports. This system serves many millions of travelers per year, and costs many billions of dollars to operate and maintain. There are 250 highways on the state highway system, covering roughly 15,000 centerline miles and more than 52,000 lane miles. The system also includes 13,000 bridges, and 205,000 culverts. The local road system is significantly more expansive, with more than 160,000 centerline miles. California's mass transportation infrastructure consists of approximately 22,000 transit vehicles serving more than 700 transit passenger stations.

Staff Comments. As discussed in Subcommittee 5 on February 22, the Administration's proposal is significant, and represents a significant commitment to use the state's healthy fiscal position to invest in transportation and freight infrastructure. The proposed investments are historically significant, and represent an opportunity to:

- Refresh the state's aging transportation infrastructure.
- Create stable, high-paying jobs in doing so.
- Invest in transit and other infrastructure that helps reduce the greenhouse gas emissions from the transportation sector, and thereby help the state achieve its ambitious climate goals.
- Augment the roughly \$40 billion in formula funds the state is expecting from the federal Infrastructure Investment and Jobs Act (IIJA).
- Use state funding as potential match funding when pursuing the roughly \$100 billion in competitive grant funding available over the next five years from the IIJA.

However, there are a number of issues with the proposed package, particularly in light of the state's fiscal condition, which continues to strengthen. Specifically:

- The Administration's proposed split of funding for transit infrastructure, with \$1.25 billion going to Southern California and \$2 billion available statewide (including in Southern California), raises questions of geographic equity.
- The proposed funding for Clean California, which would not begin until 2023-24, is potentially premature, as that program was just created and has yet to create clear outcomes for the legislature to evaluate before approving additional funding.
- Some of the proposed activities could be funded with existing or new federal funds, without undercutting the purposes to which those federal funds were intended.
- Despite the clear labor implications that such a large investment would have, the proposed funding lacks certain clear labor requirements for funded projects.
- Most significantly, the state's improving fiscal condition suggests that state could increase its investment in transportation infrastructure, increasing the proposed funding while also allocating funding to purposes not included in the administration's proposal, such as freight infrastructure outside the state's ports or congestion mitigation.

With these considerations in mind, the Senate majority has proposed a significantly increased transportation infrastructure package. The proposed package is \$20 billion over four years, with years three and four being funded upon appropriation. The package consists of the following components:

- \$13.8 billion over four years for transit infrastructure, including:
 - Roughly \$11.8 billion for transit projects, split between Southern California and the balance of the state, with out years allocated by formula.
 - \$2 billion for grade separation projects.
- \$2.9 billion over four years for climate investments, including:
 - \$2 billion for Active Transportation projects, which would include Highways to Boulevards and safety projects such as those outlined by the Administration.
 - \$875 million over four years for local climate adaptation planning and projects.
 - The package also proposes to set aside \$150 million per year in IJIA funds, as allowed under IJIA, for adaptation projects on the state highway system.
- \$2.1 billion over four years for freight and workforce investments
 - \$1.2 billion for port infrastructure, as proposed by the Administration
 - \$110 million for a workforce training center, as proposed by the Administration
 - \$790 million over four years in additional funding for the Trade Corridor Enhancement Program
- \$1.25 billion over four years for congestion mitigation and bridge repair and replacement
 - \$700 million over four years in additional funding for the Solutions for Congested Corridors Program.
 - \$550 million over four years to augment federal and local funding for high-cost local bridge repair and replacement.

Additionally, given the labor implications of such a large investment in infrastructure, the package includes language to ensure strong labor requirements accompany the significant infrastructure investments to create stable, high-quality, high-road job opportunities across the state. This includes enforceable commitments to construction, good manufacturing, service, operations, and maintenance jobs, real training and apprenticeship, and equitable pathways into these jobs as supported or created by the proposed climate and transportation spending. This allows the state to focus our workforce system on the high road by leveraging investments for immediate accountability for good jobs after training.

The state's strong fiscal position allows it to consider a major investment in transportation infrastructure, such as that outlined above. The Legislature should consider the extent to which the package proposed above meets the Legislature's goals around infrastructure and transportation investments, or if alternative approaches are warranted.

Staff Recommendation: Hold Open.

0521 CALIFORNIA STATE TRANSPORTATION AGENCY

Issue 18: Office of Traffic Safety Program Planning and Outreach

Governor's Budget: The budget includes \$2,290,000 in state and federal funding authority for the budget year and \$1,650,000 in ongoing authority. This includes an increase in federal spending authority of \$1,610,000 and state transportation funds authority of \$180,000 to hire ten (10) new positions to expand the Office of Traffic Safety's (OTS) efforts to increase outreach to existing and prospective grantees.

Background. The Highway Safety Program is a partnership between the National Highway Traffic Safety Administration (NHTSA) and California. The partnership was created when Congress passed the Highway Safety Act of 1966. OTS is designated by the Governor to receive federal traffic safety funds for coordinating California's highway safety programs. Each year the OTS develops a Highway Safety Plan (HSP) identifying the key highway safety problems in the state and the most effective countermeasures to address them.

Staff Comments. The Administration has indicated that the requested funding is allocated as follows:

- Staffing—\$1,370,000 ongoing federal authority and \$80,000 ongoing state funding for ten new positions.
- IT security infrastructure—\$140,000 ongoing federal authority and \$60,000 ongoing state funding for upgrade maintenance.
- IT security equipment—\$100,000 one-time federal authority and \$40,000 state funding authority for procurement of IT security infrastructure upgrade equipment.
- Space reconfiguration—\$500,000 one-time state funding authority for space reconfiguration and new furniture to support new positions and hybrid workforce. Federal regulations do not allow federal funds to be used on space reconfiguration or furniture.

Where funding is shared, 71.32 percent is allocated from federal funds and 28.68 percent from state funding sources, per federal regulations, and is used to support planning and administration of the OTS grant program. The state portion of OTS funding is split between three sources with 60 percent from the State Highway Account, 20 percent from the Motor Vehicle Account, and 20 percent from the Public Transportation Account.

To the extent that the requested resources will allow the state to better expend federal funds and reduce traffic fatalities statewide, this request is reasonable. However, the legislature may want to get a better understanding of the specific outcomes created by the requested funding before approving the request.

Staff Recommendation: Hold Open.

2600 CALIFORNIA TRANSPORTATION COMMISSION

Issue 19: Transportation Equity Workload

Governor's Budget: The budget includes an increase in its budgetary authority in the amount of \$218,000 (\$116,000 State Highway Account and \$102,000 Public Transportation Account) for one full-time permanent position to respond to increased workload focused on transportation equity.

Background. In response to strong state and federal policy direction around increasing equity in transportation policy, the Commission has embraced a substantial increase in its workload associated with improving transportation equity and community engagement practices and outcomes throughout California. The increased workload consists of five main work streams: Development and Implementation of a Racial Equity Statement, Development and Operation of an Equity Advisory Roundtable, Conducting Statewide Listening Sessions, Formation and Operation of an Equity Advisory Committee, and Updating Project Funding Guidelines to Ensure Equitable Project Outcomes. With limited existing resources, the Commission began implementation of these five new permanent work streams in Fiscal Year 2020 – 2021.

Staff Comments. The Administration has indicated that, to meet the demands of this new workload, a single Supervising Transportation Planner position would perform the essential duties of leading and managing these five new and ongoing work streams including the following:

- Lead the implementation, update, and continuous refinement of the Racial Equity Statement and associated activities.
- Lead the formation and operations of the Equity Advisory Roundtable including managing membership, coordinating and facilitating all meetings, leading policy discussions and supporting the development of Roundtable recommendations to the Commission.
- Co-Lead the Statewide Equity Listening Sessions with Caltrans and the California State Transportation Agency.
- Lead the Formation and Operation of an Interagency Equity Advisory Committee. Manage permanent committee operations including coordinating meetings, setting policy agendas and topics, facilitating complex interagency policy discussions, and supporting the development of recommendations to the Commission, Caltrans, and the California State Transportation Agency on statewide equity initiatives for transportation plans and funding programs.
- Updating Project Funding Guidelines to Ensure Equitable Outcomes. Serve as the transportation equity subject matter expert at the Commission to support policy development for all Commission administered transportation funding programs including but not limited to: the Statewide Transportation Improvement Program the State Highway Operations and Protection Program, the Solutions for Congested Corridors Program, the Trade Corridor Enhancement Program, and the Local Partnership Program.

Staff Recommendation: Approve as Budgeted.

2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 20: Audits and Investigations Workload Transfer

Governor's Budget. The budget includes the net zero transfer of 6 positions and \$868,000 from the Independent Office of Audits and Investigations (IOAI) to the Caltrans Administration Program to reestablish an Internal Audits Office within the Administration program.

Background. The Road Repair and Accountability Act of 2017 (SB 1) established the IOAI led by an Inspector General. The IOAI has authority to exercise all responsibilities for maintaining a full scope, independent, and objective audit and investigation program. To provide staff and resources for this new office, Caltrans transferred 48 existing permanent positions from the Administration Program to IOAI and established 10 new permanent positions within IOAI, for a total of 58 positions. Caltrans requested and received \$9,500,000 in State Highway Account funds and redirected \$8,752,000 from various programs.

Prior to the passage of SB 1, Caltrans had a Division of Audits and Investigations within the Administration Program which met the internal audits needs of Caltrans. Caltrans previously moved the entire Division of Audits and Investigations to the newly formed IOAI, under the Inspector General, as required by SB 1.

Staff Comments. The Administration has indicated that this request would allow Caltrans to reestablish an Internal Audits Office, which existed prior to the creation of the IOAI. Specifically, the Administration has indicated that the following workload would be transferred from IOAI to the new office:

- External audit coordination
- Audits of construction contracts
- Single audit management decision follow-ups
- Local government Indirect Cost Rate Proposal (ICRP) and Indirect Cost Allocation Plan reviews and risk assessments.

The Administration has argued that placing this workload, which involves reviewing internal Caltrans practices and processes, in an external office could create a conflict of interest when that office is serving as both an internal audit office and an independent external auditor. There is merit to this argument. However, the Legislature should consider the extent to which the proposed transfer of workload solves the conflict-of-interest problem, and the extent to which it could undercut the capabilities of IOAI and therefore undercut the intent of SB 1.

Staff Recommendation: Hold Open.

2720 CALIFORNIA HIGHWAY PATROL**Issue 21: Emergency 911 and Dispatch Audio Logging System Replacement**

Governor's Budget. The budget includes \$21 million over six fiscal years (\$7.949 million in FY 2022/23, \$6.166 million in FY 2023/24, \$1.945 million in FY 2024/25, \$2.003 million in FY 2025/26, \$2.063 million in FY 2026/27, and \$0.874 million in FY 2027/2) from the Motor Vehicle Account to replace obsolete 9-1-1 and public safety radio communications audio logging systems currently in use at the CHP's 24 communications centers. The request includes a disaster recovery system to meet continuity of operations requirements.

Background. The CHP is responsible for 24 Communication Centers (CCs) throughout the state. The 24 CCs serve the public and allied agencies statewide as primary public safety answering points, responding to 9-1-1 emergency calls and radio transmissions. All CCs are equipped with a primary-redundant audio logging system to capture 9-1-1 and mission critical telephone calls and radio transmissions between CHP dispatchers/operators, the public, CHP field personnel, and allied agencies.

California Penal Code Section 13730 requires each law enforcement agency to have a system to record domestic violence-related calls for assistance made to the Department, including whether weapons are involved, or the incident involved strangulation or suffocation. The use of a 9-1-1 and public safety radio communications audio logging recording system which captures every call, irrespective of the number dialed (emergency vs non-emergency), ensures adherence to this legal statute.

Staff Comments. The current audio logging systems were procured beginning in FY 2014/15. The useful life expectancy of these systems is five to seven years. The current system is at its end-of-life, and end-of-support as of December 31, 2023, at which time the vendor will cease to support the current system.

Additionally, the Administration has indicated that the existing 9-1-1 and public safety radio communications audio logging system does not meet the required disaster recovery standards set forth by the Department and its Information Security Office. The proposed replacement system is likely to have increased functionality and allow the CHP to better manage its audio logs for investigation and evidentiary purposes. The replacement audio logging system will also meet the CHP's disaster recovery requirements.

Given the expiration of the existing system, and the planned improvements related to the new system, the proposed request is generally reasonable.

Staff Recommendation: Approve as Budgeted.

2740 DEPARTMENT OF MOTOR VEHICLES**Issue 22: Enterprise Content Management (ECM) Project**

Governor's Budget. The budget includes \$5.5 million from the Motor Vehicle Account for the Enterprise Content Management (ECM) project. In FY 2022-23, \$802,000 will be immediately available and the remaining \$4.7 million appropriation will be available through provisional budget language contingent upon approval of the Stage Four Project Readiness/Approval.

Background. The DMV is responsible for licensing the motor vehicle industry, vehicle registration (VR) and titling, and providing driver license and identification cards (DL/ID). Through these services, the DMV must maintain a systematic infrastructure to manage, control, store, and process external and internal customer documentation. Over the years, a variety of specialized case or content management systems have been created, which image, scan, capture, and retrieve data along with the renewal by mail/remittance system processing for VR and DL/ID transactions. These stand-alone systems and applications have resulted in siloed content systems, which has made document retrieval and utilization difficult and time consuming. The currently has roughly 1.7 billion images/records in a variety of departmental data repositories.

Staff Comments. The department has indicated that it plans to address the siloed approach to content management by creating a "federated ECM system." A federated ECM model will connect the data contained in the siloed case management systems and repositories. This will allow the department to consolidate document resources and manage a centralized repository.

While the proposed system is likely to improve content management across the department, it should not be seen as a permanent solution, as it organizes and consolidates, but does not replace, the existing legacy systems. To address this, the department, as part of the ECM Project, will identify and allow for future innovations and updates to existing systems or repositories when they reach end of life. The legacy content management system software and hardware will be gradually retired and migrated to the proposed solution or other modernized content management software.

The existing content management systems at the department are out of date and have created issues with management and retrieval of data and documentation. The proposed system is an appropriate solution to this, in the short term. Additionally, the proposed structure of the appropriation, with a small amount available up front and the balance available upon advancement of the PAL process, is a responsible and reasonable approach. Given the fact that the department will eventually need to replace the existing legacy systems, and further update the proposed federated ECM system as a result, the Legislature may want to get a sense of the project out year costs of the system before acting on this request.

Staff Recommendation: Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Thursday, May 12, 2022
Upon adjournment of session
1021 O Street - Room 2200

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR VOTE ONLY

0250 Judicial Branch.....	3
0280 Commission on Judicial Performance	Error! Bookmark not defined.
0390 Contributions to the Judges' Retirement Fund	Error! Bookmark not defined.
0552 Office of the Inspector General.....	Error! Bookmark not defined.
0690 Office of Emergency Services	Error! Bookmark not defined.
0820 Department of Justice	6
5225 Department of Corrections and Rehabilitation	7
5227 Board of State and Community Corrections	Error! Bookmark not defined.
7870 California Victim Compensation	Error! Bookmark not defined.
8120 Commission on Peace Officer Standards and Training	Error! Bookmark not defined.
8140 State Public Defender	Error! Bookmark not defined.
8830 California Law Revision Commission.....	Error! Bookmark not defined.
9285 Trial Court Security - Court Construction	11
9286 Trial Court Security - Judgeships	12
2660 Department of Transportation.....	12

ITEMS FOR DISCUSSION

0690 Office of Emergency Services	13
Issue 55: Los Angeles Regional Interoperable Communications System.....	13

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

Issue	Proposal	Background	Staff Rec.
0250 JUDICIAL BRANCH			
1	AB 177 Trial Court Backfill	The Governor's Budget proposes requests \$13.4 million ongoing General Fund to backfill revenues lost from the repeal of fees in AB 177. AB 177 repealed various Penal Code and Vehicle Code sections that dealt with predominantly administrative fees which were used generally to cover various court services.	AAB
2	Court of Appeals Court Appointed Counsel	\$8.3 million ongoing General Fund in 2022-23 to support the Courts of Appeal Court Appointed Counsel Program. This total amount includes \$6.4 million ongoing General Fund for a \$15 rate increase for non-capital appeal appointments, and \$1.9 million for a permanent 10.5 percent increase in the Project Offices annual contracts.	AAB
3	Electronic Filing for Restraining Orders (AB 887, SB 538)	The Governor's Budget proposes \$2.6 million General Fund in 2022-23 and three positions and \$1.7 million in 2023-24 and ongoing to implement, support, and maintain electronic filing interfaces for domestic violence restraining orders, domestic temporary restraining orders, and gun violence restraining orders at all trial courts.	AAB
4	Improvement and Modernization Fund (IMF) BBL	The Governor's Budget proposes provisional budget language authorizing the Director of the Department of Finance to transfer additional General Fund support to the IMF if revenues are lower than expected. The transfer can only occur 30 days after written notification to the Legislature.	AAB and adopt provisional BBL
5	Probate Conservatorship Report (AB 1194)	The Governor's Budget proposes \$1.25 million one-time General Fund in 2022–2023 to support costs of producing a comprehensive study of probate conservatorships in California and developing statewide recommendations, as required by AB 1194 which requires the Judicial Council, on or before January 1, 2024, to report to the Legislature the findings of a study of at least three courts measuring court effectiveness in conservatorship cases.	AAB
6	Public Access Staffing	The Governor's Budget proposes \$1.2 million General Fund in 2022-23 and 4 positions and \$1.1 million in 2023-24 and ongoing to address the volume and work related to requests for legal guidance and support with public access requirements for judicial branch administrative records and proceedings.	AAB

7	Trial Court Employee Health Benefit and Retirement Costs	The Governor's Budget proposes \$28.7 million ongoing General Fund for the trial court employee health benefit and retirement costs.	AAB
8	Trial Court Trust Fund Revenue Backfill	The Governor's Budget proposes \$117.8 million ongoing General Fund to backfill the Trial Court Trust Fund Revenue.	AAB
0280 COMMISSION ON JUDICIAL PERFORMANCE			
9	Spring Reappropriation Proposal	The Governor's spring proposal requests a reappropriation of \$200,000 with funding available for encumbrance and expenditure until June 30, 2023, related to the establishment of a fifteen-member committee to review the operations and structure of the Commission on Judicial Performance and to develop recommendations that would improve the Commission's ability to carry out its core responsibilities.	AAB
0390 CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND			
10	Spring Reappropriation Proposal	The Governor's spring proposal requests a reappropriation of \$80,000 related to the post judgment award in <i>Robert M. Mallano, Individually, and Behalf of a Class of Similarly Situated Persons v. John Chiang, Controller of the State of California</i> (Case No. BC-533770).	AAB
0552 OFFICE OF THE INSPECTOR GENERAL			
11	Staffing Increase for the Oversight, C-ROB, and Intake Unit	The Governor's Budget requests \$232,000 ongoing General Fund and 2 positions to address increased workload of the Office of Inspector General's OCI Unit. This unit is currently staffed with a total of six line-staff positions and requires two additional Associate Deputy Inspector General positions to handle its increased complaint workload.	AAB
0690 OFFICE OF EMERGENCY SERVICES			
12	Disaster Service Worker Program	The Governor's spring proposal requests \$500,000 General Fund in 2022-23 and ongoing for the Disaster Service Worker Volunteer Program to provide sufficient and timely workers' compensation benefits to injured volunteers and eligible survivors, and issue medical provider payments without incurring penalty and interest fees.	AAB

13	Emergency Services: Vulnerable Populations (AB 580)	The Governor's Budget proposes \$1.41 million General Fund ongoing and 6 positions to review the emergency plans of each county to determine whether the plans are consistent with access and functional needs best practices and provide technical assistance, consistent with the requirements of Chapter 744, Statutes of 2021 (AB 580).	AAB
14	Equality in Prevention and Services for Domestic Abuse Fund	The Governor's spring proposal requests a one-time budget authority increase of \$375,000 in Equality in Prevention and Services for Domestic Abuse Fund in 2022-23 to continue to develop and support a training curriculum, support service providers, and provide brochures associated with lesbian, gay, bisexual, and transgender domestic abuse.	AAB
15	Headquarters Modernization	The Governor's Budget proposes \$5.23 million one-time General Fund in 2022-23 and \$1.96 million in 2023-24 for support costs associated with two authorized capital outlay projects for the construction phase of State Operations Center modification.	AAB
16	Implementing 9-8-8 Behavioral/ Mental Health Hotline	The Governor's Budget proposes \$7.52 million General Fund in 2022-23, \$5.98 million ongoing, and 10 positions in response to the Federal Communications Commission requirement to implement 9-8-8 nationwide. The requested resources will be used to procure, install, and maintain the 9-8-8 call handling equipment and to develop and implement the 9-1-1 to 9-8-8 interface.	AAB
17	Mather: Headquarters Lobby Security Enhancements	The Governor's Budget proposes \$198,000 General Fund for the working drawings phase and \$1.11 million General Fund for the construction phase of the Mather: Headquarters Lobby Security Enhancements project.	AAB
18	Mather: Headquarters Security Checkpoint Enhancements	The Governor's Budget proposes \$351,000 General Fund for the working drawing phase of this continuing project to install two permanent check points and upgrade existing entryway gates at the North and West entrances of the main parking lot.	AAB
19	Mather: Security Checkpoint Support	The Governor's Budget proposes \$200,000 ongoing General Fund for support costs related to the Headquarters Security Checkpoint Enhancement Capital Outlay project. This proposal will supplement an existing security contract to add two additional security guards.	AAB

20	Mather: State Operations Center Modification	The Governor's Budget proposes \$1 million General Fund for equipment and \$8.93 million General Fund for the construction phase of the State Operations Center modification.	AAB
21	Nuclear Planning Assessment Special Account Consumer Price Index Adjustment	The Governor's spring proposal requests an increase to the Nuclear Planning Assessment Special Account appropriations of \$10,000 state operations and \$53,000 local assistance in 2022-23 in accordance with provisions of Government code section 8610.5.	AAB
22	Peace Officer and Law Enforcement Legislative Requirements (AB 481)	The Governor's Budget proposes \$418,000 ongoing and 2 positions for OES to comply with AB 481, which requires all law enforcement agencies to obtain approval from their applicable governing body before they can request to acquire military equipment through the 1033 Program. Note that this BCP also contains funding for other agencies, which will be handled in Subcommittee 2.	Reject the proposed resources and positions for OES (\$418,000 and 2 positions ongoing).
0820 DEPARTMENT OF JUSTICE			
23	Medi-Cal Fraud and Elder Abuse: Medicaid Patient Abuse Prevention Act	The Governor's spring proposal requests that Item 0820-001-0001 be increased by \$474,000, Item 0820-001-0378 be increased by \$1,224,000, and Item 0820-001-0890 be increased by \$6,134,000 ongoing to provide sufficient authority for the Department of Justice to receive the full amount of a reoccurring federal grant that supports investigative, enforcement, and prosecutorial duties carried out by the Department's Division of Medi-Cal Fraud and Elder Abuse.	AAB
24	Registry of Charitable Trusts Workload	The Governor's Budget proposes \$1.4 million Registry of Charitable Trusts Account and 10 positions in 2022-23, \$1.3 million and 11 positions in 2023-24, \$1.4 million and 12 positions in 2024-25, and \$1.4 million and 13 positions in 2025-26 and ongoing to support increased workload from increased registrations and delinquency reduction.	AAB
25	Replacement of the License 2000 System	The Governor's Budget proposes \$902,000 Gambling Control Fines and Penalties Fund in 2022-23 to support continued Project Approval Lifecycle (PAL) efforts related to the replacement of the Bureau of Gambling Control's License 2000 System.	AAB
26	Tribal Nation Grant	The Governor's Budget proposes \$137,000 Indian Gaming Special Distribution Fund in 2022-23 and ongoing, and 1 permanent position, to comply with mandated duties associated with the Tribal Nation Grant Fund Program.	AAB

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION			
27	Americans with Disabilities Act (ADA) Facility Improvements	The Governor's Budget requests \$22.2 million one-time General Fund for the construction of ADA accessibility improvements at the California Institution for Men, California Institution for Women, California State Prison – Los Angeles County, and Richard J. Donovan Correctional Facility.	AAB
28	Americans with Disabilities Act (ADA) Staffing	The Governor's Budget requests \$2.6 million General Fund and 20 positions in 2022-23 and \$2.7 million ongoing to support court mandated ADA remedial measures for disabled incarcerated persons at various institutions. These resources will be used to provide the disabled population with increased access to programs, services, and activities consistent with the ADA. CDCR will monitor compliance by tracking litigation costs, decreases in the number of rules violations, and number of grievances and incident reports filed by the incarcerated population.	AAB
29	Bachelor's Degree Expansion	The Governor's Budget requests \$5 million General Fund in 2022-23, \$4.5 million in 2023-24, and \$4.7 million in 2024-25 and ongoing and 15 positions to expand the Bachelor's Degree Program to seven institutions.	AAB
30	Cellular Interdiction	The Governor's Budget proposes 5 positions and \$12.6 million General Fund in 2022-23 (increasing to \$18.5 million in 2023-24 and decreasing to \$2.4 million in 2026-27 and ongoing) to install new cellphone interdiction technology at all 33 state-owned and operated prisons. Under the proposal, CDCR would install the technology at 8 prisons in 2022-23, 12 prisons in 2023-24, 12 prisons in 2024-25 and one prison in 2025-26. After the technology is installed, ongoing funding would support staff to operate and maintain the equipment.	Approve funding to support the proposed installation at 8 prisons in 2022-23 and 12 prisons in 2023-24 only. CDCR may request additional resources for the remaining prisons in a future budget year.

31	Class Action Lawsuit Staff	The Governor's Budget requests \$2.4 million General Fund and 14 positions in 2022-23 and \$2.3 million ongoing to handle legal work involved in class action lawsuits. This proposal is aimed at decreasing litigation costs through targeted intervention, the development of proactive litigation strategies and policy change, and the promulgation of regulations and policies that will assist in future termination of expensive class action litigation.	Approve the proposed resources and adopt provisional budget bill language that requires CDCR to report spending on class action lawsuits to the Legislature by August 31 of each year for five years beginning in 2022.
32	Contract Reappropriation and Technical Adjustments	The Governor's spring proposal requests a reappropriation of \$224,000 to complete the purchase of a tracking system for individuals with disabilities associated with the 2021-22 Armstrong Court Compliance Continuation budget change proposal and net zero technical adjustments to correctly align resources across CDCR programs.	AAB
33	DOJ Legal Service Fees	The Governor's Budget requests \$1.5 million ongoing General Fund for Department of Justice Legal Services fees. Over the years, CDCR has utilized internal resources to address the ongoing deficit and permanently redirected \$9.9 million from its administrative budget on an ongoing basis in the 2019 Budget Act, bringing the total ongoing appropriation to \$67.8 million. However, there are no additional internal resources available to offset these increased costs.	AAB
34	eDiscovery Platform, Redaction, and Delivery	The Governor's Budget proposes \$19.5 million General Fund and 10 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to develop an eDiscovery platform and increasing staffing for the centralized video storage and redaction unit.	AAB
35	Light Duty and Modified Work Assignments Continuation	The Governor's Budget requests \$9.5 million General Fund and seven positions ongoing to support return-to-work programs, including the limited term light duty assignment and temporary modified work assignment policies.	AAB
36	Mental Health Data Analysis and Informatics	The Governor's Budget requests 22.0 positions and \$3.1 million from the General Fund in fiscal year 2022-23 and ongoing to support additional	AAB

		Mental Health reporting tasks, a new data validation project related to the Coleman court, and to address increased reporting requests from both internal and external stakeholders.	
37	Microsoft End User Licensing Agreement	The Governor's Budget requests \$11.5 million General Fund in 2022-23, \$16.1 million General Fund in 2023-24, and \$17.5 million General Fund in 2024-25 and ongoing, to cover the increased cost of moving to a statewide contract for Microsoft End User Licensing Agreement.	AAB
38	Privacy Office Augmentation	The Governor's Budget requests 12.0 positions and \$2.1 million General Fund in fiscal year 2022-23 and ongoing for resources to enhance CDCR's ability to identify, prevent, manage, and mitigate privacy, information security, and cybersecurity risks and threats, and address key vulnerabilities consistent with recent Corrective Action Plans.	AAB
39	Redaction Workload	The Governor's Budget requests \$1.1 million General Fund and 7.6 positions in 2022-23 and ongoing for compliance with Chapter 402, Statutes of 2021 (SB 16). Chapter 988, Statutes of 2018 (SB 1421), amended Penal Code sections 832.7 and 832.8, making peace officer and custodial officer investigation and personnel records available for public inspection, pursuant to the California Public Records Act, when those records relate to reports, investigations, and findings of officer-involved incidents, including discharge of a firearm at a person; use of force resulting in death or great-bodily-injury; or sustained findings of sexual assault and acts of dishonesty directly relating to the reporting, investigation, or prosecution of crime, or misconduct by a fellow officer.	Approve the funding and proposed positions on a two-year limited term basis
40	Repurposing Condemned Housing	The Governor's Budget requests \$1.5 million one-time General Fund for a consulting contract to repurpose condemned housing/ support spaces at San Quentin State Prison.	Reject the Proposal
41	Security Solutions and Laptop End User Security	The Governor's Budget requests 9 positions and \$4.4 million General Fund in 2022-23 and \$5.2 million General Fund in 2023-24 and ongoing to address information security and cybersecurity vulnerability.	AAB
42	Support Inmate-Ward Labor Construction Projections	The Governor's Budget requests \$1.1 million in reimbursement authority and 13 positions ongoing to support the Inmate/Ward Labor Program. These positions will provide administrative support in construction field offices by performing administrative tasks required for current construction projects.	AAB

43	Tattoo Removal Program	The Governor's Budget requests \$567,000 General Fund in 2022-23 and \$1.1 million General Fund through 2025-26 to implement a tattoo removal program. The 2019 Budget Act included resources to support the tattoo removal program; however, these resources were cut in the 2020 Budget Act due to anticipated economic issues resulting from the COVID-19 Pandemic.	AAB
44	Technical Adjustments (net zero change)	The Governor's Budget requests a net-zero change to permanently realign budget authority by program. Each year, the Budget Act provides CDCR funding and CDCR makes adjustments through various Executive Orders and Budget Revisions.	AAB
5227 BOARD OF STATE AND COMMUNITY CORRECTIONS			
45	Fresno County SB 1022 Jail Project – Lease Revenue Bonds to General Fund	The Governor's Budget proposes \$81.5 million to pay off a Pooled Money Investment Account (PMIA) loan that is currently outstanding for the preliminary plans, working drawings, and construction phases of the Fresno County Jail project. The project was established and authorized for total funding of approximately \$79.2 million through the State Public Buildings Construction Fund (lease revenue bond financing authority) in a State Public Works Board (SPWB) action on June 15, 2015 through Government Code Sections 15820.92-15820.926. This request will eliminate the need to issue costlier bonds, resulting in debt service savings of approximately \$40 million over the 15-year life of the bonds.	AAB
7870 CALIFORNIA VICTIM COMPENSATION			
46	Attorney General Fees -- Erroneous Conviction Compensation lawsuits	The Governor's spring proposal requests an increase of \$874,000 in 2022-23 and 2023-24 for legal representation by the Department of Justice in lawsuits brought forth by individuals whose claims for erroneous conviction compensation were denied. In addition, the proposal requests provisional language to specify the use of the funds.	AAB
47	Erroneous Conviction SB 446	The Governor's Budget proposes \$535,000 General Fund and 2.0 positions in 2022-23 and \$471,000 in 2023-24 and ongoing, to implement Chapter 490, Statutes of 2021 (SB 446). SB 446 creates a procedure that reassigns the burden of proof for granting compensation to an erroneously convicted person under Penal Code section 4900 when the underlying conviction was vacated.	AAB

48	Information Technology Security and Systems Enhancement	The Governor's Budget proposes \$2.37 million Restitution Fund in 2022-23 and \$808,000 in 2023-24 and ongoing, to update information technology security systems and infrastructure.	AAB
8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING			
49	Distance Learning and Use of Force Training Equipment Reappropriation	The Governor's spring proposal requests an extension of the encumbrance availability for \$10 million included in the 2018 Budget Act and reappropriated in the 2020 and 2021 Budget Acts by one year, from June 30, 2022 to June 30, 2023. In addition, the proposal requests a reappropriation of \$300,000 included in the 2018 Budget Act and reappropriated in the 2021 Budget Act for use of force and de-escalation training equipment by one year, from June 30, 2022 to June 30, 2023.	AAB
8140 STATE PUBLIC DEFENDER			
50	Support General Workload	The Governor's Budget proposes \$442,000 ongoing General Fund and 3.5 positions to effectively manage OSPD's workload due to increased staff and additional responsibilities. The State Public Defender requires these positions to fulfill its statutory responsibilities to provide effective representation of individuals sentenced to death and to carry out its new mandate to provide training and technical assistance to defenders across California through its Indigent Defense Improvement Division.	AAB
8830 CALIFORNIA LAW REVISION COMMISSION			
51	Data and Research Funding	The Governor's Budget proposes \$1.77 million in reimbursements from the Office of the Legislative Counsel (with an offsetting one-time General Fund augmentation to that office's budget) in 2022-23 to fund three years of contract research activities, including secure data hosting, with the California Policy Lab (CPL), a research center based in the University of California system. The Committee and CPL's research partnership is currently supported entirely by outside philanthropic funding which will not continue indefinitely.	AAB
9285 TRIAL COURT SECURITY - COURT CONSTRUCTION			
52	Trial Court Security - Court Construction	The Governor's spring proposal requests an increase of \$3 million to provide ongoing resources to counties for trial court security costs resulting from new court construction projects and a correction to item 9285-101-0001 to correct an erroneous year reference.	AAB

9286 TRIAL COURT SECURITY - JUDGEShips			
53	Trial Court Security - Judgeships	The Governor's spring proposal requests an increase of \$1,000 to provide ongoing resources to cover security costs associated with newly funded judgeships.	AAB
2660 DEPARTMENT OF TRANSPORTATION			
54	Fi\$Cal Onboarding Planning	<p>The budget includes \$1,609,000 in one-time resources from the State Highway Account to support 10 administrative services positions in the Division of Accounting and Division of Information Technology. These resources will support the increased workload for preliminary planning activities required in preparation for Caltrans onboarding to the Fi\$Cal System.</p> <p>When Fi\$Cal was first rolled out across the state, Caltrans was deferred from the System due to its existing financial management system meeting state requirements, with the understanding that Caltrans would seek approval from the Department of Fi\$Cal (Fi\$Cal) when Caltrans needed to upgrade its software. The existing software is now reaching the end of its useful life, and Caltrans is beginning the process of transitioning to the Fi\$Cal system.</p> <p>Fi\$Cal conducted a functional business fit/gap analysis in May 2020 and issued its conclusion in October 2020. Although the fit/gap analysis identified gaps between the System and Caltrans' business needs, Fi\$Cal informed Caltrans in February 2021 that it believes the gaps could be mitigated and Caltrans would on-board to the System. This request provides resources needed to initiate the preliminary planning stage to begin the process</p>	AAB

ITEMS FOR DISCUSSION

0690 OFFICE OF EMERGENCY SERVICES

Issue 55: Los Angeles Regional Interoperable Communications System

Proposal. The Senate is considering a proposal to provide funding to complete the build out of the Los Angeles Regional Interoperable Communications System (LA-RICS), which provides interoperable communications between federal, state, and local first responders and law enforcement agencies in Los Angeles County.

Background.

The LA-RICS system provides a unified communication network for federal, state, and local public safety agencies in Los Angeles County. The LA-RICS system will provide radio communication services to public safety agencies serving 88 cities and the unincorporated areas of Los Angeles County. Additionally, LA-RICS will also serve various State and federal agencies, including but not limited to, the Governor's Office of Emergency Services (Cal OES), California Highway Patrol (CHP), California State Universities, California State Parks, Alcohol Tobacco and Firearms (ATF), and Federal Reserve Bank Police.

The LA-RICS system is over 80 percent complete. Out of 58 sites, 49 are complete, eight are nearing completion, and one is pending. The system has been funded through federal funding and local grant funding. However, unforeseen delays have led to a shortfall in funding to complete the system. The LA-RICS Authority is requesting \$18.6 million to complete the request.

Staff Recommendation. Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Thursday, May 12, 2022
Upon adjournment of session
1021 O Street - Room 2200

Consultant: Nora Brackbill, Ph.D.

OUTCOMES

All Items - Approved Staff Recommendation (3-0; Grove Absent)

ITEMS FOR VOTE ONLY

0250 Judicial Branch	3
0280 Commission on Judicial Performance	4
0390 Contributions to the Judges' Retirement Fund.....	4
0552 Office of the Inspector General	4
0690 Office of Emergency Services	4
0820 Department of Justice.....	6
5225 Department of Corrections and Rehabilitation	7
5227 Board of State and Community Corrections.....	10
7870 California Victim Compensation.....	10
8120 Commission on Peace Officer Standards and Training	11
8140 State Public Defender	11
8830 California Law Revision Commission.....	11
9285 Trial Court Security - Court Construction	11
9286 Trial Court Security - Judgeships	12
2660 Department of Transportation	12

ITEMS FOR DISCUSSION

0690 Office of Emergency Services	13
Issue 55: Los Angeles Regional Interoperable Communications System.....	13

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

Issue	Proposal	Background	Staff Rec.
0250 JUDICIAL BRANCH			
1	AB 177 Trial Court Backfill	The Governor's Budget proposes requests \$13.4 million ongoing General Fund to backfill revenues lost from the repeal of fees in AB 177. AB 177 repealed various Penal Code and Vehicle Code sections that dealt with predominantly administrative fees which were used generally to cover various court services.	AAB
2	Court of Appeals Court Appointed Counsel	\$8.3 million ongoing General Fund in 2022-23 to support the Courts of Appeal Court Appointed Counsel Program. This total amount includes \$6.4 million ongoing General Fund for a \$15 rate increase for non-capital appeal appointments, and \$1.9 million for a permanent 10.5 percent increase in the Project Offices annual contracts.	AAB
3	Electronic Filing for Restraining Orders (AB 887, SB 538)	The Governor's Budget proposes \$2.6 million General Fund in 2022-23 and three positions and \$1.7 million in 2023-24 and ongoing to implement, support, and maintain electronic filing interfaces for domestic violence restraining orders, domestic temporary restraining orders, and gun violence restraining orders at all trial courts.	AAB
4	Improvement and Modernization Fund (IMF) BBL	The Governor's Budget proposes provisional budget language authorizing the Director of the Department of Finance to transfer additional General Fund support to the IMF if revenues are lower than expected. The transfer can only occur 30 days after written notification to the Legislature.	AAB and adopt provisional BBL
5	Probate Conservatorship Report (AB 1194)	The Governor's Budget proposes \$1.25 million one-time General Fund in 2022–2023 to support costs of producing a comprehensive study of probate conservatorships in California and developing statewide recommendations, as required by AB 1194 which requires the Judicial Council, on or before January 1, 2024, to report to the Legislature the findings of a study of at least three courts measuring court effectiveness in conservatorship cases.	AAB
6	Public Access Staffing	The Governor's Budget proposes \$1.2 million General Fund in 2022-23 and 4 positions and \$1.1 million in 2023-24 and ongoing to address the volume and work related to requests for legal guidance and support with public access requirements for judicial branch administrative records and proceedings.	AAB

7	Trial Court Employee Health Benefit and Retirement Costs	The Governor's Budget proposes \$28.7 million ongoing General Fund for the trial court employee health benefit and retirement costs.	AAB
8	Trial Court Trust Fund Revenue Backfill	The Governor's Budget proposes \$117.8 million ongoing General Fund to backfill the Trial Court Trust Fund Revenue.	AAB
0280 COMMISSION ON JUDICIAL PERFORMANCE			
9	Spring Reappropriation Proposal	The Governor's spring proposal requests a reappropriation of \$200,000 with funding available for encumbrance and expenditure until June 30, 2023, related to the establishment of a fifteen-member committee to review the operations and structure of the Commission on Judicial Performance and to develop recommendations that would improve the Commission's ability to carry out its core responsibilities.	AAB
0390 CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND			
10	Spring Reappropriation Proposal	The Governor's spring proposal requests a reappropriation of \$80,000 related to the post judgment award in <i>Robert M. Mallano, Individually, and Behalf of a Class of Similarly Situated Persons v. John Chiang, Controller of the State of California</i> (Case No. BC-533770).	AAB
0552 OFFICE OF THE INSPECTOR GENERAL			
11	Staffing Increase for the Oversight, C-ROB, and Intake Unit	The Governor's Budget requests \$232,000 ongoing General Fund and 2 positions to address increased workload of the Office of Inspector General's OCI Unit. This unit is currently staffed with a total of six line-staff positions and requires two additional Associate Deputy Inspector General positions to handle its increased complaint workload.	AAB
0690 OFFICE OF EMERGENCY SERVICES			
12	Disaster Service Worker Program	The Governor's spring proposal requests \$500,000 General Fund in 2022-23 and ongoing for the Disaster Service Worker Volunteer Program to provide sufficient and timely workers' compensation benefits to injured volunteers and eligible survivors, and issue medical provider payments without incurring penalty and interest fees.	AAB

13	Emergency Services: Vulnerable Populations (AB 580)	The Governor's Budget proposes \$1.41 million General Fund ongoing and 6 positions to review the emergency plans of each county to determine whether the plans are consistent with access and functional needs best practices and provide technical assistance, consistent with the requirements of Chapter 744, Statutes of 2021 (AB 580).	AAB
14	Equality in Prevention and Services for Domestic Abuse Fund	The Governor's spring proposal requests a one-time budget authority increase of \$375,000 in Equality in Prevention and Services for Domestic Abuse Fund in 2022-23 to continue to develop and support a training curriculum, support service providers, and provide brochures associated with lesbian, gay, bisexual, and transgender domestic abuse.	AAB
15	Headquarters Modernization	The Governor's Budget proposes \$5.23 million one-time General Fund in 2022-23 and \$1.96 million in 2023-24 for support costs associated with two authorized capital outlay projects for the construction phase of State Operations Center modification.	AAB
16	Implementing 9-8-8 Behavioral/ Mental Health Hotline	The Governor's Budget proposes \$7.52 million General Fund in 2022-23, \$5.98 million ongoing, and 10 positions in response to the Federal Communications Commission requirement to implement 9-8-8 nationwide. The requested resources will be used to procure, install, and maintain the 9-8-8 call handling equipment and to develop and implement the 9-1-1 to 9-8-8 interface.	AAB
17	Mather: Headquarters Lobby Security Enhancements	The Governor's Budget proposes \$198,000 General Fund for the working drawings phase and \$1.11 million General Fund for the construction phase of the Mather: Headquarters Lobby Security Enhancements project.	AAB
18	Mather: Headquarters Security Checkpoint Enhancements	The Governor's Budget proposes \$351,000 General Fund for the working drawing phase of this continuing project to install two permanent check points and upgrade existing entryway gates at the North and West entrances of the main parking lot.	AAB
19	Mather: Security Checkpoint Support	The Governor's Budget proposes \$200,000 ongoing General Fund for support costs related to the Headquarters Security Checkpoint Enhancement Capital Outlay project. This proposal will supplement an existing security contract to add two additional security guards.	AAB

20	Mather: State Operations Center Modification	The Governor's Budget proposes \$1 million General Fund for equipment and \$8.93 million General Fund for the construction phase of the State Operations Center modification.	AAB
21	Nuclear Planning Assessment Special Account Consumer Price Index Adjustment	The Governor's spring proposal requests an increase to the Nuclear Planning Assessment Special Account appropriations of \$10,000 state operations and \$53,000 local assistance in 2022-23 in accordance with provisions of Government code section 8610.5.	AAB
22	Peace Officer and Law Enforcement Legislative Requirements (AB 481)	The Governor's Budget proposes \$418,000 ongoing and 2 positions for OES to comply with AB 481, which requires all law enforcement agencies to obtain approval from their applicable governing body before they can request to acquire military equipment through the 1033 Program. Note that this BCP also contains funding for other agencies, which will be handled in Subcommittee 2.	Reject the proposed resources and positions for OES (\$418,000 and 2 positions ongoing).
0820 DEPARTMENT OF JUSTICE			
23	Medi-Cal Fraud and Elder Abuse: Medicaid Patient Abuse Prevention Act	The Governor's spring proposal requests that Item 0820-001-0001 be increased by \$474,000, Item 0820-001-0378 be increased by \$1,224,000, and Item 0820-001-0890 be increased by \$6,134,000 ongoing to provide sufficient authority for the Department of Justice to receive the full amount of a reoccurring federal grant that supports investigative, enforcement, and prosecutorial duties carried out by the Department's Division of Medi-Cal Fraud and Elder Abuse.	AAB
24	Registry of Charitable Trusts Workload	The Governor's Budget proposes \$1.4 million Registry of Charitable Trusts Account and 10 positions in 2022-23, \$1.3 million and 11 positions in 2023-24, \$1.4 million and 12 positions in 2024-25, and \$1.4 million and 13 positions in 2025-26 and ongoing to support increased workload from increased registrations and delinquency reduction.	AAB
25	Replacement of the License 2000 System	The Governor's Budget proposes \$902,000 Gambling Control Fines and Penalties Fund in 2022-23 to support continued Project Approval Lifecycle (PAL) efforts related to the replacement of the Bureau of Gambling Control's License 2000 System.	AAB
26	Tribal Nation Grant	The Governor's Budget proposes \$137,000 Indian Gaming Special Distribution Fund in 2022-23 and ongoing, and 1 permanent position, to comply with mandated duties associated with the Tribal Nation Grant Fund Program.	AAB

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION			
27	Americans with Disabilities Act (ADA) Facility Improvements	The Governor's Budget requests \$22.2 million one-time General Fund for the construction of ADA accessibility improvements at the California Institution for Men, California Institution for Women, California State Prison – Los Angeles County, and Richard J. Donovan Correctional Facility.	AAB
28	Americans with Disabilities Act (ADA) Staffing	The Governor's Budget requests \$2.6 million General Fund and 20 positions in 2022-23 and \$2.7 million ongoing to support court mandated ADA remedial measures for disabled incarcerated persons at various institutions. These resources will be used to provide the disabled population with increased access to programs, services, and activities consistent with the ADA. CDCR will monitor compliance by tracking litigation costs, decreases in the number of rules violations, and number of grievances and incident reports filed by the incarcerated population.	AAB
29	Bachelor's Degree Expansion	The Governor's Budget requests \$5 million General Fund in 2022-23, \$4.5 million in 2023-24, and \$4.7 million in 2024-25 and ongoing and 15 positions to expand the Bachelor's Degree Program to seven institutions.	AAB
30	Cellular Interdiction	The Governor's Budget proposes 5 positions and \$12.6 million General Fund in 2022-23 (increasing to \$18.5 million in 2023-24 and decreasing to \$2.4 million in 2026-27 and ongoing) to install new cellphone interdiction technology at all 33 state-owned and operated prisons. Under the proposal, CDCR would install the technology at 8 prisons in 2022-23, 12 prisons in 2023-24, 12 prisons in 2024-25 and one prison in 2025-26. After the technology is installed, ongoing funding would support staff to operate and maintain the equipment.	Approve funding to support the proposed installation at 8 prisons in 2022-23 and 12 prisons in 2023-24 only. CDCR may request additional resources for the remaining prisons in a future budget year.

31	Class Action Lawsuit Staff	The Governor's Budget requests \$2.4 million General Fund and 14 positions in 2022-23 and \$2.3 million ongoing to handle legal work involved in class action lawsuits. This proposal is aimed at decreasing litigation costs through targeted intervention, the development of proactive litigation strategies and policy change, and the promulgation of regulations and policies that will assist in future termination of expensive class action litigation.	Approve the proposed resources and adopt provisional budget bill language that requires CDCR to report spending on class action lawsuits to the Legislature by August 31 of each year for five years beginning in 2022.
32	Contract Reappropriation and Technical Adjustments	The Governor's spring proposal requests a reappropriation of \$224,000 to complete the purchase of a tracking system for individuals with disabilities associated with the 2021-22 Armstrong Court Compliance Continuation budget change proposal and net zero technical adjustments to correctly align resources across CDCR programs.	AAB
33	DOJ Legal Service Fees	The Governor's Budget requests \$1.5 million ongoing General Fund for Department of Justice Legal Services fees. Over the years, CDCR has utilized internal resources to address the ongoing deficit and permanently redirected \$9.9 million from its administrative budget on an ongoing basis in the 2019 Budget Act, bringing the total ongoing appropriation to \$67.8 million. However, there are no additional internal resources available to offset these increased costs.	AAB
34	eDiscovery Platform, Redaction, and Delivery	The Governor's Budget proposes \$19.5 million General Fund and 10 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to develop an eDiscovery platform and increasing staffing for the centralized video storage and redaction unit.	AAB
35	Light Duty and Modified Work Assignments Continuation	The Governor's Budget requests \$9.5 million General Fund and seven positions ongoing to support return-to-work programs, including the limited term light duty assignment and temporary modified work assignment policies.	AAB
36	Mental Health Data Analysis and Informatics	The Governor's Budget requests 22.0 positions and \$3.1 million from the General Fund in fiscal year 2022-23 and ongoing to support additional	AAB

		Mental Health reporting tasks, a new data validation project related to the Coleman court, and to address increased reporting requests from both internal and external stakeholders.	
37	Microsoft End User Licensing Agreement	The Governor's Budget requests \$11.5 million General Fund in 2022-23, \$16.1 million General Fund in 2023-24, and \$17.5 million General Fund in 2024-25 and ongoing, to cover the increased cost of moving to a statewide contract for Microsoft End User Licensing Agreement.	AAB
38	Privacy Office Augmentation	The Governor's Budget requests 12.0 positions and \$2.1 million General Fund in fiscal year 2022-23 and ongoing for resources to enhance CDCR's ability to identify, prevent, manage, and mitigate privacy, information security, and cybersecurity risks and threats, and address key vulnerabilities consistent with recent Corrective Action Plans.	AAB
39	Redaction Workload	The Governor's Budget requests \$1.1 million General Fund and 7.6 positions in 2022-23 and ongoing for compliance with Chapter 402, Statutes of 2021 (SB 16). Chapter 988, Statutes of 2018 (SB 1421), amended Penal Code sections 832.7 and 832.8, making peace officer and custodial officer investigation and personnel records available for public inspection, pursuant to the California Public Records Act, when those records relate to reports, investigations, and findings of officer-involved incidents, including discharge of a firearm at a person; use of force resulting in death or great-bodily-injury; or sustained findings of sexual assault and acts of dishonesty directly relating to the reporting, investigation, or prosecution of crime, or misconduct by a fellow officer.	Approve the funding and proposed positions on a two-year limited term basis
40	Repurposing Condemned Housing	The Governor's Budget requests \$1.5 million one-time General Fund for a consulting contract to repurpose condemned housing/ support spaces at San Quentin State Prison.	Reject the Proposal
41	Security Solutions and Laptop End User Security	The Governor's Budget requests 9 positions and \$4.4 million General Fund in 2022-23 and \$5.2 million General Fund in 2023-24 and ongoing to address information security and cybersecurity vulnerability.	AAB
42	Support Inmate-Ward Labor Construction Projections	The Governor's Budget requests \$1.1 million in reimbursement authority and 13 positions ongoing to support the Inmate/Ward Labor Program. These positions will provide administrative support in construction field offices by performing administrative tasks required for current construction projects.	AAB

43	Tattoo Removal Program	The Governor's Budget requests \$567,000 General Fund in 2022-23 and \$1.1 million General Fund through 2025-26 to implement a tattoo removal program. The 2019 Budget Act included resources to support the tattoo removal program; however, these resources were cut in the 2020 Budget Act due to anticipated economic issues resulting from the COVID-19 Pandemic.	AAB
44	Technical Adjustments (net zero change)	The Governor's Budget requests a net-zero change to permanently realign budget authority by program. Each year, the Budget Act provides CDCR funding and CDCR makes adjustments through various Executive Orders and Budget Revisions.	AAB
5227 BOARD OF STATE AND COMMUNITY CORRECTIONS			
45	Fresno County SB 1022 Jail Project – Lease Revenue Bonds to General Fund	The Governor's Budget proposes \$81.5 million to pay off a Pooled Money Investment Account (PMIA) loan that is currently outstanding for the preliminary plans, working drawings, and construction phases of the Fresno County Jail project. The project was established and authorized for total funding of approximately \$79.2 million through the State Public Buildings Construction Fund (lease revenue bond financing authority) in a State Public Works Board (SPWB) action on June 15, 2015 through Government Code Sections 15820.92-15820.926. This request will eliminate the need to issue costlier bonds, resulting in debt service savings of approximately \$40 million over the 15-year life of the bonds.	AAB
7870 CALIFORNIA VICTIM COMPENSATION			
46	Attorney General Fees -- Erroneous Conviction Compensation lawsuits	The Governor's spring proposal requests an increase of \$874,000 in 2022-23 and 2023-24 for legal representation by the Department of Justice in lawsuits brought forth by individuals whose claims for erroneous conviction compensation were denied. In addition, the proposal requests provisional language to specify the use of the funds.	AAB
47	Erroneous Conviction SB 446	The Governor's Budget proposes \$535,000 General Fund and 2.0 positions in 2022-23 and \$471,000 in 2023-24 and ongoing, to implement Chapter 490, Statutes of 2021 (SB 446). SB 446 creates a procedure that reassigns the burden of proof for granting compensation to an erroneously convicted person under Penal Code section 4900 when the underlying conviction was vacated.	AAB

48	Information Technology Security and Systems Enhancement	The Governor's Budget proposes \$2.37 million Restitution Fund in 2022-23 and \$808,000 in 2023-24 and ongoing, to update information technology security systems and infrastructure.	AAB
8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING			
49	Distance Learning and Use of Force Training Equipment Reappropriation	The Governor's spring proposal requests an extension of the encumbrance availability for \$10 million included in the 2018 Budget Act and reappropriated in the 2020 and 2021 Budget Acts by one year, from June 30, 2022 to June 30, 2023. In addition, the proposal requests a reappropriation of \$300,000 included in the 2018 Budget Act and reappropriated in the 2021 Budget Act for use of force and de-escalation training equipment by one year, from June 30, 2022 to June 30, 2023.	AAB
8140 STATE PUBLIC DEFENDER			
50	Support General Workload	The Governor's Budget proposes \$442,000 ongoing General Fund and 3.5 positions to effectively manage OSPD's workload due to increased staff and additional responsibilities. The State Public Defender requires these positions to fulfill its statutory responsibilities to provide effective representation of individuals sentenced to death and to carry out its new mandate to provide training and technical assistance to defenders across California through its Indigent Defense Improvement Division.	AAB
8830 CALIFORNIA LAW REVISION COMMISSION			
51	Data and Research Funding	The Governor's Budget proposes \$1.77 million in reimbursements from the Office of the Legislative Counsel (with an offsetting one-time General Fund augmentation to that office's budget) in 2022-23 to fund three years of contract research activities, including secure data hosting, with the California Policy Lab (CPL), a research center based in the University of California system. The Committee and CPL's research partnership is currently supported entirely by outside philanthropic funding which will not continue indefinitely.	AAB
9285 TRIAL COURT SECURITY - COURT CONSTRUCTION			
52	Trial Court Security - Court Construction	The Governor's spring proposal requests an increase of \$3 million to provide ongoing resources to counties for trial court security costs resulting from new court construction projects and a correction to item 9285-101-0001 to correct an erroneous year reference.	AAB

9286 TRIAL COURT SECURITY - JUDGEShips			
53	Trial Court Security - Judgeships	The Governor's spring proposal requests an increase of \$1,000 to provide ongoing resources to cover security costs associated with newly funded judgeships.	AAB
2660 DEPARTMENT OF TRANSPORTATION			
54	Fi\$Cal Onboarding Planning	<p>The budget includes \$1,609,000 in one-time resources from the State Highway Account to support 10 administrative services positions in the Division of Accounting and Division of Information Technology. These resources will support the increased workload for preliminary planning activities required in preparation for Caltrans onboarding to the Fi\$Cal System.</p> <p>When Fi\$Cal was first rolled out across the state, Caltrans was deferred from the System due to its existing financial management system meeting state requirements, with the understanding that Caltrans would seek approval from the Department of Fi\$Cal (Fi\$Cal) when Caltrans needed to upgrade its software. The existing software is now reaching the end of its useful life, and Caltrans is beginning the process of transitioning to the Fi\$Cal system.</p> <p>Fi\$Cal conducted a functional business fit/gap analysis in May 2020 and issued its conclusion in October 2020. Although the fit/gap analysis identified gaps between the System and Caltrans' business needs, Fi\$Cal informed Caltrans in February 2021 that it believes the gaps could be mitigated and Caltrans would on-board to the System. This request provides resources needed to initiate the preliminary planning stage to begin the process</p>	AAB

ITEMS FOR DISCUSSION

0690 OFFICE OF EMERGENCY SERVICES

Issue 55: Los Angeles Regional Interoperable Communications System

Proposal. The Senate is considering a proposal to provide funding to complete the build out of the Los Angeles Regional Interoperable Communications System (LA-RICS), which provides interoperable communications between federal, state, and local first responders and law enforcement agencies in Los Angeles County.

Background.

The LA-RICS system provides a unified communication network for federal, state, and local public safety agencies in Los Angeles County. The LA-RICS system will provide radio communication services to public safety agencies serving 88 cities and the unincorporated areas of Los Angeles County. Additionally, LA-RICS will also serve various State and federal agencies, including but not limited to, the Governor's Office of Emergency Services (Cal OES), California Highway Patrol (CHP), California State Universities, California State Parks, Alcohol Tobacco and Firearms (ATF), and Federal Reserve Bank Police.

The LA-RICS system is over 80 percent complete. Out of 58 sites, 49 are complete, eight are nearing completion, and one is pending. The system has been funded through federal funding and local grant funding. However, unforeseen delays have led to a shortfall in funding to complete the system. The LA-RICS Authority is requesting \$18.6 million to complete the request.

Staff Recommendation. Hold Open.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Wednesday, May 18, 2022
9:00 AM
1021 O Street - Room 1200

Part A – Transportation and Public Safety

Consultants: James Hacker and Nora Brackbill

ITEMS FOR DISCUSSION

0521 CALIFORNIA TRANSPORTATION AGENCY	2
2600 CALIFORNIA TRANSPORTATION COMMISSION.....	2
2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION	2
2720 CALIFORNIA HIGHWAY PATROL	2
2740 DEPARTMENT OF MOTOR VEHICLES.....	2
Issue 1: Overview of Governor’s May Revision Proposals in Transportation	2
0250 JUDICIAL BRANCH.....	6
0552 OFFICE OF THE INSPECTOR GENERAL.....	6
0690 OFFICE OF EMERGENCY SERVICES.....	6
0820 DEPARTMENT OF JUSTICE.....	6
5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION	6
5227 BOARD OF STATE AND COMMUNITY CORRECTIONS	6
7870 CALIFORNIA VICTIM COMPENSATION BOARD.....	6
Issue 2: Overview of Governor’s May Revision Proposals in Public Safety	6

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.

0521 CALIFORNIA TRANSPORTATION AGENCY
2600 CALIFORNIA TRANSPORTATION COMMISSION
2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION
2720 CALIFORNIA HIGHWAY PATROL
2740 DEPARTMENT OF MOTOR VEHICLES

Issue 1: Overview of Governor's May Revision Proposals in Transportation

Governor's May Revision Proposals for 2022-23

The Governor's May Revision includes the following transportation-related ongoing and one-time proposals. These proposals are in addition to the Governor's January budget and detailed below:

CROSS-OVER ISSUES

Consumer Relief Package. The May Revision reflects the Administration's proposed consumer relief proposal, which includes the following transportation-related proposals:

- \$11.5 billion in gas tax rebates to vehicle owners. This proposal will be discussed in more detail in Subcommittee 4.
- \$750 million to support transit operators who agree to provide at least three months of free transit service.
- An additional \$500 million for the Active Transportation Program.
- A pause in the CPI increase for state diesel taxes beginning in October, with a General Fund backfill to ensure that transportation funding is held harmless. This is estimated to cost the General Fund \$327 million in 2022-23 and \$112 million in 2023-24.
- The May Revision does not reflect the pause in CPI adjustment for the state gas tax originally proposed in January.

CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

- **Caltrans Infrastructure Investment and Jobs Act (IIJA) Implementation.** The May Revision includes 295 positions and \$50 million annually for Caltrans to administer and implement the state and local transportation funding provided by the IIJA.
- **Caltrans Capital Outlay Support (COS) Proposal.** The May Revision includes an additional \$144 million to fund an additional 626 positions, 77 contract positions, and 31 overtime positions, to provide engineering and design support associated with increased project workload.

- **Other Caltrans Proposals.** The May Revision includes several reappropriation and reimbursement proposals at Caltrans. Specifically:
 - Liberty Canyon Wildlife Crossing—Reappropriation of the unencumbered balance of item 2660-003-0001, Budget Act of 2021 to provide funding that may be used for support, capital outlay, or local assistance. This will allow for continued support of the Liberty Canyon Wallis Annenberg Crossing Project.
 - General Transit Feed Specification (GTFS)—Reappropriation of the unencumbered balance of Item 2660-001-0890, Budget Act of 2021. This will allow Caltrans to continue to oversee the implementation and expansion of GTFS and contactless payment standards by providing support to medium, small, and rural transit agencies.
 - Reimbursements for Right-of-Way Support—A two-year increase of 14 limited-term positions and a total of \$3,552,000 (\$2,423,000 in personal service (PS), \$129,000 in operating expense (OE), and an additional \$1,000,000 for litigation costs (OE)) in State Highway Account Reimbursement authority for legal services rendered on behalf of the California High Speed Rail Authority.
- **Caltrans Trailer Bill Proposals.** The May Revision includes several trailer bill proposals to grant Caltrans increased flexibility as it implements new federal and state infrastructure spending. These include:
 - Advanced Payments for Transit. The proposed language would expand and clarify the authority for Caltrans to advance funds to public agencies for transit and passenger rail projects funded by the State Transportation Improvement Program or the Transit and Intercity Rail Capital Improvement Program. This proposal would expand advance payment authority for these projects programmed in the Regional Transportation Improvement Program to phases beyond planning and environmental analysis.
 - Interregional Rail Projects Funding Eligibility. The proposed language would expand project eligibility for the Solutions for Congested Corridors Program and the Trade Corridor Enhancement Program to rail and transit projects included in the State Rail Plan that are not currently included in regional transportation plans, making them ineligible under state law.
 - Design-Build Procurement Authority. The proposed language would remove the existing limit on the number of projects on which Caltrans is authorized to use its design build procurement authority through 1/1/34.
 - Job Order Contracting. The proposed language would authorize Caltrans to use a contracting method known as job order contracting, which allows a public agency to contract for and complete routine transportation projects and maintenance work more quickly.

- Best Value Contract Procurement. The proposed language would reinstate, revise, and make permanent Caltrans' authority to use the best-value procurement method to procure heavy mobile fleet vehicles and special equipment.
- State Highway System Right of Way Permits. The proposed language would update Caltrans' authority to issue permits for ROW along state roads owned or controlled by Caltrans, and would allow installation of the Broadband Network and other advanced communication and information services.

CALIFORNIA HIGHWAY PATROL (CHP)

- **California Public Records Statutory Requirements.** The May Revision includes a permanent augmentation of \$3.628 million from the Motor Vehicle Account (MVA) for 22 permanent positions and procurement of a records management system (RMS) and redaction software to support the CHP's increased workload resulting from approved legislation related to the California Public Records Act (CPRA).
- **Workers' Compensation Augmentation.** The May Revision includes \$43.556 million ongoing from the Motor Vehicle Account to cover additional costs resulting from increased State Compensation Insurance Fund fees and workers' compensation and medical costs.
- **Capital Outlay Proposals.** The May Revision includes several proposals related to capital outlay projects, including:
 - An additional \$322,000 General Fund for the California Highway Patrol Enhanced Radio System: Tower and Vault Replacement project at Leviathan Peak.
 - The reversion of existing authority (\$151,741,000 General Fund [GF], and \$2,635,000 Motor Vehicle Account [MVA]) and a new appropriation for the Design-Build phase of the Quincy, Baldwin Park, and Santa Fe Springs Area Office replacement projects (\$184,320,000 GF), and the construction phase of the Keller Peak Tower Replacement (\$3,231,000 MVA).

DEPARTMENT OF MOTOR VEHICLES (DMV)

- **DMV IT Project Reappropriations.** The May Revision proposes to reappropriate \$35,582,000 Motor Vehicle Account in 2022-23 with a two year encumbrance and liquidation period for the Digital eXperience Platform (DXP) Project, and \$8.5 million General Fund in 2022-23 for the Mobile Driver License (mDL) Pilot Project in previously approved 2021 Budget Act funding.

- **Various Projects: Revert Existing Authority and Fund New.** The May Revision includes reversions and new appropriations for the construction phase of the Santa Maria, Inglewood, and Reedley Field Office Replacement, and the Oxnard Field Office renovation to address inflationary pressures. These changes include:
 - Santa Maria: Field Office Replacement - \$20,592,000 (\$2,465,000 increase over existing appropriation).
 - Inglewood: Field Office Replacement - \$20,928,000 (\$2,114,000 increase over existing appropriation).
 - Oxnard: Field Office Reconfiguration - \$14,254,000 (\$2,058,000 increase over existing appropriation).
 - Reedley: Field Office Replacement - \$21,398,000 (\$2,963,000 increase over existing appropriation).

Staff Recommendation. Hold open all May Revision proposals

0250 JUDICIAL BRANCH**0552 OFFICE OF THE INSPECTOR GENERAL****0690 OFFICE OF EMERGENCY SERVICES****0820 DEPARTMENT OF JUSTICE****5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION****5227 BOARD OF STATE AND COMMUNITY CORRECTIONS****7870 CALIFORNIA VICTIM COMPENSATION BOARD****Issue 2: Overview of Governor's May Revision Proposals in Public Safety****Governor's May Revision Proposals and Adjustments for 2022-23**

The Governor's May Revision includes the following ongoing and one-time proposals. These proposals are in addition to the Governor's January budget and detailed below:

JUDICIAL BRANCH

- **Community Assistance, Recovery, and Empowerment (CARE) Court.** The May Revision includes \$39.5 million General Fund in 2022-23 and \$37.7 million ongoing for the Judicial Branch to conduct CARE court hearings and provide resources for self-help centers.
- **Trial Court Facilities.** The May Revision provides an additional \$24.3 million one-time General Fund to modify existing court facilities and \$29.6 million one-time General Fund for the construction of new courtrooms to accommodate the additional superior court judgeships. The May Revision also includes \$15.7 million one-time General Fund to address fire, life, and safety issues in three trial court facilities: San Diego County Superior Court Hall of Justice, San Diego County Superior Court East County Regional Center, and Orange County Superior Court Central Justice Center.
- **Environmental Issue Judicial Training.** The May Revision includes \$1.2 million ongoing General Fund to establish a unit within the Judicial Council to provide training, technical assistance, and legal support to judicial officers and court personnel on water law, climate change, and environmental issues.
- **Trial Court Trust Fund Backfill.** The May Revision includes \$33.7 million ongoing General Fund to continue backfilling the expected revenue decline in the Trial Court Trust Fund in 2022-23. This brings the total amount available for the backfill in 2022-23 to \$151.5 million.
- **AB 177 Trial Court Backfill.** The May Revision includes an ongoing reduction of \$3.1 million General Fund to backfill trial courts for revenue losses from the repeal of fees by Chapter 257, Statutes of 2021 (AB 177). The associated revenue loss for all courts is lower than expected, totaling \$10.3 million instead of the \$13.4 million estimated in the Governor's January Budget.

- **Trial Court Employee Benefit Adjustment.** The May Revision includes a \$7.9 million ongoing General Fund reduction to reflect updated health benefit and retirement rate changes for trial court employees. This brings the total additional amount available for trial court employee benefits in 2022-23 to \$20.9 million.
- **State Court Facilities Construction Fund (SCFCF) Backfill.** The May Revision removes the \$40 million one-time General Fund backfill of the SCFCF that was included in the Governor's Budget because the backfill is no longer necessary as there is a sufficient fund balance to maintain current service levels.

CORRECTIONS

CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION (CDCR)

The May Revision includes total funding of \$13.9 billion (\$13.3 billion General Fund and \$603.2 million other funds) for CDCR in 2022-23.

- **Adult Institution Population.** The average daily adult incarcerated population for 2021-22 is projected to be 99,590, a decrease of five percent since the Governor's January Budget. The population is projected to decline in the long term, reaching 95,655 in 2024-25. Accordingly, the Administration is considering closing three additional prisons by 2024-25, assuming no significant changes to the long-term population projections.
- **Parolee Population.** The Governor's January Budget projected an overall parolee average daily population of 42,963 in 2022-23. The average daily parolee population is now projected to increase by 628 to 43,591 in 2022-23, an increase of 1.5 percent from the Governor's January Budget projections. The parole population is projected to decline to 37,818 by June 30, 2026.
- **Division of Juvenile Justice Population.** The May Revision reflects an estimated average daily population of 641 youth in 2021-22 and 430 youth in 2022-23, which represents a decrease of 16 and 114 youth in 2021-22 and 2022-23, respectively, compared to the Governor's January Budget estimates. This results in a decrease of \$6 million General Fund and 32.5 positions in 2021-22, and a decrease of \$15.7 million and 95 positions in 2022-23, as compared to Governor's January Budget estimates. Additionally, the May Revision reflects a decrease of \$87.8 million and 554.7 positions in 2023-24 and ongoing in recognition of DJJ's closure at the end of 2022-23.
- **COVID-19 Response.** The May Revision reduces the amount of funding needed for CDCR's COVID-19 response from \$424.7 million to \$240.1 million one-time General Fund, reflecting a significant decline in active cases since January.
- **Health Care Facility Improvement Program (HCFIP) Supplemental Appropriation.** The May Revision includes \$67.6 million in additional funding to finish 11 outstanding HCFIP projects.

- **Medication Distribution Improvements.** The May Revision includes \$18.4 million to improve medication preparation and distribution spaces at five facilities.
- **Data Collection and Evaluation.** The May Revision includes \$6 million one-time General Fund for data collection and evaluation regarding the outcomes of formerly incarcerated individuals.

OFFICE OF THE INSPECTOR GENERAL (OIG)

- **Staff Misconduct and Disciplinary Process.** The May Revision includes \$5.6 million General Fund in 2022-23 and \$11.4 million ongoing for the OIG to monitor staff complaints that are handled by institutions and to reflect refinements to the staffing levels for the OIG to monitor CDCR's centralized screening process and investigations conducted by the Office of Internal Affairs. This augmentation would provide the OIG with a total of \$7.9 million General Fund in 2022-23 and \$15.1 million ongoing to monitor CDCR's staff misconduct process.

BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)

- **Transitional Housing.** The May Revision includes \$3 million one-time General Fund to provide transitional housing to youth discharged by the Board of Juvenile Hearings and at risk of homelessness.
- **Mobile Probation Centers.** The May Revision includes \$20 million one-time General Fund to establish a competitive grant program for counties to create mobile probation centers, which can help facilitate court appearances and connect individuals to other resources such as housing.
- **Post Release Community Supervision.** The Governor's January Budget estimated \$23.2 million one-time General Fund for county probation departments to supervise the temporary increase in the average daily population of individuals on Post Release Community Supervision (PRCS) as a result of the implementation of Proposition 57. Based on updated estimates, the May Revision includes \$20.9 million one-time General Fund, or a decrease of \$2.3 million from Governor's January Budget projections, corresponding with fewer releases of incarcerated individuals than had been projected in Fall 2021.
- **Proposition 47.** The Department of Finance estimates net General Fund savings of \$161.1 million in the 2022-23 May Revision. This is an increase of \$13.8 million over the 2022-23 Governor's January Budget projection, due to updated diversion impact estimates. These funds will be allocated 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.

- **Officer Wellness Grants.** The May Revision includes \$50 million one-time General Fund to fund grants to local entities to improve officer health and well-being, build resiliency, decrease stress and trauma, and improve community trust and relations. This is in addition to the \$5 million one-time General Fund included in the Governor's January Budget for the Commission on Peace Officer Standards and Training to develop a Law Enforcement Wellness Program to support officers' overall health.
- **Missing and Murdered Indigenous Persons Grants.** The May Revision includes \$12 million General Fund over three years to establish a competitive grant program to help California tribes locate and identify missing Indigenous persons.

PUBLIC SAFETY

OFFICE OF EMERGENCY SERVICES (OES)

The May Revision includes an additional \$263.4 million (\$233.9 million General Fund) for OES, bringing the total funding for OES to \$2.3 billion (\$807.6 million General Fund) and 1,777 positions for Cal OES.

- **State Warning Center.** The May Revision includes \$8.1 million General Fund (\$5.2 million ongoing) and 19 positions for the California State Warning Center to monitor and coordinate responses during critical emergency incidents and disasters.
- **Securing Emergency Supplies and Commodities.** The May Revision includes \$114.3 million General Fund one-time to provide warehouse space, purchase new and replace expiring personal protective equipment, increase commodity supply for an all-hazard event, and secure logistic support equipment. This proposal would support California's ability to act quickly and help ensure appropriate resources are available across the state for all emergencies.
- **Data Analytics.** The May Revision includes \$19 million General Fund (\$10.5 million ongoing) and eight positions to modernize Cal OES's technology and data capabilities through new technology and updating outdated systems.
- **Pandemic Response.** The May Revision includes \$29.5 million General Fund one-time to continue COVID-19 testing efforts and provide resources to activate the state's mutual aid system in the event of future outbreaks. For additional information, please see the Pandemic Response and Federal Assistance chapter.
- **Emergency Training.** The May Revision includes \$7.2 million General Fund (\$5.8 million ongoing) and 23 positions to provide more courses for emergency management professionals and emergency responders at the California Specialized Training Institute.
- **Southern California Response.** The May Revision includes \$5.4 million General Fund one-time for design of a permanent Southern Regional Emergency Operations Center at the former Fairview Developmental Center in Costa Mesa. This new facility would provide

coordination response efforts between federal, state, and local partners in the Southern California region.

- **Local Law Enforcement Mutual Aid Deployment Resources.** The May Revision includes \$25 million General Fund ongoing and five positions to provide local law enforcement support during disasters and emergencies.
- **Nonprofit Security Grant Program.** The May Revision includes \$50 million General Fund one-time to provide security assistance to nonprofit organizations at risk of hate-motivated violence, which includes members of the Asian American Pacific Islander, LGBTQ+, Black, and Jewish communities. Security enhancement projects include reinforced doors and gates, high-intensity lighting and alarms, and other security-related improvements.
- **Internet Crimes Against Children Task Force.** The May Revision includes \$5 million General Fund one-time to support the Internet Crimes Against Children Task Force Program, which helps state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and combatting underground child pornography rings. This investment maintains the level of state resources provided to this effort in each of the last three years.

DEPARTMENT OF JUSTICE (DOJ)

The May Revision includes total funding of approximately \$1.2 billion, including \$443.5 million General Fund, to support DOJ.

- **Fentanyl Enforcement.** The May Revision includes \$7.9 million in 2022-23 and \$6.7 million ongoing to establish the Fentanyl Enforcement Program to target statewide fentanyl-trafficking criminal networks.
- **Medi-Cal Fraud and Elder Abuse: Medicaid Patient Abuse Prevention Act.** The May Revision includes \$7.8 million (\$6.1 million Federal Trust Fund, \$1.2 million False Claims Act, and \$474,000 General Fund) in 2022-23, and \$7.1 million in 2023-24 and ongoing to maximize DOJ's federal grant award to support increased Medicaid fraud and elder abuse investigation and enforcement pursuant to changes in federal law.
- **Reparations Task Force.** The May Revision includes \$1.5 million one-time General Fund for external consultants to develop and finalize task force recommendations and cover travel and per diem costs for task force members pursuant to Chapter 319, Statutes of 2020 (AB 121). This investment is in addition to \$2.2 million General Fund over two years for the task force provided in the 2021 Budget Act.

CALIFORNIA VICTIM COMPENSATION BOARD (CALVCB)

- **Innovative Pilot Program for Victim Services.** The May Revision includes \$30 million one-time General Fund to establish an innovative pilot program to provide victim services across the state, such as operating satellite offices for trauma recovery centers or other victim services providers in hard-to-reach and/or rural areas.
- **Media Outreach to Victims of Violent Crime.** The May Revision includes \$3 million one-time Restitution Fund to conduct an outreach campaign to raise awareness of statewide victim support services, while targeting hard-to-reach populations.

Staff Recommendation. Hold open all May Revision proposals.

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Wednesday, May 18, 2022
9:00 AM
1021 O Street - Room 1200

Part B-Labor, Workforce Development, Public Employment, and Public Retirement

Consultant: Christopher Francis, Ph.D.

Items for Discussion

<u>Item</u>	<u>Department</u>	<u>Page</u>
0559	SECRETARY FOR LABOR AND WORKFORCE DEVELOPMENT AGENCY.....	2
7100	EMPLOYMENT DEVELOPMENT DEPARTMENT.....	2
7120	CALIFORNIA WORKFORCE DEVELOPMENT BOARD.....	2
7350	DEPARTMENT OF INDUSTRIAL RELATIONS	2
7501	CALIFORNIA DEPARTMENT OF HUMAN RESOURCES	2
	Issue 1: Overview of Governor's May Revision Proposals in Labor, Workforce Development, and Human Resources.....	2
7900	CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM.....	5
7920	CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM.....	5
	VARIOUS DEPARTMENTS.....	5
	Issue 2: Overview of Governor's May Revision Proposals in Public Employment and Retirement	5

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.

0559 SECRETARY FOR LABOR AND WORKFORCE DEVELOPMENT AGENCY**7100 EMPLOYMENT DEVELOPMENT DEPARTMENT****7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD****7350 DEPARTMENT OF INDUSTRIAL RELATIONS****7501 CALIFORNIA DEPARTMENT OF HUMAN RESOURCES****Issue 1: Overview of Governor's May Revision Proposals in Labor, Workforce Development, and Human Resources****Governor's May Revision Proposals for 2022-23**

The Governor's May Revision includes the following ongoing and one-time proposals. These proposals are in addition to the Governor's January budget and detailed below:

CROSS-OVER ISSUES

- **UC Labor Centers.** The May Revision includes an increase of \$13 million ongoing General Fund to support the operations of existing UC Labor Centers and Occupational Safety and Health Programs, and invest in similar new initiatives throughout the UC system. The appropriation is proposed and was heard on May 18, 2022 under Subcommittee No. 1.

Also described and covered in the Subcommittee No.1 on Education hearing on May 18, 2022, the Administration includes multiple proposals to fill gaps in funding for apprenticeship intermediaries and programs for both support and training to increase apprenticeship opportunities for women, people of color, and individuals with disabilities and other barriers who historically do not participate at high rates in traditional apprenticeships.

- **CCC, California Healthy School Meals Pathway Program.** The May Revision includes an increase of \$45 million one-time Proposition 98 General Fund to support the implementation of the California Healthy School Meals Pathway Program, which is a pre-apprenticeship, apprenticeship, and fellowship workforce training pipeline pilot program for school food service workers.

CALIFORNIA WORKFORCE DEVELOPMENT BOARD (CWDB) AND DEPARTMENT OF INDUSTRIAL RELATIONS (DIR)

- **CWDB, Extreme Heat Workforce.** The May Revision includes \$17 million General Fund over two years to the California Workforce Development Board to expand high road training partnerships in industry sectors that support the state's response to extreme heat, such as heating, ventilation and cooling, cool roofs, urban forestry, climate smart natural resource management, as well as other industries identified through collaboration with other state agency partners.

- **DIR, Protections from Extreme Heat.** The May Revision includes \$24.5 million General Fund to the Department of Industrial Relations to protect vulnerable populations through targeted outreach and education in multiple languages for employers and employees, and increased strategic enforcement before and during heat events to protect workers from heat-related illness and wildfire smoke hazards.
- **DIR, Apprenticeship Innovation Funding.** The May Revision includes \$70 million in 2022-23 and \$80 million in 2023-24 and 2024-25 to expand non-traditional apprenticeship programs and support additional apprentice activities. The May Revision includes statutory changes be adopted to implement this program as well as reductions in the amounts proposed for January Governor's proposals for the Employment Training Panel in Health and Social Work, High Road Training Partnerships in Health and Human Services to fund this initiative.

EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD)

- **EDDNext, Long-Term Modernization.** EDDNext is a five-year plan to modernize EDD. The May Revision includes \$136 million one-time funding (\$68 million General Fund) for EDD to continue planning and begin implementing various improvements to EDD leave benefit programs. This includes efforts on EDD's benefit systems, call center improvements, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and upgrading department training and tools to increase the pace of application processing.

The first-year investment includes \$64.7 million to upgrade and replace parts of EDD's benefit services systems to provide improved customer service delivery, as well as to enhance overall program adaptability. Some immediate improvements include call center redesign, online portal enhancements to improve the online experience for claimants and employers, and expanded fraud data analytics. This first-year investment will also include design and planning of the future system, as well as efforts to improve claim forms usability. These resources will be critical to the long-term success of EDD.

In 2021-22, the EDD engaged in a business process re-engineering effort to analyze EDD's business operating model and assess existing technologies and pandemic lessons. This resulted in a roadmap for a multi-phase effort intended to promote responsible service, implement sustainable business operations and advance technical innovation that will ultimately improve customer service across EDD's unemployment insurance, disability insurance, and paid family leave benefit programs.

- **Identity Theft Awareness, Fraud Investigation Support, and Prosecution.** The May Revision includes \$23.6 million (\$10.9 million General Fund) in 2022-23, \$12 million (\$5.1 million General Fund) in 2023-24, and \$9 million (\$3.5 million General Fund) in 2024-25 to support ongoing EDD fraud investigation and interdiction efforts. Proposed investments include an identity theft awareness and prevention campaign, funding for

district attorneys' offices to continue prosecution of criminal fraud cases, and expanded fraud detection and prevention capabilities in the State Disability Insurance and paid family leave programs.

CALIFORNIA DEPARTMENT OF HUMAN RESOURCES (CALHR)

- **State Workforce Demographic Data Collection.** CalHR will work with the State Controller to establish new demographic categories for the collection of data pertaining to the ancestry or ethnic origin of African American employees. The collection of this data continues CalHR's duties to maintain statistical information necessary for the evaluation of equal employment opportunity and upward mobility within state civil service.

Suggested Questions

- **EDDNext, Long-Term Modernization.**
 - What is the total amount projected to implement this
 - Can you provide more details on the specific milestones and metrics as part of the multiyear plan?
 - Please describe the involvement that the Department of Technology will have in this process?
 - How does impact EDD's vendor contract's going forward? Is the plan to house some contracted functionalities internally? If so, which functions?
 - Are there any reports due to the Legislature to monitor these reports?
 - What is the total projected amount of this plan once fully implemented? How does the Administration/EDD plan to manage any potential cost pressures? Has the Administration/EDD already built in cost contingencies and if so, what are they?
 - Can you elaborate on how these changes will enhance the user experience? How do these modernization activities improve EDD's ability to tackle catastrophic events, such as another pandemic, in the future?
 - What languages are currently supported by the EDD Call Center? Does EDDNext plan to expand language access options?
 - Has EDD formally revised its contract terms with ID.me? What identity verification options will applicants have beyond using facial recognition technology?
- **Identity Theft Awareness, Fraud Investigation Support, and Prosecution.**
 - Does the EDD currently, or usually, provide funding to district attorney's offices? How much funding is currently provided to continue prosecution of criminal fraud cases? What is the projected case load attributed to criminal fraud cases in areas relevant for these proposals? What was the case load over the last three years attributed to criminal fraud cases in areas relevant for these proposals?
 - In December 2020, a task force/ collaborative between EDD/OES/ and district attorney offices was announced along with a proposed \$5 million appropriation from OES's mission tasking budget item to help the county DAs with the

investigation and prosecution of unemployment benefit fraud cases. Have these funds been expended?

- **Extreme Heat proposals under DIR and CWDB.**
 - How were these amounts determined? What metrics and milestones are anticipated for the populations impacted by these proposals?
 - On the HRTs, are there any organizations that you envision participating in the partnerships?
 - On DIR targeted outreach and education in multiple languages: Which languages are envisioned to be used? Please elaborate further on your anticipated outreach activities and how you plan to “target” them.
- **DIR Apprenticeship Innovation Funding.**
 - What are the statutory changes being proposed?
 - What non-traditional apprenticeship programs are you envisioning? Are there specific underrepresented groups that you will be targeting with these programs?
- **State Workforce Demographic Data Collection.**
 - Can you describe how this data collection, if at all, interacts with your California Leads as an Employer Implementation proposal?

Staff Recommendation. Hold open all May Revision proposals

7900 CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM
7920 CALIFORNIA STATE TEACHERS’ RETIREMENT SYSTEM
VARIOUS DEPARTMENTS

Issue 2: Overview of Governor’s May Revision Proposals in Public Employment and Retirement

Governor’s May Revision Proposals and Adjustments for 2022-23

The Governor’s May Revision includes the following ongoing and one-time proposals. These proposals are in addition to the Governor’s January budget and detailed below:

CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM (CALPERS)

- **CalPERS State Contributions.** State contributions to the California Public Employees’ Retirement System (CalPERS) have decreased by a net total of \$215.6 million (\$180.1 million General Fund) in 2022-23 relative to the Governor’s Budget. The decrease is a result of CalPERS’ adjustment to the state’s contribution rates, which is largely driven by the normal progression of the existing amortization and smoothing policy; elimination of the \$2.5 billion pension payment to the state’s unfunded liabilities over fiscal years 2019-20 to 2021-22, as authorized by AB 84 (Committee on Budget), Chapter 16, Statutes of 2020; and changes in experience and actuarial assumptions (including impacts of the 21.3

percent investment return in 2020-21 and the reduction in the discount rate from 7.00 percent to 6.80 percent). The Governor's budget assumed that the state will contribute \$8.4 billion (\$4.8 billion General Fund) in 2022-23 to pay for state employee pension benefits (including CSU employees).

- **CalPERS Unfunded Liability.** The Administration proposed in the January budget to use \$3.5 billion of the total \$3.9 billion in Proposition 2 debt payment requirements as a supplemental pension payment to reduce the state's CalPERS unfunded liabilities. The May Revision estimates \$2.9 billion in one-time Proposition 2 debt repayment funding in 2022-23 to further reduce the unfunded liabilities of the CalPERS state plans. Any supplemental payment made toward the state's CalPERS unfunded liability is estimated to result in a minimum long-term gross savings ratio of 2:1.

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM (CALSTRS)

- **State Contributions.** State contributions to the California State Teachers' Retirement System (CalSTRS) increased by \$6 million General Fund in 2022-23, relative to the Governor's Budget, due to a revision in reported compensation for K-12 and community college teachers. The Governor's 2022-23 budget proposal included \$3.7 billion General Fund in required contributions to CalSTRS. No supplemental payments to CalSTRS is proposed in 2022-23, in contrast to past few years.

EMPLOYEE COMPENSATION

- **Collective Bargaining.** The May Revision increases employee compensation by \$217.6 million in 2022-23 (\$132.2 million General Fund) and \$143.0 million ongoing (\$70.5 million General Fund) to reflect updated estimates to the dental and vision premium rates, changes to enrollment in health and dental plans, updated employment information for salary increases and other post-employment benefit contributions, telework stipends, and Division of Juvenile Justice recruitment and retention differentials.

The May Revision also reflects a decrease of \$329 million General Fund in 2022-23 for retiree health and dental benefits reflecting lower-than-expected retirements and updated enrollment information. The Administration is currently in negotiations with six bargaining units representing attorneys and administrative law judges, firefighters, engineers, scientists, stationary engineers, and psychiatric technicians, whose contracts or side letter agreements are expired or will expire in Summer 2022.

Staff Recommendation. Hold open all May Revision proposals