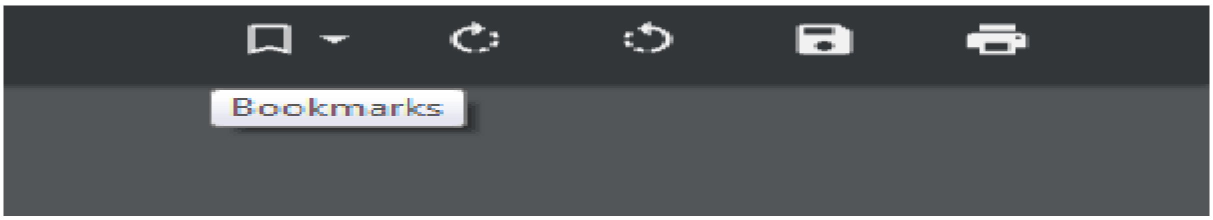
Senate Budget and Fiscal Review

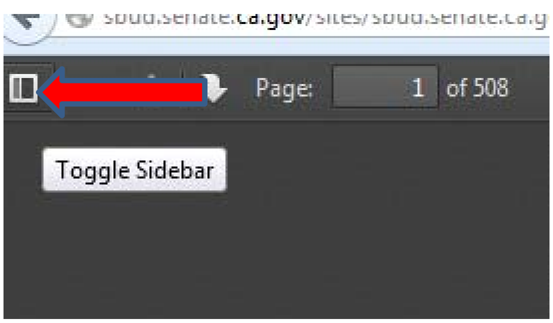
The 2023 Agendas for Subcommittee No. 5 on Corrections, Public Safety, and the Judiciary are archived below. To access an agenda or outcomes by a specific date, please refer to "Bookmarks" icon on the screen. Depending on your web browser the bookmarks menu will look different. Below are instructions to help you find the "Bookmarks" icon in Internet Explorer 11, Mozilla Firefox, or Chrome.

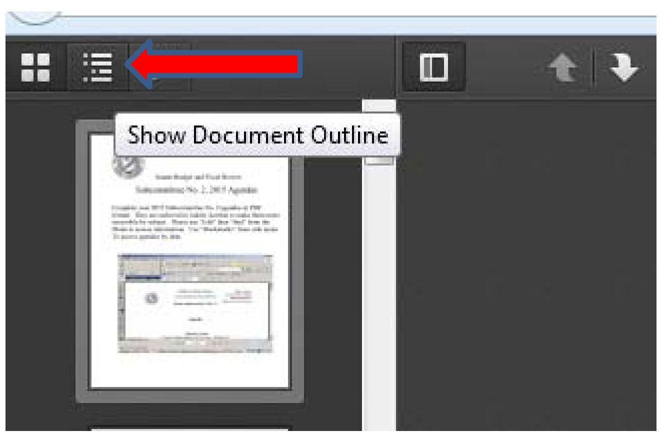
Chrome has access to Acrobat bookmark located in the upper right hand corner



Internet Explorer 11 selects Acrobat from box

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





Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Thursday, March 2, 2023
9:30 a.m. or upon adjournment of Session
State Capitol - Room 112

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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

ITEMS FOR DISCUSSION

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

Issue 1: Department Overview with Secretary Macomber

Panelists.

- Jeff Macomber, Secretary, CDCR

Background. The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration of certain adults convicted of felonies, including the provision of rehabilitation programs, vocational training, education, and health care services. As of January 18, 2023, CDCR was responsible for incarcerating about 95,600 people. Most of these people are housed in the state's 32 prisons and 34 conservation camps. The department also supervises and treats about 38,600 adults on parole and is responsible for the apprehension of those who commit parole violations. In addition, about 390 youths are housed in facilities that are currently operated by CDCR's Division of Juvenile Justice, which includes three facilities and one conservation camp.

The Governor's budget proposes total funding of $14.5 billion ($14.1 billion General Fund and $374.9 million other funds) for CDCR in 2023-24. This amount reflects a decrease of $454 million (about 3 percent) from the revised 2022-23 level (not accounting for any increases in employee compensation costs in 2023-24, which are reflected elsewhere in the budget). The proposed budget would provide CDCR with a total of about 62,400 positions in 2023-24, a decrease of about 2,400 (4 percent) from the revised 2022-23 level.

On December 12, 2022, Governor Gavin Newsom appointed Jeff Macomber as the new Secretary of CDCR, pending Senate confirmation. Secretary Macomber has worked for CDCR for 30 years, beginning as a correctional officer in 1993 and working in various roles at both CDCR headquarters and at individual institutions.

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

Issue 2: Population Projections

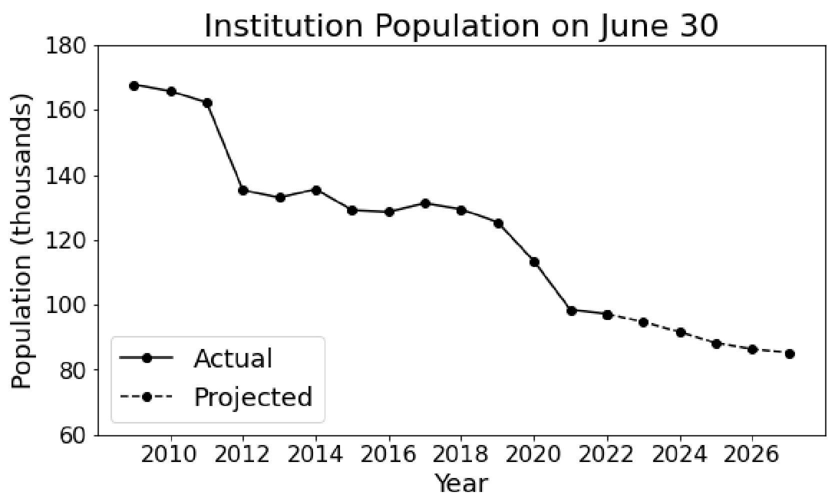
Governor's Budget. The average daily adult incarcerated population for 2022-23 is projected to be 96,157, a decrease of 6.6 percent from the spring 2022 projections. The population is expected to decrease to 93,396 in 2023-24 and 87,295 in 2025-26. The parolee average daily population is projected to decline from 43,668 in 2022-23 to 41,345 in 2023-24 and 36,473 by June 30, 2027. The proposed budget includes a net decrease of $112 million in the current year and a net decrease of $259 million in the budget year (largely General Fund) related to projected changes in the overall prison and parole populations and various subpopulations.

Panelists.

- Chris Chambers, Deputy Director, Office of Research, CDCR

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

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



Data from CDCR[1]

Prison Overcrowding and the Three-Judge Panel. In October 2006, at the height of prison overcrowding, CDCR's population was 173,479, with prisons operating at more than 200 percent of design capacity[2]. In January 2010, a special three-judge court ordered California to reduce its prison population to 137.5 percent of design capacity within two years[3]. The ruling was part of a

[1] https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2023/02/Fall-2022-Population-Projections.pdf
[2] https://www.cdcr.ca.gov/news/2019/06/25/california-department-of-corrections-and-rehabilitation-exits-last-out-of-state-prison/
[3] https://rbgg.com/news/coleman-plata-supreme-court/

consolidated proceeding that included the plaintiffs of two major class action lawsuits related to access to healthcare: *Coleman v. Newsom*, which was filed in 1990 on behalf of all California state prisoners with serious mental illness, and *Plata v. Newsom*, which was filed in 2001 on behalf of all prisoners. Both lawsuits are still active today and have resulted in significant federal oversight of CDCR's healthcare system. The plaintiffs of those two cases believed that a remedy for unconstitutional medical and mental health care could not be achieved without reducing overcrowding. They moved their respective District Courts to convene a three-judge court empowered by the Prison Litigation Reform Act of 1995 to order reductions in the prison population. This decision was upheld by the Supreme Court of the United States in 2011.

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

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

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

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

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

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

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

Proposed Population Funding. The proposed budget includes a net decrease of $112 million in the current year and a net decrease of $259 million in the budget year (largely General Fund) related to projected changes in the overall prison and parole populations and various subpopulations (such as those housed in reentry facilities and people on parole who have convictions for sex offenses). These decreases are primarily due to a lower overall population, a reduction in custody staffing resulting the planned deactivation of portions of six prisons (described in the next issue), and a reduction in the number of individuals receiving substance use disorder treatment, all of which are accounted for in the population funding.

Update Expected at May Revision. The Administration will update the population funding at the May Revision, based on the Spring 2023 population projections. The LAO is withholding recommendation on this item until that time.

Staff Recommendation. Hold Open.

Issue 3: Prison Closure Plans

Governor's Budget. The proposed budget reflects savings from the Administration's plan to reduce the capacity of the prison system, including the completed and planned deactivations of four prisons and six yards. This includes the closure of two state-owned prisons by June 2023, one leased prison by March 2024, and six yards at various prisons. Together, these closures will save the state $186.6 million in 2022-23, $404.6 million in 2023-24, and $545.5 million in 2024-25 and ongoing General Fund. In addition, the Administration proposes to close an additional state prison by March 2025, which will result in unspecified future savings.

Panelists.

- Madelynn McClain, Deputy Director, Fiscal Services, CDCR
- Dave Lewis, Director, Facilities Planning, Construction and Management, CDCR
- Charles Callahan, Prison Closure Manager, CDCR
- Lynne Ishimoto, Staff Finance Budget Analyst, Department of Finance
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

Background. The California Department of Corrections and Rehabilitation (CDCR) operates 32 state-owned prisons, one leased prison, and a handful of other facilities such as conservation camps and reentry centers. Together these facilities house roughly one hundred thousand incarcerated individuals. However, as discussed in the previous item, the prison population has significantly declined over the past two decades. In response, the state phased out the use of out-of-state placements and private prisons, and has begun closing state-owned facilities. Many state-owned prisons have significant maintenance and capital outlay costs, putting additional pressure on the state to stop maintaining extra facilities if they are not needed.

Aging Facilities and Delayed Maintenance. The average age of CDCR's correctional facility portfolio exceeds 45 years, with approximately 35 percent of the portfolio exceeding 50 years of age. Historically, the resources necessary to maintain, repair, and replace aging equipment and structures have not been available, leading to a backlog of infrastructure needs and deteriorating buildings. CDCR releases a Master Plan Annual Report (MPAR) each year summarizing any anticipated infrastructure projects over $5 million needed over the next ten years. The 2022 MPAR, released in January 2023, identified 43 future projects at 23 institutions with an approximate value of $1.7 billion. Major ongoing capital outlay projects include improvements to healthcare spaces, roof replacements, accessibility improvements, general maintenance funding, expanding programming spaces, and improving energy efficiency. Many of these improvements are court-ordered and/or critical safety improvements.

Matching Facility Portfolio to Changing Population. As the population has declined in the wake of the Three-Judge Panel ruling, the state has correspondingly reduced capacity. Initially, the state did this by discontinuing contract placements, including in out-of-state and private prisons. The state is now in the position to close state-owned and -operated facilities, saving hundreds of millions to billions of dollars in operation, maintenance, repair, and other infrastructure costs. The state closed one prison in 2021 and has announced the closure of three more over the next few years. In addition, the state has tried to downsize prisons by closing yards, and has announced six yard closures in 2023. However, continued declines in the population, particularly the lack of a post-COVID rebound in population, may warrant additional closures[4].

Capacity is also not the only factor affecting facility needs, and CDCR must ensure that it is still able to meet the needs of its broad and changing population without maintaining extra facilities. Many institutions serve specialized sectors of CDCR’s population, including women’s prisons, institutions that focus on health care or contain specialized mental health facilities or programs, different security levels and housing types, accessible facilities, etc. Some institutions also have specialized functions, such as Sierra Conservation Center, which serves as the training hub for people going to conservation camps, and the license plate factory at Folsom, which has produced every license plate made in the state since 1947.

Site Selection. The process of choosing prisons for closure has been difficult and controversial. There are many factors that could be considered in choosing which prisons to close, and they may weigh more or less heavily for different stakeholders.

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.

Other factors that could be considered, which may overlap with the above factors, include the location of the institution and its effect on visitation, engagement with the community and volunteer organizations, and recruitment and retention of custody and medical staff; the existence of rehabilitative programming and other opportunities such as college degree programs; environmental concerns including valley fever or asbestos or other hazards present in the facility or in the water supply; the ability of the local economy to absorb the closure; whether the institutions serves a specialized population or function; and many more. For example, the rapid spread of COVID-19 within CDCR raised questions about the optimal type of housing, and how CDCR can prepare its facilities for future pandemics. Given the number of aspects to consider, it is likely that all CDCR’s institutions have at least some factors in their favor and some against.

[4] 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

Completed and Planned Capacity Reduction. The state closed Dueul Vocational Institution (DVI) in Tracy, California on September 30, 2021. DVI was chosen for multiple reasons, including the cost of operation, estimated at $182 million per year. CDCR indicated that no staff were laid off due to this closure.

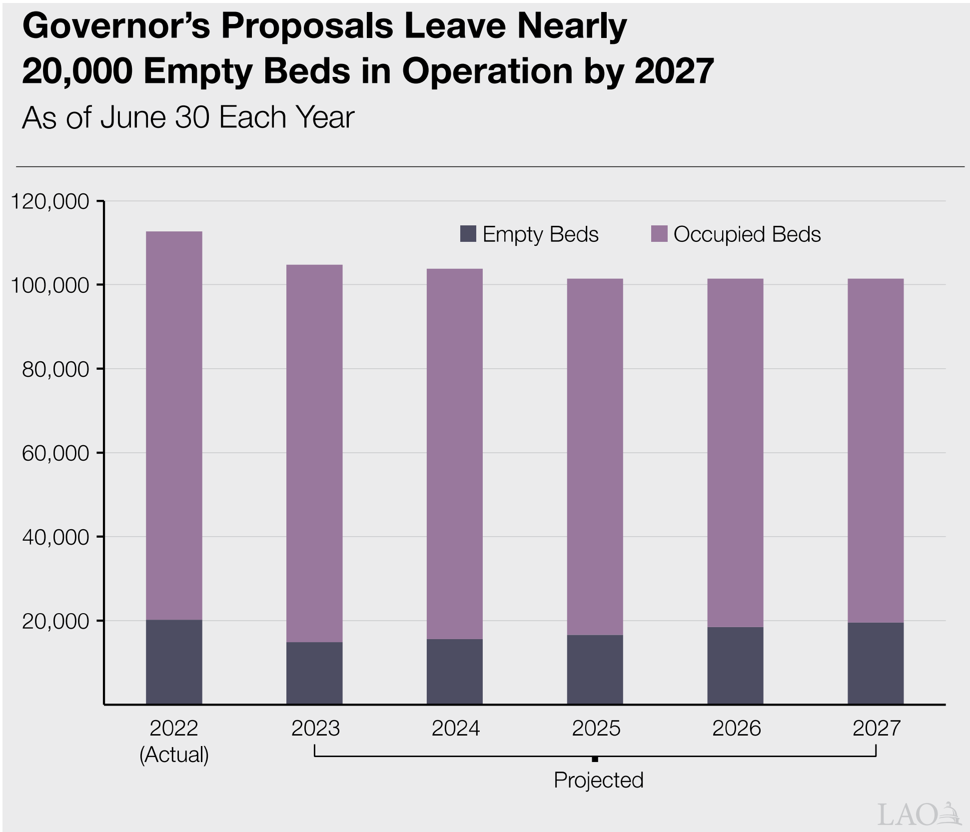
CDCR also announced plans to close a second prison, the California Correctional Center (CCC) in Susanville. CCC was originally slated to close in 2022, but was delayed a year due to litigation around the selection process and the environmental impact of the closure[5]. It will close by the end of June 2023. CDCR is in the process of working with affected staff to identify potential transfers within the department and other options.

On December 6, 2022, CDCR announced the closure of two more prisons: California City Correctional Facility (CAC; the leased facility) in March 2024 and Chuckawalla Valley State Prison (CVSP) in March 2025[6]. They also announced the closure of six yards at facilities across the state over the next year. According to CDCR, "The two prisons were chosen pursuant to criteria set forth by the Legislature in Penal Code Section 2067. CDCR's leadership carefully evaluated the options for prison closures, pursuant to the 2022-23 budget and Penal Code requirements, and took into account several factors including cost to operate, impact of closure on the surrounding communities and the workforce; housing needs for all populations; long-term investments in state-owned and operated correctional facilities; public safety and rehabilitation; and durability of the state's solution to prison overcrowding."

Despite these reductions, the LAO estimates that CDCR has 15,000 empty beds, growing to nearly 20,000 by 2027[7], cue to concurrent population declines (see figure below). According to CDCR, this capacity is needed for sufficient flexibility and uncertainty in the population projections. Prior to the pandemic, CDCR typically maintained a roughly 2,000 bed buffer to account for fluctuations in the population and needs.

---

[5] https://www.latimes.com/california/story/2022-09-09/la-me-rural-california-prison-closure-lawsuit
[6] https://www.cdcr.ca.gov/news/2022/12/06/california-department-of-corrections-and-rehabilitation-announces-the-planned-closure-of-chuckaw/alla-valley-state-prison/
[7] https://lao.ca.gov/Publications/Report/4686



Capacity limit, population, and empty bed buffer. Source: LAO[8]

Retained Resources. The Governor's Budget proposes to retain about $50 million and 250 positions in base funding for various purposes, such as to support staff associated with conservation camps and a limited staff at CCC to provide minimal maintenance and security services at the prison—a practice referred to as "warm shutdown."

It is not clear what CDCR intends to do with the deactivated properties in the long-term. CDCR indicated that DVI will become surplus property and can be sold, but that CCC and CVSP are interconnected with neighboring institutions and would be difficult to separate. In addition, yards that are closed cannot be individually parceled off and sold. In these cases, CDCR plans to maintain the facilities in the "warm shutdown" mode indefinitely. A similar situation is developing with the properties that housed the Division of Juvenile Justice, which is closing this year. It is not clear how much maintenance CDCR will be performing on these properties, and whether parts of them will still be used for various purposes.

Update Expected at May Revision. The Administration indicated that it plans to submit revised savings estimates for CCC, CAC, and the six yard deactivations by the May Revision.

[8] https://lao.ca.gov/reports/2023/4686/CDCR-Budget-021623.pdf

LAO Comments.

Unclear How CDCR Weighted Factors in Selecting Prisons for Deactivation. The LAO notes that while CDCR indicates that it used the factors outlined in Section 2067 of the Penal Code to inform its selection of prisons for deactivation, it is not clear how the department weighted these different factors. Consideration of the same factors weighted in different ways could result in different prisons being selected for deactivation. For example, CVSP does not appear to fill any unique system-wide roles. However, despite housing a similar population, the per capita operational expenditures of the California Rehabilitation Center in Norco were $68,250 in 2019-20 compared to $58,101 at CVSP. Not knowing how CDCR weighted the different factors that went into its decision makes it difficult for the Legislature to evaluate whether it agrees with the department's selections.

Maintaining Excess Capacity. The LAO notes that the proposal leaves about 15,000 empty prison beds in the near term, growing to roughly 20,000 empty beds by 2027—comprising about 20 percent of the state's total prison capacity. Maintaining excess capacity is expensive, as the marginal cost of having one less incarcerated person (estimated to be $15,000) is only a fraction of the total cost of operating CDCR per incarcerated person (over $100,000). It also requires maintenance and repairs that may not be needed. The LAO estimates that the state could be in a position to deactivate around five additional prisons by 2027, while still remaining roughly 2,500 people below the federal court-ordered population limit. Deactivation of five prisons could generate around $1 billion in annual ongoing operational cost savings.

Lack of Planning. The Administration has not justified the need to maintain so much excess capacity, nor have they developed a capacity reduction plan or set targets for the desired bed buffer. The LAO notes that deactivating five prisons—or an equivalent amount of capacity reduction through a combination of prison and yard deactivations—could take a significant amount of advanced planning. For example, before the state can deactivate a facility, it might need to relocate a certain key function to another prison or make plans to mitigate the loss of that function. It is also difficult for the state to avoid funding projects at facilities that may be deactivated shortly thereafter.

LAO Recommendations.

- *Withhold Action on Budget Adjustments Associated with Deactivations*. Given that CDCR intends to submit revised budget adjustments associated with CCC, CAC, and the six yard deactivations by the May Revision, the LAO recommends the Legislature withhold action on these proposals.

- *Direct CDCR to Report on How Criteria for Deactivation Decisions Were Prioritized*. The LAO recommends that the Legislature direct CDCR to report in spring budget hearings on how it weighted the criteria that it used to identify CAC, CVSP, and the six yards for deactivation. To the extent the Legislature disagrees with how the department weighted factors, it could direct CDCR to deactivate different prisons and/or yards.

- *Develop Near-Term Capacity Reduction Target to Guide 2023-24 Budget Decisions and Additional Deactivations*. Given the risks associated with the state's current lack of a capacity reduction plan, the LAO recommends that the Legislature develop a near-term capacity reduction target and plan for 2023-24. The LAO recommends that the Legislature direct CDCR to report on the number of empty beds needed in the budget year, determine a near-term capacity reduction target, and then direct CDCR to close additional yards to meet that target.

- *Direct CDCR to Provide Information to Guide Future Budget Decisions*. The LAO recommends that the Legislature direct CDCR to provide additional information to guide future decisions, including an analysis of long-term empty bed need, a long-term capacity reduction target, and a report on the implications and costs of deactivating each prison in the system. This information can be used by the Legislature to direct CDCR to deactivate additional prisons.

Staff Comment.

Capital Investments and Planning. The Legislature should consider new capital outlay and infrastructure investments at prisons carefully given the continued decline in the prison population. In the past, the state made significant infrastructure investments at prisons that were shortly thereafter slated for closure, and it is not clear how CDCR plans to match its infrastructure portfolio to the current needs and size of the prison population. For example:

- The 2022-23 budget included $1.1 million in funding for the working plans stage of a project to build two new groundwater wells at CVSP, now slated for closure. The wells would supply potable water to both CVSP and the nearby Ironwood State Prison (ISP). However, it is not clear if the demand from ISP alone is enough to require new wells, or if the project should be adjusted.

- The state is in the process of installing new technology, such as surveillance cameras and cellular interdiction systems, at various institutions, and it is not clear whether those timelines are being considered alongside closure plans. CDCR had purchased equipment for and was close to beginning installation of an audio-video surveillance system at CVSP when the prison was announced for deactivation.

- CDCR completed construction of a new $31 million health care facility at CCC in July 2021, shortly before its closure was announced.

Leased vs. Owned Prisons. California City Correctional Facility is the only active prison that is not owned by the state, although it is still operated by CDCR. The state is not responsible for capital outlay or maintenance, and it has lower than average operating costs, so the state may save less money by closing it. On the other hand, the lease is coming to an end, and it may make sense to maintain state-owned facilities rather than to renew the lease. The Legislature should consider the role of state-operated, leased facilities in maintaining flexibility and reducing costs in the prison system.

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

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

Whole Prison vs. Individual Yard Closures. In addition to the four whole prison closures, CDCR has announced individual yard closures. While closing a yard can save the state money, there are many prison-wide costs that will only be saved by closing entire institutions. Yards can also be relatively easily reactivated, and the state will continue to maintain the yards even if they are deactivated. The Legislature may want to request additional information from CDCR about their decision-making process when considering yards and prisons for closure.

Local Economic Impacts. Closing a prison can have a significant impact on local economies. In December, the Administration announced additional economic supports for the town of Susanville, where the next prison to close is located[9]. They have indicated that similar support will be forthcoming for towns and cities that face future closures[10], but the Legislature should consider whether more investment is needed. New York State, which has closed more than twenty prisons over the last fifteen years, provided economic redevelopment grants and recently formed a Prison Redevelopment Commission to discuss similar questions[11].

Plans for the Facilities. The state should consider potential options for the physical facilities and land after the closures. Maintaining most deactivated facilities in warm shutdown indefinitely may not be a prudent use of state resources. It is also not clear how much maintenance CDCR plans or would need to do at facilities in warm shutdown.

Staff Recommendation. Hold Open.

---

[9] https://www.labor.ca.gov/2022/12/01/california-supports-workers-and-fosters-bottom-up-economic-resilience-in-lassen-county/

[10] https://www.cdcr.ca.gov/news/2022/12/06/california-department-of-corrections-and-rehabilitation-announces-the-planned-closure-of-chuckawalla-valley-state-prison/

[11] https://esd.ny.gov/2014-economic-transformation-program; https://esd.ny.gov/prison-redevelopment-commission

Issue 4: Facilities and Infrastructure

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

- *Roof Replacements.*
    - $1.5 million one-time General Fund in 2023-24 for design and $62 million in 2024-25 for construction of roof replacements at the Richard J. Donovan Correctional Facility.
    - $627,000 General Fund in 2023-24 and $621,000 ongoing for three positions to manage the growing roof replacement workload.
- *Health Care Facility Improvement Program (HCFIP).* $10 million one-time General Fund to complete the remaining HCFIP projects at 10 institutions, and budget bill language to allow funding to be transferred between projects.
- *Continuing Capital Outlay Projects*. $71.7 million General Fund to continue four capital outlay projects in working drawings or construction phases.

Panelists.
- Chris Lief, Deputy Director, Facilities, Planning, Construction and Management, CDCR
- Koreen van Ravenhorst, Principal Program Budget Analyst, Department of Finance

The LAO is available for questions.

Background.

Roof Replacement. Approximately $386 million has been spent over the past six budget years for roof replacements at 14 adult institutions. CDCR has prepared a phased schedule for statewide institution roof replacements that prioritizes prisons housing significant high-risk medical populations and those providing accessible housing. The next institution due for a roof replacement is the Richard J. Donovan Correctional Facility (RJD). RJD has significant roof damage, and has reported roof leaks in various areas of the institution, including all housing units, Administrative Segregation Unit cells, various cells, offices and other rooms in the Correctional Treatment Center, and the Reception Center Records Trailer.

The roof replacement program is supported by the Architecture and Engineering Section within the Division of Facility Planning, Construction and Management. The workload of this section has grown in recent years due to both the continuation of previously approved roof replacement projects, and other workload including COVID-19 housing ventilation projects, court-ordered remedies, AVSS installations, HCFIP projects, and other priority repairs. CDCR is requesting funding and position authority for three Senior Architect positions to expand this section.

Health Care Facility Improvement Program. HCFIP was initiated in 2012 to comply with court orders to improve the delivery of medical care within the prison system. HCFIP consists of 145 sub-projects at 30 institutions, including projects to increase clinical capacity and improve the sanitation and confidentiality of medical spaces, among other improvements.

According to the 2022 Master Plan Annual Report, HCFIP is 93 percent complete[12]. The project was initially estimated to cost $900 million but has received multiple additional appropriations, including $67.6 million in the 2022 Budget. The total project cost is now estimated to be $1.414 billion.

The Governor's Budget includes an additional $10 million to finish the remaining HCFIP projects at 10 institutions. CDCR attributes the recent increase in cost to the discovery of non-compliant conditions, construction delays, and poor design performance. The proposed budget also includes provisional budget bill language to allow funding to be transferred between HCFIP projects.

Continuing Projects. The proposed budget includes $71.7 million General Fund to continue four capital outlay projects, which include new exercise yards and a new radio tower at Corcoran, fire upgrades at Pelican Bay State Prison, and a water treatment plant at Valley State Prison. Three of the four projects are requesting funding for the construction phase. There only significant updates to these projects are cost increases due to inflation. The projects are outlined in the table below.

Project	Description
California State Prison, Corcoran: Correctional Treatment Center Individual Exercise Yards FY 23-24: $1.5 million Total Cost: $1.9 million Preliminary Plans: July 2022 - April 2023 Working Drawings: May 2023 - July 2023 **Construction: Aug 2023 - Oct 2024**	This proposal requests funding to construct two individual exercise yards (IEYs) adjacent to the Correctional Treatment Center (CTC) at the California State Prison, Corcoran (COR). The IEYs will allow maximum custody Mental Health Crisis Bed (MHCB) patients receiving inpatient mental health treatment at COR to participate in out-of-cell recreation therapy that is consistent with their treatment plan.
California State Prison, Corcoran: Radio Tower and Equipment Vault FY 23-24: $925,000 Total Cost: $10.4 million Preliminary Plans: July 2022 - Sept 2023 **Working Drawings: Oct 2023 - July 2024** Construction: Nov 2024 - May 2026	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 (SATF). CDCR currently borrows a temporary trailer from the California Highway Patrol to provide radio communications at COR and SATF.

[12] https://www.cdcr.ca.gov/fpcm/wp-content/uploads/sites/184/2023/01/2022-MPAR-Narrative-Final.pdf

Pelican Bay State Prison, Crescent City: Fire Suppression Upgrade FY 23-24: $35 million Total Cost: $37.3 million Preliminary Plans: July 2018 - Oct 2019 Working Drawings: Oct 2019 - July 2023 **Construction: Oct 2023 - Dec 2026**	This proposal requests construction phase funding to correct fire suppression system deficiencies at Pelican Bay State Prison (PBSP) identified by the State Fire Marshal (SFM) as well as the extension of the liquidation period for working drawings funding. The scope of work includes the installation of an automatic fire suppression system (sprinklers), fire alarm control panels, and fire detection devices in the eight general population housing units. The total estimated project cost is $37,294,000.
Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant FY 23-24: $34.2 million Total Cost: $37.2 million Preliminary Plans: July 2019 - May 2021 Working Drawings: May 2021 - August 2023 **Construction: November 2023 - August 2025**	This proposal requests funding for the construction 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 the level that would comply with the Environmental Protection Agency (EPA) and State Water Resources Control Board (SWRCB) drinking water quality standards at both VSP and CCWF.

Staff Comment.

Inmate-Ward Labor Program. Many of the projects described in this item, particularly the roof replacements and HCFIP, utilize the labor of incarcerated individuals through the Inmate-Ward Labor (IWL) Program. The IWL Program provides vocational skills and has participation from the State Building and Construction Trades Council of California and local trade unions. Most of these individuals make between 8 and 37 cents an hour, or between $12 and $56 a month.

Capital Investments and Planning. As noted in the previous item, the Legislature should consider new capital outlay and infrastructure investments at prisons carefully given the continued decline in the prison population and the potential for additional facility closures.

Staff Recommendation. Hold Open.

Issue 5: Court Compliance and Legal Fees

Governor's Budget. The proposed budget includes the following resources for legal service fees and court compliance:

- $3.7 million General Fund in 2023-24 and ongoing for Department of Justice (DOJ) Legal Services fees, bringing the total allocation to $73 million annually.

- $500,000 General Fund and two positions in 2023-2024 and ongoing to support court-mandated remedial measures associated with the *Clark* and *Armstrong* class action lawsuits at institutions with the highest populations of incarcerated persons with disabilities.

- $2.8 million General Fund and 17.0 positions in 2023-2024 and ongoing to support the remedial measures associated with the *Clark* class action lawsuit at institutions with the highest populations of individuals with developmental disabilities.

Panelists.

- Mona Houston, Assistant Deputy Director, Division of Adult Institutions, CDCR
- Sara Smith, Office of the Ombudsman, CDCR
- Jennifer Neill, Assistant Secretary, Legal Affairs, CDCR

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

Background.

DOJ Legal Fees. The Office of the Attorney General provides legal representation for CDCR and its employees in court. Over the past five years, DOJ has billed CDCR for over 300,000 hours of legal services on an annual basis. In 2021-22, CDCR paid the DOJ $77.6 million for these legal services. CDCR reported an increase in billable hours that year due to petitions regarding COVID-19 outbreaks (including individual cases, a consolidated case, and a class action lawsuit), as well as increased litigation related to the *Ashker*, *Armstrong*, and *Coleman* lawsuits. CDCR projects that DOJ costs will be $73 million in 2022-23, which is $3.7 million above their current allocation for DOJ Legal Fees (see below table). This allocation was increased in the 2019 Budget to account for increases in DOJ rates, and again by $1.5 million in the 2022 Budget Act.

Resource History
(Dollars in thousands)

Program Budget	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23 (Projection)
Authorized Expenditures	$40,659	$40,659	$64,957	$67,836	$67,836	$69,368
Actual Expenditures	$53,530	$53,234	$66,070	$72,666	$77,600	$73,024
Surplus/Deficit	($12,871)	($12,575)	($1,113)	($4,830)	($9,764)	($3,656)

Legal fees paid to DOJ. Note: The increase from 2018-19 to 2019-20 is largely due to an increase in DOJ's rates.

Overview of Major Ongoing Class Action Cases. CDCR faces numerous, long-standing, and still heavily litigated class action lawsuits due to the continued mistreatment of incarcerated people. The oldest of these cases is *Coleman*, filed in 1990. Note that the current full name of this case is *Coleman v. Newsom*, but as the cases have lasted longer than the governors, they are often referred to solely by the plaintiffs' names. Over the past five years, the state has spent $142 million on direct legal costs for the four most expensive cases: *Armstrong, Ashker, Coleman,* and *Plata.* In 2021-22, CDCR spent $34.1 million, including $5.2 million in DOJ legal fees. Other costs include other outside counsel, plaintiff's counsel fees, and court expert and special master fees. CDCR also maintains an internal team of class action attorneys that handle the ongoing legal workload and compliance issues associated with these cases, among many other staff members dedicated to compliance.

These cases have resulted in increasing oversight and scrutiny of CDCR by federal courts, plaintiffs' teams, other appointed overseers, and external stakeholders. They still produce new policy recommendations and mandates for increased oversight, such as the use of video surveillance and changes to the staff complaint process, which will be discussed in later items. The lawsuits are discussed below.

Coleman. 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.

On January 6, 2023, the *Coleman* court invited the U.S. Attorney General to rejoin the case due to ongoing constitutional violations in the delivery of mental health care[13]. The judge specifically

[13] https://rbgg.com/wp-content/uploads/Dkt-7699-ORDER-Inviting-US-DOJ-to-Intervene-1-6-2023-0489-3.pdf

cited a lack of progress around mental health staffing and suicide prevention, as well as insufficient monitoring tools. The order also states:

> Further delay is particularly likely given that the state has adopted a distracting and costly scorched-earth litigation strategy, prosecuting more than a dozen appeals and mandamus petitions within the last five years alone, none successful. During this same time period, the court has found the state to have engaged in knowing presentation of misleading evidence to the court and its Special Master. While contributing to delay, the state's litigation strategy also appears to have substantially interfered with the dedicated efforts of many within CDCR itself—from the Secretary to mental health administrators to clinicians—to remedy constitutional violations in good faith. It also appears to have blocked the possibility of further court-convened settlement efforts.

Plata. The *Plata* case is a class action lawsuit filed in 2001 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 2005[14].

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."

Prison Overcrowding. In January 2010, a special three-judge court ordered California to reduce its prison population to 137.5 percent of design capacity within two years. This was in response to *Coleman* and *Plata* plaintiffs, who believed that a remedy for unconstitutional medical and mental health care could not be achieved without reducing overcrowding. They had moved their respective District Courts to convene a three-judge court empowered by the Prison Litigation Reform Act of 1995 to order reductions in the prison population. This decision was upheld by the Supreme Court of the United States in 2011.

COVID-19. 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 vaccine mandate was the Receiver's recommendation[15]. However, the Administration appealed the mandate, and a stay was granted on November 26, 2021. The Administration argued that the mandate would lead to staffing shortages[16]. As of February 24, 2023, 71 percent of staff completed their primary vaccination series. Vaccination

[14] https://prisonlaw.com/post_case/plata-v-brown/
[15] https://prisonlaw.com/wp-content/uploads/2021/09/21.09.27-Doc-3684-Order-re-mandatory-vaccinations.pdf
[16] https://www.latimes.com/california/story/2021-11-04/newsom-guards-challenge-vaccine-mandates-at-prisons

rates at individual institutions (primary series only) range from lows of 49 percent at High Desert State Prison and 52 percent at Pelican Bay State Prison to highs of 86 percent at the California Health Care Facility and the California Medical Facility (vaccination is mandated for workers in health care settings)[17].

Ashker. The *Ashker* case is a class action lawsuit filed in 2012 on behalf of prisoners held in the Security Housing Unit (SHU) at Pelican Bay State Prison. The case charges that prolonged solitary confinement violates the Eighth Amendment's prohibition against cruel and unusual punishment, and that the absence of meaningful review for SHU placement violates the prisoners' rights to due process. The case reached a settlement in 2015. In January 2019 and again in February 2022, the court ordered continued monitoring due to ongoing constitutional violations[18].

Armstrong. The *Armstrong* case is a class action lawsuit filed in 1994 on behalf of prisoners with disabilities. The lawsuit alleged that people with certain disabilities did not have equal access to prison programs, services, and activities, as required by the Americans with Disabilities Act (ADA). In 1999, CDCR negotiated a settlement in the lawsuit and developed the Armstrong Remedial Plan (ARP) to address the areas of noncompliance. The federal court ordered prison officials to follow the ADA, to provide disability accommodations, and to make sure that the prisons are accessible for class members.

This case continues to be heavily litigated, as the courts have repeated found CDCR to be in violation of the ADA and the ARP. The *Armstrong* plaintiffs continue to be concerned about the treatment of the class members, including allegations of abuse and violence by CDCR staff, retaliation or threats of retaliation for filing staff complaints, lack of accommodations for deaf prisoners, the problem of equal access to job and program assignments for people with disabilities, statewide durable medical equipment reconciliation and accuracy of disability tracking information, accommodations for blind and low vision class members, and more. Some of the declarants also alleged instances in which correctional officers at RJD retaliated against incarcerated people by charging incarcerated people with false rules violations reports.

Two major developments in the *Armstrong* case related to video surveillance and handling allegations of staff misconduct are addressed in later items. These orders primarily cover six institutions: Richard J. Donovan Correctional Facility; California State Prison, Los Angeles County; California State Prison, Corcoran; Kern Valley State Prison; Substance Abuse Treatment Facility; and the California Institution for Women. The United States Court of Appeals for the Ninth Circuit recently affirmed all portions of the district court's orders related to the staff complaint process and video surveillance. In the opinion, the court mentioned the "Defendants' prior failures to improve their accountability systems in the absence of specific, court-ordered instructions," among many other reasons to uphold the specific measures.[19]

---

[17] https://www.cdcr.ca.gov/covid19/population-status-tracking/
[18] https://ccrjustice.org/home/what-we-do/our-cases/ashker-v-brown
[19] https://rbgg.com/wp-content/uploads/Armstrong-opinion-2-2-23.pdf

Clark. The *Clark* case is a class action lawsuit filed in 1996 on behalf of incarcerated individuals with developmental disabilities. The lawsuit alleged that CDCR violated the ADA, section 504 of the Rehabilitation Act, and the Eighth and Fourteenth Amendments of the U.S. Constitution. The Clark Remedial Plan (CRP) was developed through settlement negotiations between the parties and was approved by the court in 2001. The CRP outlines CDCR's Developmental Disability Program (DDP), which is the department's plans, policies, and procedures for incarcerated individuals with developmental disabilities to ensure that they are appropriately identified and housed; ensure the safety of those with victimization concerns; ensure equal access to CDCR's programs, services, and activities; and provide accommodations in due process events. As of November 15, 2022, there were 1,153 individuals in CDCR institutions encompassed within the DDP. There is a related program called the Disability Placement Program (DPP), and together the policies of DPP/DDP are outlined in the ARP and the CRP.

Requested Resources to Improve Compliance. The Governor's Budget includes the following resources to improve compliance with various court orders.

- *Data Tracking.* The Strategic Offender Management System (SOMS) is a database that CDCR uses to track individual offender data. Court orders, particularly in the *Clark, Armstrong, and Coleman* cases, and CDCR and Legislative mandates have led to an increase in new functions needed in SOMS. As a result, the SOMS custody and technical team's workload has increased without any additional full-time staffing over the last 11 years. CDCR has determined that the current staffing is not sufficient to provide enhancements to support full compliance with *Clark* mandated measures. CDCR is requesting two IT specialists and $500,000 for the software vendor to assist with SOMS development in relation to court compliance.

- *Institution Staff.* CDCR is requesting 15 analysts to be placed at the institutions with the highest number of *Clark* class members to assist with a variety of tasks, from data analysis and entry to interviewing and assisting class members. This request is not associated with any specific new mandates.

- *Office of the Ombudsman (OMB)*. In spring 2021, the *Armstrong* court ordered that OMB conduct quarterly interviews with a random selection of class members at each of the six prisons covered by the ARP. OMB is also responsible for responding to concerns and inquiries from both internal and external stakeholders, and for visiting institutions and helping address issues. Staff are currently redirected from these duties to perform the required interviews. CDCR is requesting two additional positions and associated funding (including travel funding) to cover this workload.

Staff Recommendation. Hold Open.

Issue 6: Staff Misconduct Investigation Expansion

Governor's Budget. The proposed budget includes $9.6 million General Fund and 16 positions in 2023-24, $9.3 million and 16 positions in 2024-25, and $2.9 million General Fund and 16 positions in 2025-26 and ongoing to continue refining the department's updated staff misconduct allegation complaint screening, referral, and tracking processes and mechanisms; and the associated investigative and disciplinary processes.

Panelists.

- Amy Miller, Director, Division of Internal Oversight and Research, CDCR
- Amarik Singh, Inspector General, Office of the Inspector General

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

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

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 standard[20]. 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

[20] 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.

further investigation (including criminal investigation), or authorize the hiring authority to take direct disciplinary action without further investigation. In response to *Madrid* litigation, CDCR established the Employee Advocacy and Prosecution Team (EAPT) in CDCR's Office of Legal Affairs (OLA) in 2005. EAPT staff attorneys provide legal support and guidance to CDCR throughout employee investigation and disciplinary processes.

OIG Oversight of the Staff Complaint and Employee Discipline Processes. The OIG was established in 1994 to provide independent oversight of California's prison system. Over the years, the OIG has been restructured and its duties changed multiple times, typically in response to court orders for oversight or legislative priorities. In particular, the Legislature removed much of the OIG's authority and resources in 2011, but some of has since been restored. The OIG is currently tasked with monitoring the staff complaint process and the employee discipline process. Specifically:

- *Staff Complaint Monitoring and Complaint Intake.* In 2019, OIG was tasked with monitoring the staff complaint process, and the 2019-20 budget package provided OIG with five positions and about $780,000 in ongoing General Fund support for this purpose. The 2022-23 budget included an additional $7.9 million in 2022-23 and $15.1 million ongoing to provide contemporaneous monitoring of the new staff complaint process, including reviewing screening decisions and monitoring investigations.

- *Employee Discipline Monitoring.* The OIG has representatives on the CIP, although the final decisions are made by the OIA staff. However, in its public reports to the Legislature and Governor, OIG notes instances when its staff disagree with decisions made by OIA.

  The OIG also monitors about 15 percent of the investigations conducted as a result of the 989 process, focusing on the more serious investigations, such as cases involving alleged dishonesty, use of force, and criminal activity.

  In addition to monitoring the quality of the investigatory work, OIG monitors the performance of department attorneys involved in the investigation and discipline process and hiring authorities' imposition of discipline. OIG includes these findings in its public reports to the Legislature and Governor.

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 issues[21]. 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.

---

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

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 process[22]. It found that wardens only referred 23 percent of grievances that alleged staff misconduct to AIMS and continued to handle most allegations locally. The OIG again recommended a series of changes to the staff complaint process, including sending grievances directly to OIA, clarifying and simplifying the definition of staff misconduct and the criteria for routing complaints, and directing AIMS to handle a larger range of misconduct allegations. In addition, in a separate letter, the OIG expressed concern about CDCR's response to allegations stemming from the attorneys representing incarcerated persons in the *Coleman* and *Armstrong* class action lawsuits[23].

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. On February 2, 2023, the U.S. Court of Appeals for the Ninth Circuit affirmed the district court orders related to the staff misconduct process, which the state had challenged were outside the purview of the case[24].

New Regulations. In response to the concerns raised by the OIG report and the *Armstrong* court orders, CDCR amended its staff misconduct processes statewide. The new emergency regulations[25], 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 are 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

[22] https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-Staff-Misconduct-Process-Report-2021.pdf
[23] 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
[24] https://rbgg.com/ninth-circuit-affirms-use-of-body-cameras-and-other-remedies-and-reform-of-guard-disciplinary-procedures-in-california-state-prisons-in-ada-class-action/
[25] https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2021/12/Staff_Misconduct_Emergency_Reg_Approval_ADA-12.31.21.pdf

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 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, are 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.

- *Tracking Database.* OIA established 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. The database will also include other sources of information, including data about the employee discipline process. Currently, wardens and executive staff have access to the database. Hiring authorities receive alerts for specific staff members or allegation types, but CDCR is still working on the threshold for alerts. CDCR is also tracking trends, complaint types, and demographic information.

- *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 works 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.

CDCR made additional changes to the regulations in October 2022[26]. These changes moved some definitions, including the ADI, from regulation to department policy. They also adjusted where certain allegations would be routed, such as requiring a "causal connection" between a staff member's actions and a protected class or action before elevating allegations like discrimination and retaliation to OIA. The *Armstrong* plaintiffs objected to these changes, and the Court Expert noted that the proposed new standards were "difficult to apply in a consistent and objective manner"[27]. CDCR did not consult with the plaintiffs or the court before proposing these changes.

Previously Allocated Resources. The 2022 Budget included $34.4 million and 176.1 full-time equivalent positions in 2022-23 (based on funding a staggered implementation plan), $34.9 million and 192 positions in 2023-24, and $34.2 million and 192 positions ongoing to implement the new staff complaint process. The new process also absorbed $9.8 million and 47 positions previously allocated to AIMS in the 2019 Budget. These resources were used to create the CST, transition AIMS to AIU, expanded EAPT within OLA, and increased staffing at local Offices of Grievances (OOGs).

Implementation Status and Workload. CDCR initially planned to implement the new process statewide in stages, with the complete process implemented statewide by June 2023. However, in response to concerns raised by the *Armstrong* plaintiffs[28], CDCR modified the timeline to fully implement the process at the six specified prisons by September 2022, and continue to phase in the process statewide. The resulting timeline is as follows:

- On January 1, 2022, the CST activated and began screening all CDCR Form 602-1s, which address non-health care related grievances, submitted by the incarcerated population and parolees statewide.

- On May 31, 2022, CDCR began the transition to the new investigation process, which routes allegations of staff misconduct through AIU, for portions of the incarcerated populations at the six prisons covered by the *Armstrong* case.

- Full implementation statewide is estimated by November 30, 2023.

Workload. In 2022, CST screened 168,234 complaints, which were routed as follows:

- 147,719 (88 percent) were classified as routine and returned to the local institution for processing.

[26] https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2022/10/Regulations_Approval_NCR_22-06-1.pdf
[27] https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline_-10-3-22-581-3.pdf
[28] https://rbgg.com/wp-content/uploads/Armstrong-Order-Re-Plaintiffs-Objections-to-Defs-Proposed-RJD-Plan-and-5-Prisons-Plan_-12-13-2021.pdf

- 9,316 (5.5 percent) included possible staff misconduct and were routed back to the institution for a local inquiry.

- 10,963 (6.5 percent) included possible staff misconduct and were routed to OIA for investigation.

- 236 complaints were pending screening, beyond the normal three-day timeline.

As compared to the estimated workload used to provide funding in the 2022 Budget Act, CST is seeing fewer allegations of staff misconduct (12 percent actual vs 21 percent estimated), and a higher proportion of those are being referred to OIA rather than local inquiry (54 percent actual vs. 18 percent estimated). In addition, OIA is reporting that allegations are generally less serious than previously estimated. CDCR is requesting refined resources based on this actual data, and other needs identified during implementation.

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

- *CST*. CDCR is requesting four additional Captains to review the screening decisions made by CST analysts. CDCR reported that training these staff has been more difficult than anticipated, due to a lack of familiarity with CDCR processes and terminology. CDCR indicated that this resulted in CST referring cases to OIA that could have been handled as local inquiries. The requested Captain positions will review all complaints identified as potentially including staff misconduct to ensure they are accurately routed.

- *AIU*. CDCR is requesting the following resources for the AIU:
  - Replacing 18 Lieutenant positions with 25 Sergeant positions to match the seriousness of the allegations being investigated.
  - One Senior Special Agent position, to oversee previously approved Special Agents.
  - $207,400 one-time to train new investigators and provide specialized equipment; and $324,000 ongoing to fund vehicles, special training, and equipment for all new OIA investigators.

- *Local Workload*. CDCR requests 20 Lieutenant positions on a two-year limited-term basis to assist with local workload, including the initial screening at the grievance office and the local inquiries. This is based on initial data from the six prisons where the new process is completely implemented, and will need to be refined as additional data is collected.

- *Office of Audits and Court Compliance (OACC)*. OACC has been tasked with auditing the new process. CDCR is requesting three Staff Services Management Auditor/Associate Management Auditor positions ongoing for this workload.

- *Data Management and AASTS.* CDCR is requesting one Research Data Specialist II to assist with analysis of staff misconduct and claims data, and $88,200 to cover software licensing.

- *Various Classification Changes.* CDCR is requesting to reclassify various previously approved positions based on identified needs during implementation.

Staff Comments.

Concerns of the Armstrong *plaintiffs.* In addition to the lack of notice or discussion regarding the most recent change in regulations, the *Armstrong* plaintiffs have raised concerns about the quality of the investigations performed by OIA[29]. These concerns include failure to review or analyze all relevant footage and failure to interview all relevant witnesses, including other incarcerated people who observed the incident and, in some cases, the subject of the complaint. The *Armstrong* plaintiffs typically focus on reviewing serious allegations referred to OIA, which should be handled by experienced investigators.

Number of cases routed to OIA. CDCR indicated that they believe the high rate of referral to OIA is due to overly cautious routing by the CST, and this number of cases referred to OIA should be closer to 6,646, a 40 percent reduction. However, the OIG did not anticipate a significant change in the referral rate.

Relation to employee discipline process. At the end of the investigation, the findings are returned to the hiring authority to decide whether to sustain a finding of staff misconduct and pursue disciplinary consequences. The hiring authority, typically the warden, must sift through the significant evidence gathered during the investigation, typically without a clear summary of the evidence or a discussion with the investigator, and decide on the merits of the case. At this stage, not many cases monitored by the OIG have been completed, but early indications are that few findings of staff misconduct are being sustained. The *Armstrong* plaintiffs also reported to the court that only six percent of investigations reviewed at RJD resulted in sustained findings of misconduct. The Legislature should consider how these significant investments in a new investigation process can lead to actionable changes.

Timing of investigations and availability of evidence. Under the new process, there is no time limit on submitting an allegation of staff misconduct. However, video is only available for 90 days after an incident, and it must be requested by the investigator and secured by the institution prior to that time. While CDCR maintains that nearly all allegations of staff misconduct are filed within 90 days of the event, a backlog of cases at OIA and difficulties identifying the relevant footage in time may lead to evidence being lost in some cases.

[29] https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline_-10-3-22-581-3.pdf

Training and independence of local inquiries. Local inquiries are performed by staff who are not trained as investigators, and who may be familiar with the parties involved in the complaint. The Legislature should consider how to ensure the integrity of these investigations.

Staff Recommendation. Hold Open.

Issue 7: Statewide Correctional Video Surveillance Continuation

Governor's Budget. The Governor's Budget includes 19 positions and $87.7 million General Fund in 2023-24 and $7.5 million in 2024-25 and 2025-26 to install audio visual surveillance systems (AVSS) at all remaining prisons, and $14.7 million in 2026-27 and ongoing for equipment replacement costs, software and licensing, and staffing and operational resources.

Panelists.

- Ron Davis, Acting Deputy Director, Facility Operations, Division of Adult Institutions, CDCR
- Sarah Tomlinson, Finance Budget Analyst, Department of Finance
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, LAO

Background.

Since 2015, 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. AVSS installations also use radar to monitor the perimeter of institutions and detect movement, which can be useful for detecting contraband. Much of the implementation of AVSS 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. The *Armstrong* court also ordered that all footage be retained for a minimum of 90 days, and that body-worn cameras (BWCs) be implemented at the six prisons.

In total, the state has provided funding to CDCR for the installation of AVSS at 22 prisons and body-worn cameras at 10 prisons. As of November 2022, AVSS has been installed at nine prisons and body-worn cameras have been deployed at nine prisons. Currently, there are 11 state-owned prisons that have not been funded to receive AVSS. One of these prisons is CCC, which will be deactivated in the current fiscal year.

Retention of Video. In addition to the 90-day retention period, the following events 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 Prison Rape Elimination Act (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.
- 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 help identify suspects, uncover contraband and find missing items, and other uses. For example, video evidence is being used in the case of the guard who allegedly sexually assaulted multiple incarcerated women at CCWF.[30] The table below shows the impact of video recordings on rules violation reports, staff complaints, and incident reports at CCWF and HDSP from June 2021 through May 2022.

	Rules Violation Reports (RVR)			Staff Complaints			Incident Reports		
Institution	Video Available	Impact	No Impact	Video Available	Impact	No Impact	Video Available	Impact	No Impact
CCWF	577	474	30	637	317	66	240	240	0
HDSP	700	469	205	261	0	0	231	231	0
Totals	1,277	943	235	898	317	66	471	471	0

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 June 1, 2021 through May 31, 2022. Source: CDCR's Office of Research.

Proposed Resources. This proposal would include funding for AVSS installations at the remaining ten facilities not currently scheduled for closure. 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.

The proposal also includes a total of 19 positions to support the expansion of AVSS:

- 10 Correctional Officers, one for each institution, who will be responsible for monitoring and reviewing video, including processing AVSS Evidence Request Forms and capturing the requested events on an approved digital medium and other approved storage methods within 24 hours of the occurrence of the event or request.
- 3 CDCR headquarter staff to assist in camera placement and installation, implementation, and training of institution staff.
- 3 Special Agent investigators at the Office of Internal Affairs to serve as OIA video surveillance liaisons and assist with reviewing footage, perform follow-up investigation work, and store footage as evidence, among other duties.
- 3 IT Specialists (one limited-term) to deploy AVSS technology.

[30] https://www.sacbee.com/news/local/crime/article270470757.html

LAO Comments.

AVSS Can Have Benefits, but Results in Additional General Fund Cost Pressures. The LAO finds it reasonable to install AVSS at additional prisons that the state intends to operate in the long-term. However, the proposal has significant budget year and ongoing expenses, which should be considered given the budget problem facing the state.

Not Cost-Effective to Implement AVSS at Prisons That Could Be Deactivated. The LAO noted that there is a risk of installing AVSS at a prison that may be deactivated shortly thereafter, given that the state could be in a position to deactivate around five additional, currently unspecified prisons by 2027.

LAO Recommendation.

Reject Portion of Funding Tied to Expansion of AVSS at Ten Prisons. Given the budget problem facing the state and the risk of installing AVSS at prisons that are deactivated shortly thereafter, the LAO finds that it is not prudent to expand AVSS to new prisons at this time. The LAO recommends that the Legislature reject the portion of the proposal—$87.7 million and 19 positions in 2023-24—to install and maintain AVSS at ten prisons. When there is greater clarity as to which additional prisons will be deactivated, the administration could submit a request for resources to install AVSS at additional prisons.

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 or when the video is secured. For example, allegations of staff misconduct may not be filed for months after the initial event, when the video evidence is already gone. Even if they are filed, the investigator may not request the footage and the institution may not secure it in time, as there is no process to secure footage as soon as a complaint is filed.

Prison Closure Plans. The Legislature should consider whether to fund all remaining institutions, considering the potential for additional closures. CDCR had already completed the design and consulting stages at CVSP and had procured cameras when the closure was announced, only a few weeks before the cameras would have been installed.

Concerns of the Armstrong plaintiffs. The *Armstrong* plaintiffs have raised concerns about the implementation of the expansion of video surveillance. In particular, the plaintiffs identified instances where investigators failed to review or analyze all relevant footage. While the Administration is not proposing an expansion to body-worn cameras at this time, the plaintiffs "identified multiple instances at where officers deactivated BWCs at times when CDCR policy would not allow it; in some instances, there was evidence that these deactivations were deliberate efforts to thwart the recording."[31] Furthermore, they noted that CDCR's audit policies would not have flagged these incidents.

Staff Recommendation. Hold Open.

[31] https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline_-10-3-22-581-3.pdf

Issue 8: *Armstrong* Update

Panelists.

- Gay Crosthwait Grunfeld, Managing Partner of Rosen Bien Galvan & Grunfeld

Background.

The *Armstrong* case is a class action lawsuit filed in 1994 on behalf of prisoners with disabilities. The lawsuit alleged that people with certain disabilities did not have equal access to prison programs, services, and activities, as required by the Americans with Disabilities Act (ADA). In 1999, CDCR negotiated a settlement in the lawsuit and developed the Armstrong Remedial Plan (ARP) to address the areas of noncompliance. The federal court ordered prison officials to follow the ADA, to provide disability accommodations, and to make sure that the prisons are accessible for class members.

This case continues to be heavily litigated, as the courts have repeated found CDCR to be in violation of the ADA and the ARP. The *Armstrong* plaintiffs continue to be concerned about the treatment of the class members, including allegations of abuse and violence by CDCR staff, retaliation or threats of retaliation for filing staff complaints, lack of accommodations for deaf prisoners, the problem of equal access to job and program assignments for people with disabilities, statewide durable medical equipment reconciliation and accuracy of disability tracking information, accommodations for blind and low vision class members, and more. Some of the declarants also alleged instances in which correctional officers at RJD retaliated against incarcerated people by charging incarcerated people with false rules violations reports.

The United States Court of Appeals for the Ninth Circuit recently affirmed all portions of the district court's orders related to the staff complaint process and video surveillance. These orders primarily cover six institutions: Richard J. Donovan Correctional Facility; California State Prison, Los Angeles County; California State Prison, Corcoran; Kern Valley State Prison; Substance Abuse Treatment Facility; and the California Institution for Women. In the opinion, the court mentioned the "Defendants' prior failures to improve their accountability systems in the absence of specific, court-ordered instructions," among other reasons to uphold the specific measures.[32]

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

[32] https://rbgg.com/wp-content/uploads/Armstrong-opinion-2-2-23.pdf

Issue 9: eDiscovery Ongoing Needs

Governor's Budget. The proposed budget includes 11 positions and $10 million General Fund in 2023-24 and ongoing for CDCR to continue to develop and implement a comprehensive eDiscovery platform.

Panelists.

- Kristin Montgomery, Director, Enterprise Information Services, CDCR

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

Background.

CDCR manages a significant amount of electronically stored information (ESI), including email, phone records and texts, and video footage. CDCR is subject to numerous discovery and Public Records Act (PRA) requests, requiring CDCR to ensure it can manage its ESI and discover and secure relevant evidence.

The 2022 Budget Act provided CDCR with $19.5 million General Fund one-time and $1.4 million ongoing and 11 limited-term positions to begin the development of an eDiscovery platform to centrally retrieve, manage, and store various forms of ESI, and enable secure delivery to both internal and external entities that are part of the litigation, discovery, and PRA processes. Previously, CDCR had been dependent on outdated, disparate applications and manual, labor-intensive processes to track, retain, store, redact and provide ESI. The lack of a comprehensive eDiscovery platform required individual units to attempt to solve their own retention and data evidence management and collection strategies individually, which split workload ineffectively and created incompatible practices. The new unified system will include digital evidence management, redaction and transcription services for video and audio, and chain of custody tracking, among other functions.

Implementation Status and Proposed Software Systems. As part of the development process funded last year, CDCR has identified and contracted with the following software vendors:

- *Video storage and management*. CDCR proposes to use NICE Investigate as its main video storage and case management system. NICE Investigate charges for baseline storage and by the number of "cases" opened by CDCR. A case is a repository for relevant files and data related to a specific incident or complaint, including audio and visual files, investigation documents, etc. CDCR estimates a need for 1,500 terabytes of storage, which will cost $1.8 million annually, and 250,000 cases, costing $2.8 million annually. CDCR has started piloting this system at SATF, and intends to expand it to the six prisons covered by the ARP, and then to all institutions that have updated AVSS. Access to cases is granted on an as-needed basis, and can include designated individuals within CDCR, the vendor, and the OIG.

- *Forensic Software.* CDCR proposes to use the two following vendors, at a total cost of $1.8 million annually, to identify and extract relevant ESI to deposit into the NICE Investigate system.
  - Cellebrite is used to extract data and digital evidence from devices, even if they are locked, password-protected, and/or encrypted. The OIA can use this tool during an investigation, or staff can use it with a verified need or permission to access the data.
  - Pathfinder is used to analyze connections between data and digital evidence extracted from multiple devices. For example, it may identify individuals who received calls from a contraband device.

The proposed timeline for implementing the eDiscovery system is in the table below.

Task	Estimated Completion Date
Complete Hiring Process	February 2023
Procurement Completion	February 2023
Configure, install, test systems and validate workflows	August 2023
Complete Administrator and Trainer Training (CPRA units, OLA, DOJ)	October 2023
Operationalize ELMMS	December 2023
Operationalize redaction automation modules (Text, Video)	July 2023
Operationalize extensible integration modules (OneDrive, OneNote, M365.)	December 2023
All modules operationalized	December 2023

Staff Recommendation. Hold Open.

Issue 10: BIS Migration to S4 Hana

Governor's Budget. The proposed budget includes limited-term General Fund support of $8.1 million in 2023-24, $9.3 million in 2024-25, and $7.8 million in 2025-26 to migrate CDCR's Business Information System (BIS) to a new platform, S4 Hana.

Panelists.

- Kristin Montgomery, Director, Enterprise Information Services, CDCR
- Sarah Tomlinson, Finance Budget Analyst, Department of Finance
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, LAO

Background.

CDCR Business Information System (BIS) Supported by SAP Software Platform. CDCR uses a system of interconnected IT applications—called BIS—to track and report data on various aspects of its operations. The department supports BIS on a software platform made by SAP. When CDCR began using this software in 2011, BIS primarily included financial applications, which provided functions like accounting, budgeting, and procurement. Over time, CDCR has added nonfinancial applications to BIS that provide various other functions, such as those related to employee health and safety, armory tracking, and allegations of staff misconduct. CDCR currently maintains BIS with annual funding of $24 million General Fund and 61 positions.

SAP Ending Mainstream Support for Current Software Beginning in 2027. In 2027, SAP is scheduled to stop providing mainstream support for the version of its software currently used by CDCR, because it is offering a new software called S/4HANA. The loss of support services could cause security vulnerabilities or loss of functionality in BIS. To prevent this from happening, CDCR plans to migrate BIS to S/4HANA beginning in 2023-24. However, it could also contract for temporary support and maintenance past 2027, either through a third-party vendor or directly with SAP.

State Centralizing Financial IT Systems Within Financial Information System for California (FI$Cal). Since 2005, the state has been in the process of replacing its aging and decentralized financial IT systems with one new system—FI$Cal, which integrates state government processes for accounting, budgeting, cash management, and procurement. In addition to eliminating the need for over 2,500 department-specific applications, FI$Cal is intended to automate manual processes, improve tracking of statewide expenditures, provide greater transparency into the state's financial data and management, and standardize state financial practices. FI$Cal is managed by the Department of FI$Cal.

CDCR Required to Transition to FI$Cal by 2032. Currently, all but 20 state entities have transitioned to FI$Cal. Ten of these entities, such as the University of California, have received statutory authority to use systems other than FI$Cal for their financial management on an ongoing basis. The other ten state entities, including CDCR, are currently considered deferred from FI$Cal.

This means that they are currently allowed to continue using financial IT systems other than FI$Cal but are statutorily required to transition to FI$Cal to the extent possible by July 1, 2032.

Analysis to Inform CDCR Transition Expected to Be Completed by End of 2023. As a part of the planning process for transitioning a department to FI$Cal, the Department of FI$Cal works with the transitioning department to conduct a "fit-gap" analysis. The purpose of a fit-gap analysis is to identify the transitioning department's existing business functions, processes, and data systems used for financial management; any gaps in the ability of FI$Cal to meet those needs; and potential options for addressing such gaps. The Department of FI$Cal indicates that it engaged with CDCR to conduct a fit-gap analysis in 2020-21 but the analysis was only partially completed by CDCR. FI$Cal currently expects the analysis to be completed by the end of 2023 and indicates that the specific time line to transition CDCR to FI$Cal can be evaluated at that time.

LAO Comments.

Initiating Migration to S/4HANA in 2023-24 Appears Premature. Under the Governor's proposal, the financial applications within BIS would be migrated to S/4HANA and—pending the results of the fit-gap analysis—subsequently transitioned to FI$Cal at some point before 2032. In other words, the state would eventually be paying for both the migration to S/4HANA and the transition to FI$Cal, which does not seem cost-effective. However, as discussed above, the state may be able to contract with SAP or a third-party vendor to provide extended maintenance for the ECC 6.0 software supporting BIS. This would allow CDCR to delay migration to S/4HANA. Accordingly, it appears premature to begin migration at this time.

Key Information Needed to Determine Costs of Delaying Migration. In order to determine whether it is cost-effective to delay the migration to S/4HANA, the Legislature would need to know the cost and potential trade-offs of contracting with SAP or a third-party vendor to temporarily provide extended maintenance for the software currently supporting BIS. However, it is unclear to what extent CDCR evaluated such options given that it did not provide information on the costs and potential trade-offs associated with them. Without this key information, it is difficult for the Legislature to determine whether to approve the department's proposal or delay the transition to S/4HANA. Moreover, the LAO notes that if the administration has not made efforts to assess options to delay migration to S/4HANA, it raises concerns that the administration is not putting the necessary effort into moving CDCR onto FI$Cal.

LAO Recommendation.

Withhold Action and Direct CDCR to Report Key Information. The LAO recommends that the Legislature direct CDCR to report in spring budget hearings on (1) the annual costs to contract with SAP to continue providing maintenance, (2) the estimated annual costs to provide maintenance through a third-party vendor, and (3) any potential challenges associated with these options and strategies to mitigate them. This information would allow the Legislature to evaluate whether the benefits of delaying migration are worth the costs. Until it receives this information, the LAO recommends the Legislature withhold action on the Governor's proposal. The LAO will make recommendations to the Legislature after the information is available.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair
SUBCOMMITTEE NO. 5 **Agenda**

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Thursday, March 9, 2023
9:30 a.m. or upon adjournment of session
State Capitol – Room 112

Consultant: Eunice Roh

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

VOTE-ONLY

0521 California State Transportation Agency

Issue 1: CalSTA Information Security and Privacy

Governor's Proposal. The Budget includes $1.3 million from various transportation funds ($780,000 from the State Highway Account, $260,000 from the Motor Vehicle Account, and $260,000 from the Public Transportation Account) ongoing to establish an information security team, procure cybersecurity software, and provide ongoing training. The information security team is proposed to be made up of a Privacy Officer, risk Officer, and a Security Compliance Officer. This team would be responsible for agency-wide cybersecurity oversight, and ensure compliance with all applicable federal and state security and privacy laws, regulations, standards, and policies. Currently, CalSTA has the Chief Information Security Officer (CEA B) from Caltrans serving as the part-time Agency Information Security Officer and also serving as the Agency Risk, Compliance, and Privacy Officer. Given the sensitive nature of the personal information CalSTA has within its purview, the agency requests additional resources for a standalone information security team.

Staff Recommendation: Approve as budgeted.

2600 California Transportation Commission

Issue 2: Advisory Committee Compensation

Governor's Proposal. The Budget includes $200,000 from various transportation funds ($75,000 from the State Highway Account and $125,000 from the Public Transportation Account) and associated statutory changes to authorize a per diem for serving on an advisory committee of the Commission. Unlike other state boards and commissions, the California Transportation Commission (CTC) does not have the statutory authority to provide a per diem to members of the advisory committees. Under this proposal, CTC would like to offer a $100 per diem to members of two committees: Road Usage Charge Technical Advisory Committee and Interagency Equity Advisory Committee. Providing per diems allows CTC to be able to attract and retain advisory committee members with the appropriate expertise, and also mitigate financial constraints that may affect an individual's ability to serve on a committee. The Commission requests a statutory $100 per diem for advisory committee members, modeled after Health and Safety Code Section 39603(a)(2)), which provides for members of advisory groups serving the California Air Resources Board to receive $100 per day.

Staff Recommendation: Approve as budgeted.

Issue 3: Implementation of SB 1121 (Chapter 508, Statutes of 2022) – State and local transportation system: needs assessment

Governor's Proposal. The Budget provides $524,000 from various transportation accounts to develop the state and local transportation system needs assessment, as required by Chapter 508, Statutes of 2022 (SB 1121, Gonzalez). Of the total amount, $224,000 is proposed to fund one limited-term position for three years and $300,000 for a one-time consultant contract. Pursuant to the provisions of

SB 1121, the assessment must identify the cost to operate, maintain, and provide for the necessary future growth of the state and local transportation system for the next 10 years. The CTC must submit an interim assessment to the Legislature by January 1, 2024, and a completed Assessment by January 1, 2025, and every five years thereafter. The requested resources would allow CTC to hire staff and consultant support with the necessary expertise to ensure the timely completion of the 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 4: Administration Program Support

Governor's Proposal. The Budget includes $4.4 million from the State Highway Account and 23.5 positions for administration support to address increased workload requirements commensurate with departmental program growth. Over the last five years, the California Department of Transportation's (Caltrans') total budget has grown approximately 72 percent, mainly due to increased state and federal funding for transportation infrastructure. In addition, Caltrans' administrative workload demand has increased due to issues, such as COVID-19 requirements, energy and sustainability mandates, and new technology. However, despite the recent budget growth and increase in administrative workload, funding for administration support has not grown commensurately. Adequate funding of administration support is necessary for Caltrans to recruit, test, and hire, meet mandates, provide necessary training to staff; manage and operate facilities, and make payments to employees, vendors, and contractors within legally mandated timeframes.

Staff Recommendation: Approve as budgeted.

Issue 5: Central Valley Legal Office

Governor's Proposal. The Budget includes $3.4 million from the State Highway Account and 17 positions on an ongoing basis to support increased legal workload and establish a legal office in the Central Valley. The Legal Division has experienced an increase in workload in recent years—according to Caltrans, the division's workload increased about 48 percent within the last five years. The increase is due to many factors, including increased funding for transportation projects and initiatives, such as increasing broadband and addressing homelessness. An additional legal office in the Central Valley is proposed to address this increase in workload as well as reduce the amount of time traveling by attorneys (since currently, attorneys from the Sacramento Legal Office covers the largest geographic area).

Staff Recommendation: Approve as budgeted.

Issue 6: Enterprise Data Technology Solution Stage 4

Governor's Proposal. The Budget includes $422,000 from the State Highway Account to complete Project Approval Lifecycle (PAL) Stage 4 for the Enterprise Data Governance Technology Solution project. 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. The 2022-23 Budget included funding for PAL Stage 3 for this project. This proposal would fund the fourth and final stage of the PAL process. This stage provides a basis for Caltrans to evaluate and reconfirm that the business objectives will be achieved, ensure the alternative solution selected continues to yield the highest probability of success, and baseline the project's timeframes, projected schedule, and costs, and start project implementation. Another request will be submitted to fund the implementation, maintenance, and operation of the selected solution.

Staff Recommendation: Approve as budgeted.

Issue 7: Project Initiation Documents

Governor's Proposal. The Budget includes a biennial zero-based-budget (ZBB) for Project Initiation Documents (PIDs) that requests a total of 420 positions and $81 million ($77.3 million in personal services and $3.8 million in operating expenses) for each fiscal year to develop, review, and approve PIDs. A PID must be developed and approved by Caltrans before a capital project can be programmed and constructed on the State Highway System. This request represents a net increase of 50 positions, equating to a total increase of $8.9 million, compared to the funding provided in the 2021-22 Budget. This total increase is in part due to the influx of federal dollars for transportation infrastructure projects from the Infrastructure Investment and Jobs Act (IIJA). Caltrans estimates that additional PIDs will be needed to successfully deliver the increased funding.

Staff Recommendation: Approve as budgeted.

Issue 8: Public Affairs and Legislative Affairs Support

Governor's Proposal. The Budget provides $1.3 million and 9 permanent positions (3 for Public Affairs and 6 for Legislative Affairs) to process and respond to state-mandated California Public Record Act (CPRA) requests and legislative bill analysis workload. There has been an increase in workload due to SB 1, the COVID-19 pandemic, and Clean California, and it is anticipated that additional requests will come through for telework, and the installation of broadband on state transportation right of way. For example, the number of CPRA requests processed by Caltrans increased from 4,191 in 2020-21 to 5,896 in 2021-22. For legislative affairs, Caltrans' inquiry volume has increased from an average of 320 inquires per year over three years, to more than 430 inquiries last year, a 35 percent increase. According to Caltrans, the requested positions and resources would allow them to more quickly respond to CPRA requests as well as provide bill analyses, respond to legislative inquiries, and conduct legislative outreach in a more timely manner.

Staff Recommendation: Approve as budgeted.

Issue 9: Transportation System Network Replacement

Governor's Proposal. The Budget includes $5.8 million from the State Highway Account and 11 positions to continue developing and implementing the California Transportation System Network (TSN) safety data system. 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. This request is for the third year of system development, and Caltrans plans to return with another budget request in future budget years to complete the project and for ongoing maintenance and operation costs.

Staff Recommendation: Approve as budgeted.

Issue 10: Wildlife Connectivity AB 2344

Governor's Budget. The Budget includes $1.3 million for 8 permanent full-time positions to implement the new Transportation Wildlife Connectivity Remediation Program pursuant to Chapter 964, Statutes of 2022 (AB 2344, Friedman). Currently, Caltrans conducts wildlife connectivity assessments on a project-by-project basis. However, AB 2344 significantly expands the scope of Caltrans' work on wildlife connectivity by establishing the Transportation Wildlife Connectivity Remediation Program, which requires Caltrans to develop a comprehensive statewide inventory of connectivity needs in addition to other related requirements. According to Caltrans, this funding would allow the department to meet the various implementation deadlines included in AB 2344, including publishing the inventory by July 1, 2024, assessing all projects entering Project Initiation Phase on or after July 1, 2025 for potential wildlife connectivity barriers, and reporting to the Legislature by July 1, 2028.

Staff Recommendation: Approve as budgeted.

2720 CALIFORNIA HIGHWAY PATROL

Issue 11: Permanent Funding for Privacy and Risk Management Program Positions

Governor's Proposal. The Budget includes $402,000 ongoing from the Motor Vehicle Account to make permanent two existing positions to support the Privacy and Risk Management Program, which is tasked with protecting personally identifiable information stored within the CHP IT infrastructure. In the 2017-18 Budget, these positions were approved on a two-year limited-term basis. After funding for these positions ended, CHP has absorbed the cost of the two positions as it attempts to mature its IT security program. According to the department, permanent funding of these positions are necessary for proactive IT security and to meet recurring security audits and assessments.

Staff Recommendation: Approve as budgeted.

Issue 12: Staff Augmentation – Office of Legal Affairs

Governor's Proposal. The Budget includes $1.1 million in 2023-24 and $1 million in 2024-25 and ongoing from the Motor Vehicle Account for five positions in the Office of Legal Affairs to address increased workload. In particular, the department identifies four primary factors leading to increased workload: increase in lawsuits and discovery, decreasing likelihood to be granted a pre-trial motion to dismiss a case, currently active class action lawsuits, and new laws affecting civil litigation (such as extended time for plaintiffs to file a civil suit). According to CHP, additional legal staff would help limit the financial liability of the department, provide greater availability to other state partners on civil litigation matters, and improve availability to attend court ordered mediations and settlement conferences.

Staff Recommendation: Approve as budgeted.

Issue 13: Fleet Telematics System – Ongoing Support

Governor's Proposal. The Budget includes 1 position and $1.1 million ongoing from the Motor Vehicle Account for the ongoing operation costs of the Fleet Telematics System. The Fleet Telematics System allows the sending, receiving, and storing of telemetry data, which can include vehicle location, speed, fuel consumption, and other vehicle information. In 2021, the Department of General Services issued a requirement for state agencies to install and operate telematics services in their fleet. As a result, the 2021-22 and 2022-23 Budgets included provisional language allowing budget augmentation to fund one AGPA position and the costs related to the installation and operation of the telematics system. This proposal requests position authority for the AGPA and to make the budget augmentation permanent to cover ongoing costs.

Staff Recommendation: Approve as budgeted.

2740 California Department of Motor Vehicles

Issue 14: Banning Field Office Relocation

Governor's Proposal. The Budget includes $50,000 in 2023-24, $2.3 million in 2024-25, $515,000 in 2025-26, $540,000 in 2026-27, and $566,000 in 2027-28 and ongoing for a new leased Banning Field Office. The existing Banning Field Office has a space deficiency of nearly 9,000 square feet and needs 26 additional parking spaces to meet a ten-year need. This is mainly due to the growing population of the communities served by the Banning Field Office. In addition, the existing Banning Field Office has a long history of neglected routine building maintenance, ongoing requests for repairs and maintenance, and the contracting of substandard vendors to complete work is resulting in poor quality repairs that must be redone on a regular basis, often at DMV's expense. This funding would relocate the Banning Field Office into a new leased facility that meets program standards by May 2025.

Staff Recommendation: Approve as budgeted.

Issue 15: Bay Area DSO/OL/INV Consolidation

Governor's Proposal. The Budget includes $4.4 million in 2023-24, $1.1 million in 2024-25, $1.1 million in 2025-26, $1.2 million in 2026-27, and $1.2 million in 2027-28 and ongoing to relocate the DMV San Francisco Driver Safety/Occupational Licensing (DS/OL) Office and consolidate with the Brisbane Investigations Office. Both offices need to move from their existing facilities. The San Francisco DS/OL office is being displaced from its location in the San Francisco Field Office due to an ongoing project to replace that facility. The Brisbane Investigations Office needs a new facility because the location's lessor is unwilling to renew the lease. This funding would relocate both offices into a new leased facility that meets program standards by November 2023.

Staff Recommendation: Approve as budgeted.

Issue 16: DMV San Francisco Swing Space

Governor's Proposal. The Budget includes $6.9 million in 2023-24, $2.3 million in 2024-25, $2.4 million in 2025-26, and $837,443 in 2026-27 for a temporary field office swing space facility near San Francisco. DMV is currently in the process of an onsite replacement of the San Francisco Field Office. This funding will allow DMV to continue serving the public while the office is closed during construction. DMV expects to occupy the lease facility by November 2023.

Staff Recommendation: Approve as budgeted.

DISCUSSION

0521 CALIFORNIA STATE TRANSPORTATION AGENCY
2600 CALIFORNIA TRANSPORTATION COMMISSION
2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 17: Implementation and Reductions of the Transportation Infrastructure Package

Governor's Budget. The Budget includes $2.7 billion in General Fund reductions, partially offset by $500 million from the State Highway Account, to the $9.5 billion Transportation Infrastructure Package included in the 2022-23 Budget.

Program	Department	Total Augmentations	Proposed Changes 2021-22 and 2022-23	2023-24	2024-25	2025-26	New Amounts Proposed
Transportation Infrastructure Package		**$9,500**	**-$1,050**	**-$500**	**-$1,500**	**$850**	**$7,300**
Population-based TIRCP	CalSTA	$4,000	—	-$1,000	-$1,500	$500[b]	$2,000
TIRCP	CalSTA	3,650	—	—	—	—	3,650
Active Transportation Program	Caltrans	1,050	-$500	300[a]	—	—	850
Grade separation projects with TIRCP	CalSTA/Caltrans	350	-350		—	350[b]	350
Local climate adaptation programs	Caltrans	200	-200	200[a]	—	—	200
Highways to Boulevards Pilot Program	Caltrans	150	—	—	—	—	150
Clean California Local Grant Program	Caltrans	100	—	—	—	—	100

[a]Funding shifted to State Highway Account.

[b]Delayed from a prior year.

Note: All amounts are General Fund unless specified.

TIRCP = Transit and Intercity Rail Capital Program; CalSTA = California State Transportation Agency; and Caltrans = California Department of Transportation.

The specific solutions proposed by the Governor include:

- ***Population-Based TIRCP.*** The Governor proposes to (1) reduce funding in 2023-24 by $1 billion, (2) reduce funding in 2024-25 by $1 billion, and (3) delay $500 million from 2024-25 to 2025-26. This would have the net effect of halving the intended support for the program ($2 billion instead of $4 billion) along with extending the timing of when the remaining amounts are provided.
- ***Active Transportation Program (ATP).*** The Governor proposes to (1) reduce the amount of General Fund provided by $500 million and (2) partially backfill this decrease with $300 million from the State Highway Account (SHA). (SHA is largely supported by fuel excise taxes and primarily is used to fund highway maintenance and rehabilitation projects.) This would result in a net reduction of $200 million for ATP in 2022-23. However, because the full $500 million has already been awarded for specific projects, the administration indicates that it would apply the proposed $200 million reduction to future ATP grant-award cycles, resulting in fewer projects in the outyears. (The administration would use other ATP funds and cash-management strategies to delay the impacts of the reduction and avoid disruption for current projects.)
- ***Grade Separation Projects.*** The Governor proposes to delay the full amount provided—$350 million—to 2025-26. This program is a set-aside within the non-population-based TIRCP.
- ***Local Climate Adaptation Programs.*** The Governor proposes to shift the full $200 million provided to these programs from the General Fund to SHA in 2022-23.

Proposes Trigger Restoration for Population-Based TIRCP Reduction Should State Revenues Rebound. The Governor's budget includes language that would allow the proposed $1 billion reduction to the population-based TIRCP in 2023-24 to be administratively restored in January 2024. In order for this restoration to occur, the administration would have to determine that the state has sufficient resources to fund its baseline costs and *all* of the programs the administration has selected for the trigger. The trigger restoration list totals $3.8 billion across the budget.

Background. As shown in Figure 1, the 2022-23 budget package provided $5.4 billion from the General Fund across 2021-22 and 2022-23 for various departments to implement activities intended to support the state's transportation system. (Not displayed in the figure, the Transportation Infrastructure Package also provided essentially all of the remaining unappropriated Proposition 1A bond funds—$4.2 billion—for the high-speed rail project in 2021-22.) This package also included agreements to provide additional General Fund in the outyears—including $2.1 billion in 2023-24—for a five-year total of $9.5 billion. These total amounts represent a significant dedication of General Fund resources for transportation programs, which historically have been supported primarily by state special funds (made up of revenues from fuel taxes and vehicle fees) and federal funding. Figure 2 provides a brief description of the programs that were augmented as part of the 2022-23 budget package.

Figure 1
Recent and Planned Augmentations for Transportation Programs
General Fund (In Millions)

Program	Department	2021-22[a]	2022-23	2023-24	2024-25	2025-26	Totals
Transportation Infrastructure Package		**$5,400**	**—**	**$2,100**	**$2,000**	**—**	**$9,500**
TIRCP	CalSTA[b]	$3,650[c]	—	—	—	—	$3,650
Active Transportation Program	Caltrans[d]	1,050	—	—	—	—	1,050
Grade separation projects within TIRCP	CalSTA/Caltrans[e]	350	—	—	—	—	350
Local climate adaptation programs	Caltrans[b]	200	—	—	—	—	200
Highways to Boulevards Pilot Program	Caltrans	150	—	—	—	—	150
Population-based TIRCP	CalSTA	—	—	$2,000	$2,000	—	4,000
Clean California Local Grant Program	Caltrans	—	—	100	—	—	100

[a]Funding provided in summer 2022 but accounted for as part of 2021-22 budget.

[b]CTC also provided small amount of total funding in 2022-23 and 2023-24 for administrative-related activities.

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

[d]CTC also has role in allocating funding to projects.

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

TIRCP = Transit and Intercity Rail Capital Program; CalSTA = California State Transportation Agency; and Caltrans = California Department of Transportation.

Figure 2
Overview of Recently Augmented Transportation Programs

Program	Description
Transportation Infrastructure Package	
Transit and Intercity Rail Capital Program (TIRCP)	Competitive program that funds transit and intercity rail improvements that reduce greenhouse gas emissions, vehicle miles traveled, and congestion.
Active Transportation Program	Competitive program that funds projects that encourage the use of active modes of transportation such as biking and walking.
Grade separation projects with TIRCP	Recent budget set-aside within TIRCP for projects that create a physical separation between railroad tracks and roadways, generally to improve safety.
Local climate adaptation programs	Includes (1) a new competitive program that funds capital projects that adapt transportation infrastructure to climate change and (2) a resumption of a competitive program that funds the development of climate adaptation plans.
Highways to Boulevards Pilot Program	New competitive pilot program that funds the planning or implementation of projects that convert or transform underutilized state highways.
Population-based TIRCP[a]	New set-aside within TIRCP that provides formula funding directly to regional agencies to fund transit and intercity rail improvements that reduce greenhouse gas emissions, vehicle miles traveled, and congestion.
Clean California Local Grant Program	Competitive program initiated in 2021-22 that funds litter abatement and beautification projects.

[a]Chapter 71 of 2022 (SB 198, Committee on Budget and Fiscal Review) included statutory language indicating that this specific augmentation for TIRCP should be allocated to regional agencies based on population.

LAO Assessment.

Given Magnitude of Recent One-Time Augmentations, Identifying Budget Solutions From Transportation Programs Is Appropriate. The Legislature directed a considerable portion of the state's recent budget surpluses towards transportation programs. These investments support several priorities, such as improving the state's transportation system, encouraging projects intended to help the state meet its climate goals, and assisting local agencies in drawing down additional federal funds from IIJA. The state focused most of its recent General Fund augmentations on one-time and limited-term activities—both within the transportation sector and in other areas of the budget—in order to provide some underlying flexibility if economic conditions changed. As such, helping to solve the current budget problem by focusing on these one-time and limited-term augmentations is appropriate. Moreover, revisiting these recent augmentations likely is necessary if the Legislature wants to avoid cutting ongoing General Fund-supported programs across the budget. Although making reductions in transportation will result in fewer of the activities that the Legislature intended for the state to conduct, even reduced amounts still will represent significant augmentations compared to historical levels for these programs. This is particularly true since many of these activities have not typically received General Fund support. Through careful prioritization, the state can continue to support its priorities within transportation even at moderately reduced spending levels.

Governor's Budget Represents One Set of Priorities, but Legislature Could Apply Its Own Decision-Making Criteria. The Governor's budget represents one approach the state could take in solving the current budget problem. However, this approach represents the Governor's overall priorities and reflects the Governor's criteria for determining which programs should be sustained or reduced. The Legislature has numerous options for dealing with the budget problem, while also sustaining funding for its highest priorities—both within transportation and in other policy areas. For instance, the Legislature could (1) choose a different mix of actions across transportation programs, and/or (2) identify a different mix of actions across policy areas, such as adopting more solutions in one part of the budget and providing additional support in other policy areas. In evaluating which transportation programs might be the best candidates for budget solutions, the Legislature may want to consider the following questions:

- ***How Important Is the Activity to Achieving Legislative Priorities and Goals?*** Is the activity an important component of meeting the Legislature's priorities? Does the funding target vulnerable or underserved communities that may not have resources to undertake the activity on their own? Does the activity represent a core state responsibility? Does compelling evidence exist that a program is effective at meeting its intended outcomes?
- ***Would the Solution Cause Major Disruptions?*** Has the funding been appropriated? Has the funding been committed to specific projects or grantees? How far along is the activity in being implemented? Would pulling back state funding affect the ability to access other funding, such as federal funds?
- ***Is the Funding Crucial to Addressing Urgent and Pressing Needs?*** What is the current demand for the funds? How likely is it that delaying or not conducting the activity could lead to negative long-term outcomes?
- ***What Other Resources Might Be Available?*** Are other funding sources available to help accomplish the activities at some level, either from previous budget appropriations, special funds, or federal funds? What implications might result from potential fund shifts, such as for the programs that funding might otherwise have supported?

Reductions to Population-Based TIRCP Are Reasonable Given Budget Problem. Given the magnitude of the budget problem facing the Legislature in the budget year (and the outyears), we find the Governor's proposals to reduce and delay funding for the population-based TIRCP to be reasonable. While providing $2 billion less than planned would result in fewer overall capital improvements to transit and rail systems, under the Governor's proposal, transit agencies still would receive a significant increase in state General Fund support—$2 billion over a three-year period—when compared to recent years. This funding would be in addition to the federal fund augmentations transit agencies are anticipated to receive from IIJA. As mentioned previously, state transit agencies can expect to receive $3.1 billion in additional formula transit funding over the five-year period, representing an average annual increase of $620 million compared to previous levels. As such, even with the Governor's proposed reduction, transit agencies would still be receiving more net funding than their historical levels.

Population-Based TIRCP Not Currently Structured to Address Transit Operational Funding Issues. Some transit agencies have raised concerns about operational funding shortfalls, in part due to persistent declines in ridership and evolving commute patterns that began during the pandemic. (Operational costs for transit agencies are supported by local, state, and federal funds, as well as from passenger fares and fees.) However, the population-based TIRCP funding the Governor proposes reducing—as currently structured in statute—can only be used for capital improvements. As such, the Legislature should not view maintaining—or reducing—this funding as meaningfully affecting transit agencies' operational funding challenges one way or another, at least as it is currently structured. Based on its priorities, the Legislature could look at options for providing additional flexibility around program requirements to allow transit agencies to use the population-based TIRCP funding for some operational expenses, but this would require statutory changes and a reprioritization of the program. Even if the Legislature were to authorize such a shift in funding usage, this would need to be viewed as a temporary relief measure, given that the funding is one-time in nature. In some cases, transit agencies will need to address the underlying sources of their operating budget pressures with more sustainable solutions.

Proposed Fund Shifts Would Minimize Disruption and Maintain Legislative Priorities. Overall, we find that shifting program costs for ATP and the local climate adaptation programs from the General Fund to SHA have merit for several reasons. First, the proposed fund shifts would minimize disruptions to the current programs. This is particularly true for ATP, which has already committed $630 million of the roughly $1.1 billion augmentation to local agencies, and local agencies are in the process of submitting plans for the remainder. (As mentioned earlier, the administration can use other ATP funds and cash-management strategies to delay the impacts of the proposed $200 million reduction, but a deeper cut would impact current projects.) Similarly, departments have begun to receive applications for the local climate adaptation programs. Local agencies have already started applying for funding from the planning program and are expected to submit applications for the capital program in March 2023. Backfilling the proposed reductions with SHA funds would minimize disruption for the local projects for which planning is already well underway.

Second, we find that the proposed fund shifts would help to achieve budget solutions while maintaining activities the Legislature has indicated are among its key priorities. For instance, during the 2022-23 budget negotiations, the Legislature advocated for more than doubling the $500 million for ATP that the Governor had originally proposed. This funding was intended to help address the roughly $1.5 billion backlog of high-scoring projects that had applied to the program in previous years but were not funded due to limited resources. Similarly, the local climate adaptation programs were budget items that originated from the Legislature in order to address current and future climate change impacts.

Using SHA to Backfill Reductions in Other Programs Means Less for Highways… While utilizing SHA funds to backfill General Fund reductions would come with some benefits, this approach is not without trade-offs. In particular, any reductions from SHA would ultimately result in less funding available for state highway maintenance and rehabilitation projects. This is because SHA is one of the main funding sources for Caltrans' State Highway Operation and Protection Program (SHOPP), which supports capital projects that rehabilitate and reconstruct the state highway system. In the budget year, the program is estimated to have about $5 billion for projects through a combination of state and federal funds (including additional funding from IIJA). The Governor's proposed fund shifts would reduce funding available for SHOPP by $500 million. The funding changes likely would not impact projects planned for the budget year, but would result in fewer projects in the future.

…However, Significant Increase in Federal Funds Can Help Make Up for Shifts. Given the increase in formula highway funding the state is expected to receive from IIJA, the impacts of shifting funding away from SHA are less significant than they would have been otherwise. This provides the Legislature with some additional flexibility to shift funds from SHA to support other transportation purposes. (The revenues that support SHA—such as fuel excise taxes—are constitutionally protected and can only be used on transportation-related expenditures.) As mentioned earlier, 60 percent of the formula highway funding California receives is used for state activities and 40 percent is apportioned to local agencies to address local transportation system needs. Under IIJA, the state-used portion is expected to be augmented by $5.1 billion over the five-year period, or about $1 billion annually. Caltrans plans to use most of this funding for SHOPP projects. Therefore, while the proposed $500 million SHA fund shift would decrease available funding for SHOPP, the recent federal fund augmentations would still enable the program to spend at funding levels exceeding its recent baseline.

Sustaining TIRCP Funding Would Minimize Disruptions. Overall, we find the Governor's proposal to sustain the $3.7 billion provided to the non-population-based TIRCP to be reasonable. The program has already begun awarding funding to local agencies and is expected to finish awards in the coming months. As such, reducing funding through the budget act this summer would cause significant disruptions for those local projects. Moreover, as part of the statutory guidance for the program, the Legislature directed the California State Transportation Agency (CalSTA) to prioritize funding projects where state funds could leverage additional local and federal funds—particularly the additional competitive funding made available under IIJA. Reducing funding for the program therefore could jeopardize local agencies' ability to draw down federal funds.

Administration's Plans to Solicit Applications and Award Program Funds Early Limits Legislature's Flexibility to Navigate Budget Problem. As shown in Figure 1, the 2022-23 budget package included agreements to provide significant additional funding for transportation programs in 2023-24 and 2024-25. While the budget agreement included the intent to provide this future funding, the authority to spend this funding is contingent on each year's annual budget legislation, and therefore, has not yet been provided to the corresponding departments. Until it grants such spending authority, the Legislature retains the authority to determine whether the intended amounts should be sustained or modified. This is particularly important for the amounts agreed to for the budget year, since the state faces a budget problem and the Legislature needs to identify spending changes that will enable it meet its constitutional requirement to pass a balanced budget. Given how significantly the budget condition has changed from when these commitments were made, the Legislature will need to consider and reevaluate all potential future spending with a fresh perspective; the state cannot afford to maintain all of its previous spending intentions.

Despite the fact that departments do not yet have the authority to spend funding planned for future appropriations, Caltrans is prematurely taking steps to allocate funds for the Clean California Local Grant Program. Caltrans is in the process of accepting applications from local agencies for the $100 million intended for the Clean California Local Grant Program in 2023-24. While the department does not plan to make funding awards until after the next fiscal year begins, it still is having local agencies apply now for funding it does not yet have the legal authority to spend.

These activities are problematic for several reasons. First, having local agencies go through the process of planning projects and applying for funds that may not ultimately be appropriated to a department—as Caltrans is for the Clean California Local Grant Program—is both unfair and creates the potential for wasted time and resources. Second, taking the additional step of *committing* funding to local agencies when a department does not yet have the legal authority or certainty that the Legislature will ultimately provide this funding creates unnecessary funding risks to local projects. Third, these practices make solving the budget problem more difficult for the Legislature. Specifically, they create a dynamic where the Legislature would then need to consider whether it should cut funding that local agencies (1) had already applied for and/or (2) had already been promised. This places the responsibility for the potential resulting disruption on the Legislature's shoulders despite the fact that it was the administration's premature actions that created the expectations at the local level.

Additional Solutions May Be Needed if Budget Problem Worsens. As discussed earlier, recent economic data and our fiscal outlook suggest that the Governor's revenue estimates have a high likelihood of being overly optimistic. Should that prove to be the case, the Legislature will need to identify additional solutions in order to meet its constitutional requirement to pass a balanced budget. While it has several options for crafting such solutions—including from within other policy areas and using tools other than spending reductions—given the magnitude of the recent one-time investments in transportation programs, the Legislature likely will want to consider making additional reductions in this area.

Legislature Could Consider Other Programs for Alternative or Additional Budget Solutions. As noted in Figure 5, the Governor would leave several programs unaffected by reductions. Should the Legislature want to consider alternative or additional budget solutions than those proposed by the Governor, we believe the following programs merit consideration:

- ***Highways to Boulevards Pilot Program.*** The Legislature could consider reducing funding for the Highways to Boulevards Pilot Program, which received $150 million in the 2022-23 budget package. In some cases, the information the state is seeking to obtain from this pilot program could be achieved through the federal Reconnecting Communities Pilot Program—a new five-year IIJA program that will provide roughly $200 million annually in competitive grants for similar activities. The Legislature could consider reducing this program now and then providing funding in the future when budget conditions improve. This would allow the state to incorporate findings from the federal pilot. While California communities are not guaranteed federal funding, many of the projects that would apply for the state program likely would also be eligible for the federal program. We note that the state program has equity-driven goals in that it supports increased access to biking, walking, transit, and green space in underserved communities, which makes it a priority for legislative focus. However, given that the federal program focuses on similar activities, the Legislature could potentially utilize savings from this program to sustain funding for some of its other high-priority equity programs across the budget that might otherwise be reduced.
- ***Clean California Local Grant Program.*** The Legislature could also consider reducing some or all of the $100 million intended for the Clean California Local Grant Program in 2023-24. This program first began when Caltrans received General Fund resources of $148 million in both 2021-22 and 2022-23 as part of a larger state initiative to clean up litter and beautify areas near transportation infrastructure. Many of the previously funded projects still are underway, working towards their required completion date of June 2024. The Legislature could reduce funding for the program and wait to review reported outcomes from the completed projects before deciding whether additional funding is warranted in the future.
- ***Grade Separation Projects.*** The Legislature could also consider reducing the $350 million provided for grade separation projects supported under TIRCP. As mentioned earlier, the Governor proposes delaying this funding from 2022-23 to 2025-26. The Legislature could instead convert the proposed delay to a reduction to capture savings and avoid exacerbating the state's out-year budget problem. This program has existing annual funding of about $450 million that would allow the state to still complete some—albeit fewer—grade separation projects. The Legislature could revisit funding these activities in 2025-26 should budget resources allow without making the commitment for such spending now.

Governor's Trigger Restoration Approach Not Realistic, Minimizes Legislative Authority. The Governor identifies the $1 billion reduction for the population-based TIRCP in 2023-24 as being eligible for restoration should resources exceed expectations by January 2024. The trigger restoration for this program would only occur if there are sufficient resources to restore the full $3.8 billion budget-wide trigger restoration list. As discussed earlier, not only do the Governor's revenue estimates assume insufficient funds to trigger such a restoration, but the Governor also forecasts a $9 billion budget deficit for 2024-25 that will need to be addressed. Given that our revenue outlook is less optimistic than the Governor's, we find it unlikely the trigger will be met. Specifically, we estimate there is about a one in three chance that the state will be able to afford the Governor's budget as proposed for 2022-23 and 2023-24, and an even lower chance the state could afford the Governor's budget plus the trigger restorations. Accordingly, we believe the proposed trigger restorations to the population-based TIRCP funding—and other programs subject to the trigger—should not be viewed as items that could potentially be restored, but rather as pure reductions. Additionally, no automatic trigger is needed to make midyear funding augmentations—the Legislature already has this ability through its authority to pass midyear spending bills. As such, we find that the Governor's proposal is structured in a way that reduces legislative authority and flexibility.

LAO Recommendations.

Direct Administration Not to Prematurely Solicit Applications and Award Program Funding Before the Legislature Grants Spending Authority. We recommend that the Legislature direct Caltrans to delay its application process for the Clean California Local Grant Program until the funding is appropriated. Waiting until after the budget act is passed would prevent additional local agencies from going through the process of planning projects and applying for funds that may not ultimately be appropriated to the department. While these directives might cause some disruptions given the departments' plans are underway, ultimately, our recommended approach would both minimize potential greater disruption for local agencies and preserve the Legislature's tools in solving the current budget problem.

Adopt Package of Budget Solutions Based on Legislature's Priorities. We recommend the Legislature develop its own package of budget solutions based on its highest priorities and guiding principles. In the brief, we identify key questions the Legislature could use in developing its own budget solutions. In several cases, we find the Governor's proposals to be reasonable, but so too would alternative decisions the Legislature could make instead of or in addition to the Governor's selections.

Use Spring Budget Process to Identify Additional Potential Budget Solutions in Transportation. Given the distinct possibility of worse fiscal conditions, we recommend the Legislature begin to prepare now for the likely need to solve for a deeper revenue shortfall when it adopts its final budget this summer. Specifically, in addition to weighing the Governor's proposed solutions and substituting its own alternatives, we recommend the Legislature identify additional reductions for a greater total amount of solutions than those proposed by the Governor. In this brief we identify other potential reductions for transportation programs that are not proposed by the Governor. While this process will be challenging—and, likely, unpleasant—taking the time to consider, research, and select potential options over the spring will better prepare the Legislature to make decisions in May and June when it will not have much time to gather information and carefully consider program trade-offs before the budget deadline.

Reject Governor's Trigger Restoration Approach, Maintain Legislative Flexibility. We also recommend the Legislature reject the Governor's trigger restoration proposal—both for the population-based TIRCP funding and all other non-transportation programs subject to the trigger. Given the current revenue forecast and the "all or nothing" structure of the proposal, we believe the likelihood of the state receiving sufficient funds to activate the trigger is low. We also find that the proposal minimizes the Legislature's authority and flexibility to respond to changing revenue conditions and evolving spending priorities. We therefore recommend the Legislature instead focus its efforts on adopting the level of solutions needed to balance the 2023-24 budget. Then, as revenues become clearer over the coming year, it can make midyear changes—including augmentations if possible, or additional reductions if needed—through its existing authorities, such as passing midyear spending bills.

Staff Comments. The proposed revisions to the Transportation Infrastructure Package makes significant reductions to two programs in particular: population-based funding for transit infrastructure and the Active Transportation Program (ATP). These programs are important in our state efforts to meet climate and equity goals. Ensuring transit and active transportation is widely available, easily accessible, and competitive with other transportation modes is key in building a less carbon-intensive, car-reliant transportation system. In addition, these programs provide important opportunities for the state to support good, high-quality jobs to build and maintain our roads, buses, and rail systems.

The proposed reductions are misaligned with Legislative priorities for a cleaner, more equitable future for transportation. Funding for these programs were part of a lengthy negotiation with the Administration to provide the remainder of the bond funds for the High Speed Rail Project. It is important to protect these investments in transit and active transportation at a time when addressing climate change is more urgent than ever.

Implementation is still early for many of these programs. As shown in the table below, funding for many programs has not yet been committed.

Program	**Appropriations (in millions)***					**Total**	**Amount Committed**	**Notes**
	2021-22	2022-23	2023-24	2024-25	2025-26			
TIRCP	3,650		1,000	500	500	5,650	0	$3.65B from 2021-22 will be awarded in 2 Phases, Phase 1 in Jan/Feb 2023 and Phase 2 in April 2023; the remaining $2B will be directly apportioned to local agencies in the budgeted year.
Highways to Boulevards	150					150	0	Call for projects Summer 2023; Awards winter 2023.
Climate Adaptation	200[1]		200[2]			400	0	Awards of Grant and Project funding expected in Fall 2023.
ATP	550		300[2]			850	630	Will commit remaining funds in June 2023.
Grade Separation					350	350	0	Awarded as part of TIRCP cycle in April 2023.
Clean California			100			100	0	Use of budgeted funds is ongoing; awards of the $100 million Local Grant funds in August/September 2023.

*: Takes into account the proposed reductions.
1: Federal Funds
2: State Highway Account Funds

Because many programs are still in early stages of implementation, depending on legislative priorities, funding can still be shifted around and between programs. For example, the Governor proposes to backfill certain programs with funds from the State Highway Account (SHA). But as the LAO highlighted, funding from SHA can be used for other programs in the package.

In addition, the Legislature can modify programs given current conditions in transportation. For example, several transit agencies are facing a fiscal cliff, in part due to decreased ridership and high fixed operating costs. One option the Legislature can consider to address these issues is to make the funding for populated-based funding for transit infrastructure to be more flexible, and allow agencies to use the funds for operating costs, if needed. Providing flexibility can be paired with accountability measures, to ensure agencies are actively changing their operations to improve ridership and long-term sustainability.

Staff Recommendation: Hold Open.

0509 Governor's Office of Business and Economic Development
0521 California State Transportation Agency
2740 California Department of Motor Vehicles
7120 California Workforce Development Board

Issue 18: Implementation and Delays of the Supply Chain and Goods Movement Package

Governor's Budget. The Budget includes a delay of the $600 million for the Port and Freight Infrastructure Program scheduled for 2023-24. This would be done by maintaining $200 million in 2023-24 and providing additional allotments of $200 million in both 2024-25 and 2025-26.

Background. The 2022-23 Budget included $670 million from the General Fund for the Supply Chain Package. The package also included agreements to provide additional General Fund in the outyears—including $650 million in 2023-24—for a five-year total of $1.4 billion.

Recent and Planned Augmentations for Transportation Programs
General Fund (In Millions)

Program	Department	2022-23	2023-24	2024-25	2025-26	Totals
Supply Chain Package		**$670**	**$650**	**$50**	**$10**	**$1,380**
Port and Freight Infrastructure Program	CalSTA	$600	$600	—	—	$1,200
Supply chain workforce campus	CWDB	30	40	$40	—	110
Port operational improvements	GO-Biz	30	—	—	—	30
Increased commercial driver's license capacity	DMV	10	10	10	$10	40

Overview of Supply Chain Package Programs

Program	Description
Supply Chain Package	
Port and Freight Infrastructure Program	New competitive program that funds projects that improve the movement of goods to and from ports.
Supply chain workforce campus	Funding to establish a new workforce training campus at the Port of Los Angeles.
Port operational improvements	New competitive program that funds operational and process improvements at ports.
Increased commercial driver's license capacity	Funding for the Department of Motor Vehicles to temporarily increase the state's capacity to issue commercial driver's licenses by leasing space to establish dedicated commercial drive test centers.

The four programs included in the Supply Chain Package are in various stages of implementation:

- **Port and Freight Infrastructure Program ($1.2 billion).** CalSTA completed the guidelines process for the $1.2 billion in port and freight funding in October 2022. Project applications are due January 13, 2023, with awards anticipated in March 2023. The agency anticipates rewarding the entirety of the funding in this cycle. Applications for the Port Infrastructure Development Program (PIDP), one of the primary federal funding programs for ports, are due in April. According to some ports, having state commitment to their projects will help support their applications for this federal funding.
- **Supply chain workforce campus ($110 million).** The CWDB is currently processing the grant agreement. Ports of Los Angeles and Long Beach have submitted a letter outlining the general commitments they intend to make for the project—which is to split the remaining costs of the project. In total, the project is expected to cost about $150 million.
- **Port operational improvements ($30 million).**
  - **Containerized Ports Data Interoperability Grant Program ($27 million).** Due to staffing issues, GO-Biz is using some of the funds to contract with an intermediary third-party to design and distribute the grant program. The request for the intermediary is to be released in February, and the contract will begin in the spring for a two-year period. GO-Biz estimates to begin accepting grant applications by July/August and award funding by September/October for an 18-20 month performance period. Concurrently, GO-Biz is meeting with federal partners, including the U.S. Department of Transportation and the Federal Maritime Commission, to draft and submit a Memoranda of Understanding on how the state funding will complement federal efforts.
  - **Funds to Improve Data Processes ($2.1 million).** GO-Biz has not been able to expend these funds because supply chain and freight data is oftentimes proprietary. GO-Biz is retaining these funds in the case it needs to purchase proprietary data information for state agencies or port partners during the program rollout.
- **Increased commercial driver's license capacity ($40 million).**
  - **Extended Field Office Hours ($6 million).** Of this amount, DMV currently projects to spend approximately $1 million in 2022-23. Currently, the average number of days to schedule a CDL drive test is 18 days, and the department target is 40 days.
  - **Additional Commercial Drive Test Centers ($34 million).** DMV has not yet found commercial driving test centers in the Bay Area and Northern Los Angeles, and therefore, only minimal costs have been incurred in 2022-23. The department has identified three potential sites in the Bay Area, but it will likely not be finalized until later this year.

LAO Assessment.

Administration's Plans to Solicit Applications and Award Program Funds Early Limits Legislature's Flexibility to Navigate Budget Problem. The 2022-23 budget package included agreements to provide significant additional funding for transportation programs in 2023-24 and 2024-25. While the budget agreement included the intent to provide this future funding, the authority to spend this funding is contingent on each year's annual budget legislation, and therefore, has not yet been provided to the corresponding departments. Until it grants such spending authority, the Legislature retains the authority to determine whether the intended amounts should be sustained or modified. This is particularly important for the amounts agreed to for the budget year, since the state faces a budget problem and the Legislature needs to identify spending changes that will enable it meet its constitutional requirement to pass a balanced budget. Given how significantly the budget condition has changed from when these commitments were made, the Legislature will need to consider and reevaluate all potential future spending with a fresh perspective; the state cannot afford to maintain all of its previous spending intentions.

Despite the fact that departments do not yet have the authority to spend funding planned for future appropriations, CalSTA is prematurely taking steps to allocate funds for the Port and Freight Infrastructure Program. Currently, CalSTA is in the process of awarding all the planned funding for the Port and Freight Infrastructure Program, including the $600 million intended to be appropriated in 2023-24. The agency has already received applications from local agencies and plans to award this funding later this spring. That is, the agency will commit specific funding amounts to local agencies *before* the Legislature has legally authorized such spending. Moreover, committing these funds now is inconsistent with the Governor's proposal to delay a share of this funding and instead provide $200 million annually from 2023-24 through 2025-26.

These activities are problematic for several reasons. First, having local agencies go through the process of planning projects and applying for funds that may not ultimately be appropriated to a department is both unfair and creates the potential for wasted time and resources. Second, taking the additional step of *committing* funding to local agencies when a department does not yet have the legal authority or certainty that the Legislature will ultimately provide this funding—as CalSTA is for the Port and Freight Infrastructure Program—creates unnecessary funding risks to local projects. Third, these practices make solving the budget problem more difficult for the Legislature. Specifically, they create a dynamic where the Legislature would then need to consider whether it should cut funding that local agencies (1) had already applied for and/or (2) had already been promised. This places the responsibility for the potential resulting disruption on the Legislature's shoulders despite the fact that it was the administration's premature actions that created the expectations at the local level.

LAO Recommendations.

Direct Administration Not to Prematurely Solicit Applications and Award Program Funding Before the Legislature Grants Spending Authority. We recommend that the Legislature direct CalSTA to cease its plans to prematurely award funding for the Port and Freight Infrastructure Program. The agency should not commit funds to local agencies when it does not yet have the legal authority to do so or certainty that the state budget will ultimately provide this funding. Waiting until after the budget act is passed would prevent additional local agencies from going through the process of planning projects and applying for funds that may not ultimately be appropriated to the department. While these directives might cause some disruptions given the departments' plans are underway, ultimately, our recommended approach would both minimize potential greater disruption for local agencies and preserve the Legislature's tools in solving the current budget problem.

Staff Comments. In recent years, supply chain delays and disruptions have resulted in significant economic impacts. As a result, the prior year budget included $1.4 billion over four years to address several issues related to the supply chain and goods movement. The different components of the package seem to be in various stages of implementation, with some awarding funding prior to being granted spending authority, as the LAO highlighted, and others expending at a slower rate than expected.

As the Legislature balances its priorities in a much more limited General Fund environment this year, it may want to consider whether certain components of the package, that have not been fully committed yet, are still necessary to achieve the intended outcomes. For example, the funds to improve data processes could potentially not be needed, in which case it could be used for another legislative priority.

In other cases, unexpended funding might require additional oversight. For example, DMV has not expended much of their funding due to lower than expected need for overtime and difficulty finding a lease for the commercial drive test centers. Though currently, the wait times are under the department's target, it is important to improve CDL test capacity in the long-term through the addition of these test centers to improve the reliability and availability of testing appointments to commercial drivers across the state.

Staff Recommendation: Hold Open.

2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 19: Encampment Homeless Services Liaisons

Governor's Budget. The Budget includes $5.8 million in 2023-24, $5.8 million in 2024-25, and $4.5 million in 2025-26 from the General Fund for 37 limited-term positions to support statewide efforts to address homelessness within the highway system right of way. This proposal is made up of two components:

- Encampment Coordinator Team: This includes 30 three-year, limited-term positions to coordinate encampment remediation and closure efforts.
- Solutions Team: This includes 7 two-year, limited term positions to coordinate all long-term planning efforts involving homelessness and housing, including redevelopment of surplus property for housing.

Background. In 2021-22, Caltrans received $2.7 million from the General Fund on a two-year, limited-term basis for 20 Encampment Coordinator positions. Encampment Coordinators work directly with field staff in their communities to locate, prioritize, and address encampments on the state Right of Way. This funding allowed Caltrans to close about 1,200 encampments in 2021-22, compared to 269 in 2020-21.

Caltrans requests to continue and expand the Encampment Coordinator Team, increasing to 30 three-year, limited-term positions from 20 positions. These positions will mainly be used to address more than 1,300 encampments that need to be closed annually.

In addition, the department requests additional funding to establish a Solutions Team, who will be charged with coordinating all long-term planning efforts involving homelessness and housing. In particular, this team would conduct a planning process to identify six areas for housing redevelopment, collaborate with interagency partners on intensive encampment resolution activities associated with the aforementioned six areas, institutionalize best practices into department policy, develop methodology for leasing Caltrans property for redevelopment, and provide technical assistance to districts implementing the redevelopment projects.

Staff Comments. Caltrans is still in the process of collecting data to show the measurable outcomes of the work of the Encampment Coordinator Team, which was initially funded in 2021-22. According to the department, collecting such data has been difficult because (1) many of their outreach partners do not have sufficient capacity to help collect data and (2) outcomes of their outreach often remain unknown for years, due to the fluidity of living and treatment situations that many unhoused people have. The only metrics Caltrans can accurately report involves the number of encampments removed, people experiencing homelessness on the Right of Way, and times that outreach is requested.

As a result, it is difficult to assess how well the program has achieved intended outcomes—connecting the unhoused living in the state Right of Way to services, treatment, and housing—with the initial funding. As the Legislature considers continuing and expanding Caltrans' efforts to remove encampments from the state Right of Way and potentially implement longer-term solutions, it is important to consider what type of information is needed to provide oversight and accountability over these funds and what is feasible for Caltrans to collect and report.

Staff Recommendation: Hold Open.

Issue 20: Hazardous Material Removal at Encampments

Governor's Budget. The Budget includes $20.6 million from the State Highway Account on a two-year limited-term basis for the removal of statewide hazardous material from encampments statewide.

Background. Under existing law, Caltrans is responsible for the preservation and keeping of rights of way, and each type of roadway, structure, safety convenience or device, planting, illumination equipment and other facility, in the safe and usable condition to which it has been improved or constructed. Caltrans maintenance of the State Highway System (SHS) includes mitigating homelessness issues that impact system safety. The growth of unsheltered encampments within State right-of-way has been steadily rising and continues to create safety and environmental impacts.

During 2020-21, Caltrans received 8,876 requests for service concerning encampments through its Customer Service Request (CSR) system. This represents a 205 percent increase since 2016-17, when there were only 2,910 CSRs. Potential hazardous environments at encampment sites require additional hazardous material certified contractors to clean, collect, remove, transport, and legally dispose of environmentally regulated, biological, hazardous, and contaminated materials at these sites.

In 2021-22, Caltrans received $20.6 million from the State Highway Account on a two-year limited-term basis to dedicate resources for hazardous material removal at encampments. This funding was intended for operational expenses to compensate the various statewide hazmat contractors; specifically, those who collect, remove, transport, and legally dispose of all environmentally regulated, biological, and hazardous waste, from encampment sites that are on Caltrans property, on an on-call, as needed basis. As of September 2022, Caltrans has hazmat contractual encumbrances of $16.9 million for 2022-23 and $24.7 million for 2023-24.

Staff Comment. Caltrans has the responsibility to maintain the state highway right-of-way. In recent years, the rise in the state's homelessness population has created a strain on Caltrans' budgets and operations, as hazardous materials are increasingly found in encampments within the state right of way, including bridges, roadway gutters, trenches, culverts, and pump houses. In 2021-22, the first budget year Caltrans received funding for hazardous material removal, Caltrans serviced 4,896 encampments and removed 94,631 cubic yards of debris. Caltrans proposes to continue funding hazardous material removal at the same funding level—$20.6 million annually. However, it is important to note that cleanup costs related to encampments continue to rise and the need for hazardous material removal might increase in the next couple of years (in part because a new Caltrans Maintenance Policy Directive allows Caltrans to execute far more encampment closures on state right-of-way). As a result, ongoing costs to address encampments remain uncertain and limited-term funding might be prudent so that the Legislature can re-assess in two years' time when conditions might have changed.

Staff Recommendation: Hold Open.

Issue 21: Highway Maintenance Safety Program

Governor's Budget. The Budget includes 38 positions and $48.4 million on a four-year, limited-term basis from the State Highway Account to continue and expand the HM-4 Safety Pilot Program.

Background. Traditional project delivery methods used to implement safety enhancements on the State Highway System (SHS) take on average of three years to develop and an additional two years to construct. To implement safety enhancements faster and reduce the number of collisions, fatalities, and injuries on the SHS, in the 2021-22 Budget, Caltrans received $22.5 million on a two-year, limited-term basis from the State Highway Account to fund the Highway Maintenance 4 Safety (HM-4) Program. Within two fiscal years, Caltrans has been able to add an estimated 4,539 safety enhancements at offramps, curves, and pedestrian crossing locations through 28 projects as part of the HM-4 Safety Program.

This funding would allow Caltrans to continue and expand the HM-4 Safety Program, and in particular, focus on the following: wrong-way driver prevention, pedestrian and bicyclist safety enhancements, horizontal curve warning sign packages, run off road collision prevention, cross over collision prevention, as well as safety enhancements as part of pavement and bridge maintenance. Caltrans estimates to deliver 25 projects annually for the next four years of funding.

Staff Comment. Through the initial funding, Caltrans has been able to implement a significant number of safety improvements that improves outcomes, according to the Federal Highway Administration (FHWA). For example, the funded pedestrian safety enhancements are expected to reduce the potential for pedestrian crashes by 20 to 40 percent; installation of curve warning sign packages are expected to reduce run-off road crashes by 16 to 60 percent; and wrong-way driver prevention safety enhancements are expected to reduce wrong-way driving crashes on exit ramps by 40 to 60 percent.

However, Caltrans does not currently have early crash data to share from the projects completed in the initial HM-4 Safety Pilot Program. Because crash data analysis requires four years of location-specific project data (two years before and two years after the safety enhancement), the earliest the department can provide such analysis will be fall of 2024 (given that the first HM-4 Safety Pilot Program project was completed in summer 2022). Caltrans has reported their previously funded wrong-way driver countermeasures that were installed in a 2015-2018 pilot project has shown to be effective in reducing 44 to 64 percent of reported wrong-way drivers, similar to the expected reductions from the FHWA.

Given that this request is limited to four years, Caltrans should be able to provide more measurable outcomes from some of the projects funded from the HM-4 Safety Program at the end of the funding period. At that time, it would be prudent to assess the efficacy in the program, and whether or not it has provided measurable safety benefits by reducing the number of fata and serious injury collisions.

Staff Recommendation: Hold Open.

Issue 22: Pedestrian Crossing Signals (AB 2264)

Governor's Budget. The Budget provides $1.7 million ongoing from the State Highway Account to reconfigure the timing of up to 6,000 traffic signals for leading pedestrian interval (LPI) pursuant to AB 2264 (Chapter 496, Statutes of 2022, Bloom).

Background. AB 2264 requires Caltrans to implement leading pedestrian interval (LPI) with Accessible Pedestrian Signals (APS) on new and existing state-owned or state-operated traffic signals. LPI gives pedestrians the opportunity to enter an intersection three to seven seconds before vehicles are given a green light. APS is a touchless pedestrian detection system that provides audible feedback for detection, walk, and don't walk events for the hearing impaired. There are currently over 5,000 state-owned and state-operated traffic signals, and more than 1,000 additional state-owned and locally operated traffic signals. AB 2264 applies to all state-owned traffic signals.

Staff Comment. This request is aligned with the initial fiscal assessment of AB 2264, which at the time, assumed Caltrans would be reconfiguring 200 traffic signals annually. However, the final version of AB 2264 requires Caltrans to reconfigure traffic signals whenever maintenance work is performed. This represents a significant acceleration in implementation. To fully comply with AB 2264, Caltrans requires 9 three-year limited-term positions and $2.6 million in 2023-24 and 2024-25 and $800,000 ongoing.

Staff Recommendation: Hold Open.

2720 CALIFORNIA HIGHWAY PATROL

Issue 23: Wireless Mobile Video/Audio Recording System and Body-Worn Camera Statewide Implementation

Governor's Budget. The Budget includes 11 positions and $9.8 million in 2023-24, $9.9 million in 2024-25, and $4.9 million in 2025-26 and ongoing from the Motor Vehicle Account to extend the Wireless Mobile Video/Audio Recording System (WMVARS) project and implement the Body-Worn Camera (BWC) statewide.

Background. The 2015-16 Budget included $1 million to conduct a pilot study to evaluate the use of BWCs and its effectiveness to inform future potential statewide deployment. During the pilot study, the CHP assessed data storage needs, evaluated operational considerations, surveyed user experience, and reviewed indicators associated with public behavior. According to the CHP, the use of BWCs was beneficial, with a significant portion of officers indicating it improved their work performance, and enhanced transparency and interactions with members of the public.

In more recent Budgets, the CHP has received funding to implement an integrated in-car camera system, referred to as WMVARS. For example, the 2018-19 Budget included $52.5 million to implement WMVARS in patrol vehicles that could be integrated with a BWC from a single vendor. As part of this, the department continued to utilize and further test BWCs in the Oakland and Stockton areas in anticipation of a future statewide BWC deployment. In 2021-22, the CHP received $14.2 million on an ongoing basis to permanently maintain and operate the new WMVARS.

According to CHP, all identified vehicles have been outfitted with a WMVARS unit fully capable of supporting an integrated BWC. Installation of WMVARS in patrol vehicles statewide was completed in November 2022. In addition, field testing and the new WMVARS/BWC pilot in Oakland and Stockton is expected to conclude in January 2023.

This request would provide a BWC for every uniformed CHP employee. In addition, it would fund one position in the Research and Planning Section to conduct training and generate policies and procedures regarding the use of BWCs as well as ten positions for the Office of Risk Management to track, review, analyze, redact, and release responsive video files in compliance with the law.

Staff Comments. Body-worn cameras provide important video footage of civilian interactions with law enforcement—it provides greater transparency and accountability to the public. However, the implementation of BWCs represent a significant ongoing cost to the Motor Vehicle Account, which has a structural imbalance and a projected deficit in the coming years. In addition, although the department has made reasonable estimates of ongoing costs to collect, process, redact, and respond to all requests that include BWC footage, it is possible that such workload could vary depending on the number of inquiries, given the ongoing public and media scrutiny of law enforcement.

Staff Recommendation: Hold Open.

Issue 24: Capital Outlay Proposals

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

- $500,000 from the General Fund for Statewide Planning and Site Identification.
- $10,963,000 from the General Fund for the performance criteria phase of the Redding, Los Banos, Porterville, Antelope Valley, and Barstow Area Office Replacement projects.
- $85,631,000 from the Public Buildings Construction Fund for the design-build phase of the Gold Run and Humboldt Area Office Replacement projects.
- $184,320,000 from the Public Buildings Construction Fund (to replace existing current year authority of the same amount from the General Fund) for the design-build phase of the Quincy, Baldwin Park, and Santa Fe Area Office Replacement projects.

Background. The California Highway Patrol has a total of 111 offices (103 Area offices, eight Division offices). 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.

LAO Assessment.

Switch to Lease Revenue Bonds Is Reasonable, Given General Fund Condition. To the extent the Legislature would like to continue to support the planned replacement of CHP and DMV facilities, we think a shift to lease revenue bonds merits legislative consideration. As we discuss in a separate publication, both cash and lease revenue bonds are reasonable ways to pay for capital projects but each comes with trade-offs. Specifically, one justification for using bonds to spread the costs of capital projects out over time is that these projects are expected to provide services over many years. Also, bonds can be an important tool if insufficient funding is available to pay for the up-front costs of high-priority projects. For example, when the state has a budget problem, bonds can help fund the project while lessening potential pressure on the state to cut into existing programs. On the other hand, one benefit of using cash is that, compared to bonds, it results in a lower overall project cost because the state does not have to pay interest.

Administration Has Not Identified a Funding Source for the Repayment of Bonds. We estimate that the total debt service (including interest) on the $332 million in projects proposed for lease revenue bond financing in 2023-24 would be about $25 million per year for 25 years, resulting in a total cumulative cost of over $600 million. The administration indicates that it has not yet determined which source of funding—whether MVA or General Fund—would be used to make these debt service payments. Either way, municipal bond investors will view the General Fund as ultimately backing the bonds and would include the lease revenue bonds as part of the state's debt portfolio in their assessment of the state's overall creditworthiness.

Using Either MVA or General Fund for Repayments Would Raise Issues for Legislative Consideration. Having clarity about what fund source would be used to support debt service payments on the lease revenue bonds is important. This is not only because the fund source is a key component of any proposal, but also because, in this case, the two potential options for fund sources for repayments—the MVA and General Fund—both have important implications. These include the following:

- ***Using MVA Would Strain Fund, Raise Pressure to Address Fund Condition.*** We think the MVA is generally the most appropriate fund source to support CHP's and DMV's core operating costs, such as facility costs. This is because both departments provide services that primarily benefit motorists, and thus motorists should generally bear their associated costs. However, under current projections, the MVA cannot support its existing commitments in the out-years without corrective actions to improve its condition. Adding additional commitments to the fund—such as the $25 million in annual debt service for current proposed projects and additional debt service for forthcoming projects—would accelerate the fund's anticipated insolvency and necessitate legislative action to address the fund condition somewhat sooner than would otherwise be the case. As we discussed in previous publications, such as our February 2020 report, *The 2020-21 Budget: Transportation*, the Legislature has various options to address the condition of the MVA. For example, it could reduce spending from the fund. Alternatively, it could raise one or more of the fees—such as vehicle registration and/or driver's license fees—that support the fund. (For reference, we estimate that roughly $35 million in additional revenue could be generated annually from a $1 increase in the base vehicle registration, and roughly $6 million from a $1 increase in the driver's license fee.) As we discuss in a recent report, *The 2023-24 Budget: Proposed Reauthorization of AB 8 Vehicle Fees*, the Governor is requesting that the Legislature reauthorize a set of expiring vehicle fees (known as "AB 8" fees) and continue using them for the clean transportation programs they currently support. The Legislature could opt to extend those fees but instead direct their revenues to support the MVA, CHP, and DMV. None of these available options for addressing the MVA's fund condition is without trade-offs.

- ***General Fund Would Be a Notable Change in Approach.*** Occasionally but infrequently, the General Fund has been used for CHP and DMV on a one-time basis when it had surpluses and could support up-front facility costs. However, using the General Fund for debt service would mean providing ongoing General Fund to support CHP's and DMV's facilities. This approach would raise important questions about deviating from the past practice of applying the "user pays" principle to these departments by having general taxpayers pay for a portion of their core activities on an ongoing basis. While non-drivers may benefit from some of CHP's and DMV's services, this proposal does not include an analytical justification tying the level of payment to an assessment of the broad-based benefits the departments provide. Moreover, using the General Fund for ongoing debt service payments would also put some incremental pressure on the General Fund, which is projected to face out-year deficits under both the Governor's and our office's projections.

LAO Recommendations.

Weigh Trade-Offs Regarding Whether to Finance Projects and Fund Sources. We recommend the Legislature weigh the trade-offs associated with using up-front cash versus lease revenue bonds for CHP and DMV projects, such as the resulting implications for the timing and level of costs. Additionally, to the extent the Legislature would like to use lease revenue bonds for these projects, we recommend it carefully weigh the trade-offs involved in the fund sources for debt service payments on the bonds. For example, as we discuss above, while we think the MVA is generally the most appropriate source of funding to support CHP's and DMV's core operations—including their ongoing area office and field office costs—relying on it to pay debt service would precipitate the need to take near-term actions to address the condition of the fund. Ultimately, the source of funding to use for the debt service is an important policy choice for the Legislature.

Specify Fund Source for Repayments. Whatever the Legislature chooses as a fund source for debt service payments, making this intent clear now is important given the implications of both available options. Accordingly, we recommend the Legislature provide clear direction to the administration regarding which source of funds to use for debt service. The Legislature could provide this direction in various ways, such as through provisional language in the budget act or intent language included in budget trailer legislation.

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

Staff Recommendation: Hold Open.

2740 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Issue 25: Capital Outlay Proposals

Governor's Proposal. The Budget includes three capital outlay proposals for the Department of Motor

Vehicles (DMV), including:

- $2,458,000 from the General Fund for the performance criteria phase of the El Centro Field Office Replacement.
- $20,928,000 from the Public Buildings Construction Fund (to replace existing current year authority of the same amount from the General Fund) for the construction phase of the Inglewood: Field Office Replacement.
- $41,654,000 from the Public Buildings Construction Fund for the design-build phase of the San Francisco: Field Office Replacement.

Background. DMV 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.

LAO Assessment.

Switch to Lease Revenue Bonds Is Reasonable, Given General Fund Condition. To the extent the Legislature would like to continue to support the planned replacement of CHP and DMV facilities, we think a shift to lease revenue bonds merits legislative consideration. As we discuss in a separate publication, both cash and lease revenue bonds are reasonable ways to pay for capital projects but each comes with trade-offs. Specifically, one justification for using bonds to spread the costs of capital projects out over time is that these projects are expected to provide services over many years. Also, bonds can be an important tool if insufficient funding is available to pay for the up-front costs of high-priority projects. For example, when the state has a budget problem, bonds can help fund the project while lessening potential pressure on the state to cut into existing programs. On the other hand, one benefit of using cash is that, compared to bonds, it results in a lower overall project cost because the state does not have to pay interest.

Administration Has Not Identified a Funding Source for the Repayment of Bonds. We estimate that the total debt service (including interest) on the $332 million in projects proposed for lease revenue bond financing in 2023-24 would be about $25 million per year for 25 years, resulting in a total cumulative cost of over $600 million. The administration indicates that it has not yet determined which source of funding—whether MVA or General Fund—would be used to make these debt service payments. Either way, municipal bond investors will view the General Fund as ultimately backing the bonds and would include the lease revenue bonds as part of the state's debt portfolio in their assessment of the state's overall creditworthiness.

Using Either MVA or General Fund for Repayments Would Raise Issues for Legislative Consideration. Having clarity about what fund source would be used to support debt service payments on the lease revenue bonds is important. This is not only because the fund source is a key component of any proposal, but also because, in this case, the two potential options for fund sources for repayments—the MVA and General Fund—both have important implications. These include the following:

- ***Using MVA Would Strain Fund, Raise Pressure to Address Fund Condition.*** We think the MVA is generally the most appropriate fund source to support CHP's and DMV's core operating costs, such as facility costs. This is because both departments provide services that primarily benefit motorists, and thus motorists should generally bear their associated costs. However, under current projections, the MVA cannot support its existing commitments in the out-years without corrective actions to improve its condition. Adding additional commitments to the fund—such as the $25 million in annual debt service for current proposed projects and additional debt service for forthcoming projects—would accelerate the fund's anticipated insolvency and necessitate legislative action to address the fund condition somewhat sooner than would otherwise be the case. As we discussed in previous publications, such as our February 2020 report, *The 2020-21 Budget: Transportation*, the Legislature has various options to address the condition of the MVA. For example, it could reduce spending from the fund. Alternatively, it could raise one or more of the fees—such as vehicle registration and/or driver's license fees—that support the fund. (For reference, we estimate that roughly $35 million in additional revenue could be generated annually from a $1 increase in the base vehicle registration, and roughly $6 million from a $1 increase in the driver's license fee.) As we discuss in a recent report, *The 2023-24 Budget: Proposed Reauthorization of AB 8 Vehicle Fees*, the Governor is requesting that the Legislature reauthorize a set of expiring vehicle fees (known as "AB 8" fees) and continue using them for the clean transportation programs they currently support. The Legislature could opt to extend those fees but instead direct their revenues to support the MVA, CHP, and DMV. None of these available options for addressing the MVA's fund condition is without trade-offs.

- ***General Fund Would Be a Notable Change in Approach.*** Occasionally but infrequently, the General Fund has been used for CHP and DMV on a one-time basis when it had surpluses and could support up-front facility costs. However, using the General Fund for debt service would mean providing ongoing General Fund to support CHP's and DMV's facilities. This approach would raise important questions about deviating from the past practice of applying the "user pays" principle to these departments by having general taxpayers pay for a portion of their core activities on an ongoing basis. While non-drivers may benefit from some of CHP's and DMV's services, this proposal does not include an analytical justification tying the level of payment to an assessment of the broad-based benefits the departments provide. Moreover, using the General Fund for ongoing debt service payments would also put some incremental pressure on the General Fund, which is projected to face out-year deficits under both the Governor's and our office's projections.

LAO Recommendations.

Weigh Trade-Offs Regarding Whether to Finance Projects and Fund Sources. We recommend the Legislature weigh the trade-offs associated with using up-front cash versus lease revenue bonds for CHP and DMV projects, such as the resulting implications for the timing and level of costs. Additionally, to the extent the Legislature would like to use lease revenue bonds for these projects, we recommend it carefully weigh the trade-offs involved in the fund sources for debt service payments on the bonds. For example, as we discuss above, while we think the MVA is generally the most appropriate source of funding to support CHP's and DMV's core operations—including their ongoing area office and field office costs—relying on it to pay debt service would precipitate the need to take near-term actions to address the condition of the fund. Ultimately, the source of funding to use for the debt service is an important policy choice for the Legislature.

Specify Fund Source for Repayments. Whatever the Legislature chooses as a fund source for debt service payments, making this intent clear now is important given the implications of both available options. Accordingly, we recommend the Legislature provide clear direction to the administration regarding which source of funds to use for debt service. The Legislature could provide this direction in various ways, such as through provisional language in the budget act or intent language included in budget trailer legislation.

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

Staff Recommendation: Hold Open.

Senate Transportation Committee and Senate Budget Subcommittee #5 on Public Safety, the Judiciary, Labor and Transportation
Joint Informational Hearing

Making the Most of Federal Transportation Infrastructure Funding

March 14, 2023
1:30 pm
1021 O Street, Room 1200

AGENDA

I. Opening Remarks
- Senator Lena A. Gonzalez, Chair, Senate Transportation Committee
- Senator María Elena Durazo, Chair, Senate Budget Subcommittee #5

II. IIJA Overview and Recommendations
- Frank Jimenez, Senior Fiscal & Policy Analyst, Legislative Analyst's Office
- Mark Tollefson, Undersecretary, California State Transportation Agency

III. IIJA Benefits to State and Local Transportation Infrastructure
- Mike Keever, Chief Deputy Director, Caltrans
- Bill Higgins, Executive Director, California Association of Councils of Governments
- Georgia Gann Dohrmann, Chair, Federal Legislative Committee, California Transit Association

IV. Stakeholder Perspectives
- Hector Huezo, California Director, Jobs to Move America
- Mark Watts, Advocate, Transportation California
- Zak Accuardi, Senior Transportation Advocate, Natural Resources Defense Council

V. Public Comment

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

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

Thursday, March 16, 2023
9:30 a.m. or upon adjournment of Session
State Capitol - Room 112

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

ITEMS FOR DISCUSSION

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

The Governor's Budget includes $905.2 million for the 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 public safety realignment. BSCC develops minimum standards for local detention facilities, inspects and reports on facility compliance, sets training standards for correctional staff, and administers facility funding and numerous grant programs for local corrections and law enforcement entities.

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

- 10 members appointed by the Governor and confirmed by the Senate, including:
    - Chair.
    - Secretary of CDCR.
    - Director of Division of Adult Parole Operations for CDCR.
    - Sheriff in charge of a small detention facility (capacity of 200 or less).
    - Sheriff in charge of a large detention facility (capacity over 200).
    - Chief probation officer from a small county (population of 200,000 or fewer).
    - Chief probation officer from a large county (population over 200,000).
    - County supervisor or county administrative officer.
    - Chief of police.
    - Member of the public.

- 3 members appointed by others, including:
    - Judge appointed by Judicial Council of California.
    - Community provider of rehabilitative treatment or services for adult offenders appointed by the Speaker of the Assembly.
    - Advocate or community provider of rehabilitative treatment or services for juvenile offenders appointed by the Senate Rules Committee.

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

Issue 1: Proposed Reduction in Public Defense Pilot Program

Proposal. The proposed budget eliminates the third year of funding for the Public Defense Pilot Program, a reduction of $50 million General Fund in 2023-24.

Panelists.
- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Graciela Martinez, Assistant Public Defender, Los Angeles County and President of California Public Defenders Association (appearing remotely)
- Tracie Olson, Yolo County Public Defender and California Public Defenders Association Board Member and Executive Officer
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Patrick Plant, Staff Finance Budget Analyst, Department of Finance

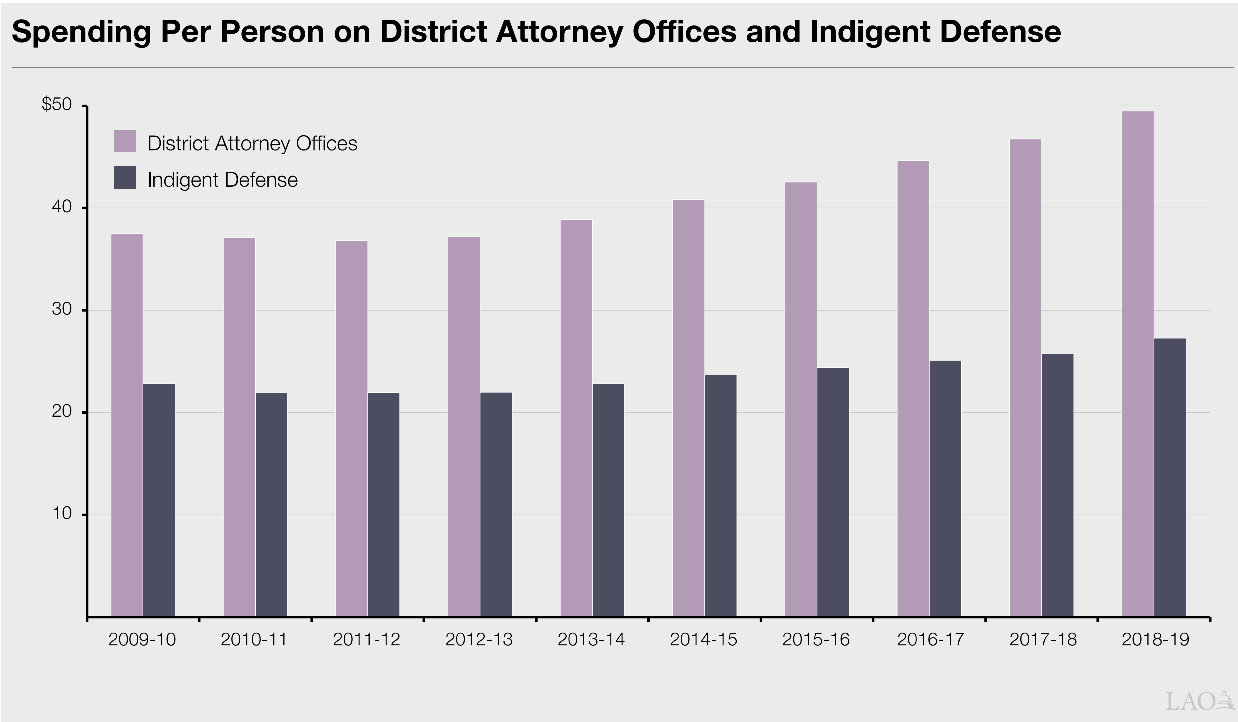
Background. The 2021 Budget Act included $50 million General Fund per year for three years for public defender offices, alternative public defender offices, and other alternative offices providing indigent criminal defense services to support specific resentencing workloads. BSCC was required to collaborate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

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

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

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

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



Source: LAO[2]

Impact of Resentencing.

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

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

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

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

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

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

Proposal. The Governor's Budget proposes to remove the third year of funding from the program, resulting in savings of $50 million in 2023-24. The Administration did not express any policy concerns with the program; it was primarily a fiscal decision given that the funding has not yet been granted. The Administration noted that the evaluation would still proceed as planned.

Staff Comment.

Outstanding Workload. In Los Angeles County, an estimated 189 individuals have been resentenced. However, the Los Angeles County Public Defender's Office has identified nearly 2,500 individuals as potentially eligible for resentencing under SB 1437 alone.

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

Staff Recommendation. Hold Open.

Issue 2: Increase Federal Spending Authority – Safer Communities Act

Proposal. The Governor's Budget proposes to augment BSCC's federal fund authority by $50 million annually for five years beginning in 2023-24 (for a total of $250 million) to allow it to receive and spend anticipated federal funding from the Bipartisan Safer Communities Act (BSCA).

Panelists.

- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Patrick Plant, Staff Finance Budget Analyst, Department of Finance

Background. The BSCA was signed by President Biden on June 25, 2022 and made various changes to federal firearm laws, including expanding background check requirements, broadening the scope of existing restrictions, and establishing new criminal offenses. In addition, the act authorized over $4.5 billion for various new and existing programs intended to promote access to behavioral and mental health services, enhance school safety and security initiatives, and address gun violence in communities.

This included $750 million over five years for the State Crisis Intervention Program (SCIP), administered by the United States Department of Justice (U.S. DOJ). Under SCIP, states receive grants to implement crisis intervention programs, which broadly seek to address situations involving people who could potentially be a danger to themselves or others due to physical, mental, or other distress. The goal of the program is to reduce crime and violence, with a particular focus on gun violence. Examples of eligible activities include:

- Extreme risk protection order programs, which temporarily limit firearm access for people who are believed to be at imminent risk of harming themselves or others.

- Drug, mental health, and veteran collaborative courts, which are special courts for criminal defendants that combine judicial supervision with rehabilitation, treatment, or other services to address the defendant's underlying needs to improve defendant outcomes.

- Behavioral health crisis mobile response teams, which are teams that can consist of law enforcement, mental health counselors, and/or others to respond to emergency calls in which a person is suffering from a mental health crisis.

SCIP funding will be allocated to states based on population and violent crime rates, mirroring an existing federal grant. The funding also goes to the same entity as that existing grant, which in California's case is BSCC. California should be eligible receive about $75 million over the five-year period: an already allocated $29.2 million in the first application period (which represents two years of funding), and roughly $15 million per year in the last three years (which California will most likely have to reapply for).

Of the initial $29.2 million allocation for California, up to $17.5 million (60 percent) can be kept by the state, a minimum of $10.7 million must be directly passed through to local governments, and a minimum of $997,000 must be provided to courts that serve small jurisdictions and/or to the small jurisdictions themselves. Up to 10 percent of the total amount—or $2.9 million—can be used for direct administrative costs. Under BSCA, SCIP funding cannot be used to supplant state or local funds. States are allowed to determine how the funds passed through to local governments are used, and which local entities receive funds.

SCIP Plan and Crisis Intervention Advisory Board. In December 2022, BSCC staff applied to the U.S. DOJ for the first allocation of SCIP funding. The application included an initial plan for using the funds. The state was allocated $29.2 million, but to receive this funding, the state must form an advisory board, and that board must approve a final plan. BSCC does not intend to make changes to its initial plan, and intends to recommend that the advisory board adopt it as the final plan on April 13, 2023.

The advisory board members must include, but are not limited to, representatives from law enforcement, the community, courts, prosecution, behavioral health providers, victim services, and legal counsel. At the February 9, 2023 board meeting, BSCC created a board consisting of all members of the BSCC board as well as two additional members that are intended to represent prosecution, behavioral health, victim services, and legal counsel[3]. BSCC appointed a behavioral health specialist from a nonprofit focused on health, education, and community building, and one of their staff, a legal counsel.

Planned Use of Federal SCIP Funds. As previously mentioned, in California's application for $29.2 million in SCIP funding, BSCC provided its initial plan for use of the SCIP funds, which it intends to adopt as its final plan. Under the plan, the state would spend the $29.2 million over a five-year period, including:

- $15.4 million in grants to state trial courts to temporarily establish new or expand existing drug, mental health, and veteran collaborative courts, administered by Judicial Council.

- $2.1 million for administrative costs and for Judicial Council to research how courts and local partners are complying with Proposition 63 (2016) firearm relinquishment requirements. Proposition 63 created a new court process to ensure that people convicted of criminal offenses that prohibit them from owning firearms relinquish them. This research would include how relinquishment orders are being enforced, how relinquished firearms are retained, and what information is being documented. Judicial Council staff would also provide the necessary training and technical assistance related to Proposition 63 to trial courts and their criminal justice partners.

- $10.7 million local share of SCIP funding, administered by BSCC, to fund various activities, including law enforcement firearm relinquishment programs, behavioral health programs for those at risk to themselves or others, and programs that support collaborative courts. Details of the proposed local grant program have not been determined at this time.

[3] https://www.bscc.ca.gov/wp-content/uploads/Agenda-Item-E-Establishment-of-Byrne-SCIP-Advisory-Board-FINAL.pdf

- $997,000 in funding designated to serve certain small jurisdictions, administered by Judicial Council. Judicial Council would identify trial courts that serve these small jurisdictions and encourage that at least one of these courts apply for funding to represent all of the remaining courts serving small jurisdictions. The funding is expected to be used to support new or expanded collaborative courts and/or to focus on developing local policies and procedures related to gun violence, firearm relinquishment, as well as ammunition and lethal weapon buybacks.

LAO Comments.

Submitting Finalized SCIP Plan in April Unnecessarily Limits Legislative Input. BSCC staff intend to request that the Crisis Intervention Advisory Board approve and finalize the initial plan for SCIP funds at its April 13, 2023 meeting. BSCC staff plan to subsequently submit documentation of this approval to the U.S. DOJ to enable the state to begin implementing the program. While it is understandable that BSCC would be eager to submit a finalized plan in order to receive the funding as quickly as possible, it would effectively mean that the use of grant funds would be finalized before the enactment of the 2023-24 budget. This would prevent the Legislature from having sufficient time to deliberate and provide any guidance on the plan, as well as take any corresponding actions as part of the budget package, prior to the plan being finalized. According to BSCC, there is no specific deadline set by the U.S. DOJ for when states must obtain approval from the Crisis Intervention Advisory Board or submit their final plan.

Proposed Uses of SCIP Funding Appear Permissible, but the Legislature May Have Different Priorities. BSCC's initial plan to use SCIP funding appears permissible under the federal guidelines. However, the allowable uses of SCIP funding are broad, and the Legislature may have different priorities. For example, the Legislature may want to ensure that a greater share of funding is targeted towards reducing gun violence rather than addressing behavioral health needs through the planned funding for collaborative courts. This could include directing funding to extreme risk protection order programs, gun violence recovery courts, the development of validated gun violence risk assessment tools, and funding for law enforcement agencies to store and track relinquished firearms. Alternatively, the Legislature may want to prioritize funding to address behavioral health needs, which could involve funding other activities rather than collaborative courts.

Requested Reimbursement Authority Not Aligned With Anticipated Amount of Federal Funds. BSCC initially estimated that, to receive and spend SCIP funds, it would need a five-year $50 million augmentation in federal funds authority—a total of $250 million—based on preliminary information about the program. Subsequently, BSCC learned that the state is eligible to apply for only $29.2 million via its current application and potentially around $15 million for each of the subsequent three applications—a total of roughly $75 million. (The LAO notes that the judicial branch—which would not receive any reimbursement authority under the Governor's proposal—has indicated that it may require increased reimbursement authority in order to expend its proposed share of funding.)

LAO Recommendation.

Direct BSCC Not to Finalize Use of Grant Funds Until After Budget Adopted. The LAO recommends directing BSCC not to finalize the use of grant funds until after the 2023-24 budget is adopted to ensure that the Legislature has the opportunity to provide direction to BSCC on the use of these funds through the 2023-24 budget package.

Ensure SCIP Funding Plan Reflects Legislative Priorities. The LAO recommends the Legislature ensure the finalized SCIP funding plan and related budget actions reflect its priorities for the use of the initial $29.2 million in SCIP funding. In order to assist the Legislature in determining its priorities, the LAO identified a series of key issues and guiding principles for consideration.

- *Maximize Use of SCIP Funds to Limit New General Fund Spending.* Given the deterioration in the state's budget condition, together with projected out-year deficits, it would be beneficial to utilize SCIP funds to support new or expanded programs that are eligible for SCIP funding under the federal guidelines and would otherwise be supported with new General Fund spending. For example, the Governor's budget proposes $10.6 million General Fund in 2023-24 (increasing to $33 million to upon full implementation) for the Department of Social Services to support increased child welfare social worker workload related to their participation in Child and Family Teams for certain families at risk of child removal. This can include social workers helping children or their families connect with services to address underlying behavioral issues that could result in them presenting a risk to themselves or others. To the extent the Legislature prioritizes this proposal, it would want to explore the possibility of initially funding it with SCIP funding rather than General Fund as proposed by the Governor—which would include rejecting the Governor's proposal to use General Fund.

- *Focus on Funding Limited-Term Programs or Activities.* Given that the federal funding is one time in nature, it would be prudent to focus the funds on supporting programs or activities that are limited term in nature in order to prevent the creation of new ongoing General Fund cost pressures in the out-years relative to the Governor's budget. A couple examples include using SCIP funding to (1) reduce current backlogs (such the seizing of firearms to reduce the current total number of people who are prohibited from having them) and (2) support start-up implementation costs that would eventually be supported with non-General Fund resources (such as establishing Proposition 63 firearm relinquishment processes that would subsequently be funded from fees charged as allowed under Proposition 63).

- *Consider Using Funding to Support Pilot Programs.* The Legislature could consider using the funding to test new programs or activities, in order to determine their cost-effectiveness and whether they merit consideration for state funding in the future. For example, the Legislature could use the funding to pilot and evaluate (1) behavioral health crisis response teams to provide immediate and informed assistance to people suffering a mental health crisis or (2) the implementation of validated gun violence risk assessment tools to identify people at risk of being victims of gun violence so that they can receive case management or intervention services to reduce this risk. Pilot programs that measure impacts across multiple cities and counties within California could help the Legislature assess whether such programs are cost-effective and merit being expanded statewide if sufficient resources are available in the future. This includes providing the Legislature with the necessary information to weigh the tested programs or activities against other legislative priorities, to the extent new ongoing General Fund support would be needed or if additional federal funds become available to support them. It would also help determine whether the programs may need to operate differently based on key factors (such as county size or population density) as well as whether there are any implementation challenges or barriers that may need to be addressed.

- *Weigh Relative Priorities in Utilizing Funds at the State or Local Level.* Depending on its priorities, the Legislature will want to consider whether funding would be most effectively used at the state or local level. While the minimum local pass-through amount cannot be reduced, the state can provide more funding to local governments. For example, if the Legislature determines that the priority should be to ensure people suffering from behavioral health crises are not harmed and receive immediate service locally, the Legislature could consider providing more money from the state share to local entities to support, or test, more programs and activities—such as increased training for law enforcement in dealing with people with mental health issues, crisis mobile response teams, peer support services, or behavioral health crisis stabilization centers.

- *Ensure Legislative Priorities for Use of SCIP Funds Are Reflected in Budget Package.* In order to ensure that the Legislature's priorities regarding the use of SCIP funds are adhered to by the administration, it will be important to take steps as part of the budget package to restrict the use of the funds to those priorities. This includes enacting appropriate budget bill language that specifies how SCIP funding should be distributed to state and local entities, the types of activities and programs that are eligible to be funded, and any funding conditions. Examples of funding conditions could include requiring that funding to local entities be distributed in a competitive manner to ensure the strongest ideas receive support or that courts, local entities, or community-based organizations are required to partner with one another through a joint application to ensure there is a high level of coordination to achieve desired outcomes.

Align BSCC's Federal Funds Authority With Funding Level Anticipated Through State's First Allocation. Given that the Governor's proposal would provide BSCC with excess federal funds authority, which potentially limits legislative oversight, the LAO recommends that the Legislature only approve the amounts necessary for BSCC to receive and spend the $29.2 million anticipated through the state's first application. Specifically, the LAO recommends increasing BSCC's federal funds authority by $29.2 million in 2023-24 and adopting budget bill language specifying that the authority can be used through 2026-27, as SCIP funds may not be spent after September 2026. The LAO notes that the Legislature may also need to adjust the level of reimbursement authority for Judicial Council—and/or other state entities that the Legislature may choose to involve—so that it can receive grant funds from BSCC.

Do Not Approve Increased Federal Funds Authority Related to Future SCIP Applications. As discussed above, it is expected that BSCC will be able to submit applications for about $15 million in additional SCIP funding per year in 2024-25, 2025-26 and 2026-27. However, at this time it is not clear how this money would be used. Accordingly, the LAO recommends not providing federal funds authority to BSCC for such funds at this time. The administration can request the necessary adjustments in future budget cycles when more information is available about how the funds would be used and when associated reimbursements from the federal government would be received.

Staff Comment.

Advisory Board. As noted above, BSCC formed a Crisis Intervention Advisory Board consisting of the 13 Board Members, one BSCC staff, and one outside member. The Legislature may wish to consider whether this advisory board contains the expertise and perspectives intended by the federal guidelines.

Details of Local Grants. SCIP funding has a broad range of allowable uses, and the details of the local pass-through funding are unclear.

Staff Recommendation. Hold Open.

Issue 3: Post Release Community Supervision Funding

Proposal. The Governor proposes $8.2 million one-time General Fund for BSCC to distribute to county probation departments in recognition of the temporary increase in the PRCS population caused by Proposition 57. The administration indicates that the proposed funding amount is based on an estimate that the average daily PRCS population will be 801 higher in 2023-24 than otherwise due to Proposition 57 and—like previous augmentations—provides $10,250 per person. Similar to previous augmentations, the proposed funding would be distributed among counties based on a schedule developed by the Department of Finance.

Panelists.

- Kathleen Howard, Executive Director, Board of State and Community Corrections
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Patrick Plant, Staff Finance Budget Analyst, Department of Finance

Background.

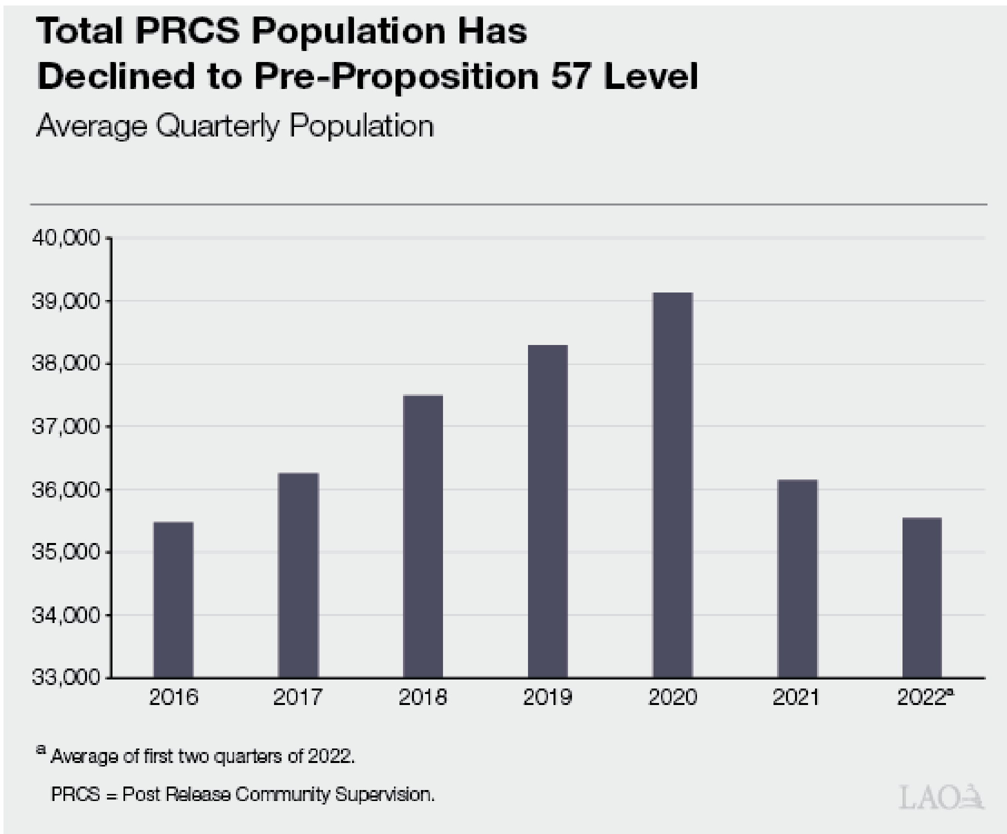
Prior to the 2011 public safety realignment, all individuals released from prison were supervised by state parole agents at the California Department of Corrections and Rehabilitation (CDCR). Realignment shifted the responsibility for supervising low-level offenders to the county probation departments, while serious, violent, and high-risk offenders are still supervised by CDCR. The 2011 realignment included significant funding for the shift of this population. In the first half of 2022 (the most recent data available), the average quarterly Post Release Community Supervision (PRCS) population was 35,500.

Proposition 57 (2016) expanded credit earning opportunities and enabled earlier parole consideration for individuals not convicted of violent crimes, leading some individuals being released to parole or PRCS earlier that would have been expected. As a result, there was a temporary increase of people on PRCS and on parole. This temporary increase is not the product of new people being placed on PRCS or parole, but rather the result of people being released to PRCS and parole ahead of schedule. Since implementation of Proposition 57 began in 2017, the prison population has declined by about 35,700 people (27 percent)—from 131,300 on June 30, 2017 to 95,600 as of February 1, 2023.

While counties receive realigned sales tax revenue to support the PRCS population, this funding does not get moved forward in time to reflect people starting their supervision terms earlier. The state has provided a series of one-time augmentations associated with Proposition 57—totaling $111 million from 2017-18 through 2022-23—to BSCC to distribute to probation departments. These augmentations were based on estimates of the average daily population increase in the PRCS population caused by Proposition 57 and funded at a rate of $10,250 per person. The state has also provided funding to probation departments for temporary increases in the PRCS population caused by population reduction measures implemented in response to (1) a federal court order related to prison overcrowding and (2) the COVID-19 pandemic.

LAO Comments.

Proposed Funding Likely Not Needed. Unlike the state prison and parole populations, the administration does not report projections of the statewide PRCS population. Accordingly, there are no available projections of the total PRCS population in 2023-24. However, as shown below, preliminary 2022 data suggest that the PRCS population is declining. Moreover, it is notable that the preliminary 2022 population is comparable with the 2016 level, which was the year before Proposition 57 implementation began. Accordingly, the LAO finds it unlikely that counties continue to need funding to support the temporary increase in the PRCS population for cash-flow reasons. Moreover, the administration has not provided any data indicating that current 2011 realignment funding levels are such that cash-flow problems are likely to occur.



Source: LAO[4]

Higher Bar for Approving New Spending Proposals Given General Fund Condition. The Governor's proposal would commit the state to $8.2 million in discretionary General Fund expenditures, as the state is not required to provide payments to the counties to offset the cost of the workload. Importantly, the state currently is experiencing a budget problem, where revenues already are insufficient to fund existing commitments. In this context, every dollar of new spending in the budget year comes at the expense of a commitment the Legislature deemed a priority and approved funding for, as it requires finding a commensurate level of solution somewhere within

[4] https://lao.ca.gov/Publications/Report/4703

the budget. The Governor "makes room" for this (and other) proposed new spending by making reductions to funds committed for other programs. The LAO therefore thinks the Legislature likely will want to apply a higher bar to its review of new spending proposals such as this proposal than it might in a year in which the General Fund had more capacity to support new commitments. In the LAO's view, this proposal does not meet that higher bar.

LAO Recommendation.

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

Staff Recommendation. Hold Open.

8140 OFFICE OF THE STATE PUBLIC DEFENDER

The Office of the State Public Defender (OSPD) was originally created in 1976 to represent indigent criminal defendants in appellate cases. Since 1990, however, the mandate of the office has been to focus on death penalty cases. The mission of the office was expanded in 2020 to include representation in trial court indigent defense cases—which is in addition to the representation provided by county public defenders and indigent defense counsel. Additionally, the state also expanded OSPD's mission to include providing assistance and training to indigent defense attorneys as well as improving the quality of indigent defense representation.

Issue 4: Recruitment Support

Proposal. The Governor's budget proposes $280,000 ongoing General Fund and two Associate Governmental Program Analyst (AGPA) positions for OSPD to engage in activities to improve diversity, equity, and inclusion (DEI) in the recruitment, hiring, and retention of staff. The requested positions are also expected to help OSPD leadership develop a DEI strategic plan, create strategies to achieve DEI-related goals, implement and maintain DEI polices and processes, and coordinate DEI training.

Panelists.

- Charlene Bennett, Administration Chief, Office of the State Public Defender
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Principal Program Budget Analyst, Department of Finance

Background. White attorneys account for 70 percent of California's active licensed attorney population, while people of color constitute 60 percent of the state's population[5]. 31 out of 41 of OSPD attorneys (76%) are white[6]. OSPD clients in their active capital cases are 78 percent nonwhite.

OSPD currently has a group of volunteer attorneys, human resources staff, and legal analyst staff (organized into a committee) who provide support of diversity hiring efforts at OSPD. The agency has a second committee of legal and support staff focusing on efforts related to retention and training on DEI related issues.

According to OSPD, the two requested positions will consolidate these two volunteer committees into a cohesive effort to recruit and retain a diverse staff, as well as train staff on DEI issues. This staff will: research, identify, and recommend training, including developing and presenting training and writing contract justifications and participating in the contracting process to secure vendors to develop and deliver training and other DEI services; develop and conduct surveys, collect, analyze and track data to assess progress and inform recommendations based on trends and best practices; assess current recruitment and hiring practices and make recommendations for improvement and assist in the implementation of adopted recommendations. This new staff will also advise leadership on diversity and inclusion goals, help create strategies to address or resolve

[5] https://www.calbar.ca.gov/Portals/0/documents/reports/State-Bar-Annual-DiversityReport.pdf.
[6] https://www.calhr.ca.gov/Pages/workforce-analysis.aspx

diversity and inclusion barriers at OSPD, promote diversity and inclusion at OSPD, and collaborate with other staff and leadership to accomplish diversity goals in hiring and retention.

LAO Comments.

Merits Consideration, but Different Methods Available to Achieve Desired Outcomes. The LAO finds that seeking to improve DEI policies and practices within OSPD in order to improve the diversity and retention of staff is a laudable goal that merits legislative consideration. Research indicates that a more diverse, equitable, and inclusive workplace can have various benefits—such as increased employee morale, longevity, and productivity. Additionally, as noted by OSPD, 76 percent of its attorneys are white, while 78 percent of its active death penalty clients are non-white. Research suggests attorney representation could be more effective if trust is built when clients and attorneys are of similar backgrounds (such as race) or through effective DEI training. The specific methods used to improve such policies and practices, however, can vary. For example, one option is to employ dedicated state employees for such work, while another is to employ external contractors to identify recommendations for implementation.

Should Resources Be Provided Before the California Department of Human Resources (CalHR) Develops a DEI Strategy for the State's Civil Service? CalHR is generally responsible for managing state personnel policies, including issues related to recruitment, selection, and training. The 2022-23 budget package included 43 permanent positions and $7.5 million in 2022-23 and $6.8 million ongoing to implement various proposals aimed at finding ways to make the state a better employer. One such proposal was to improve statewide data on the workforce to then develop a statewide DEI strategic plan. To date, such a strategic plan has not yet been developed. Given that OSPD has under 100 employees, it might be beneficial to wait for CalHR to issue the statewide plan before OSPD proceeds with its department-specific efforts to ensure they are consistent with the statewide plan. On the other hand, there could be merit in allowing a department that has a unique mission or a high-priority and immediate DEI problem to move forward with its efforts prior to the release of the statewide report. In addition, the LAO notes that OSPD is not the only state department that is making efforts to make a department-specific DEI recruitment and retention strategy.

Should OSPD Efforts Be Coordinated With Other Statewide Efforts? OSPD states that the racial demographics of its attorneys are similar to the overall demographics of attorneys statewide. This suggests that the lack of diversity at OSPD could be related to there being an insufficient number of non-white attorneys statewide. To the extent this is the case, it could be important for OSPD to coordinate its efforts with those being undertaken to address this wider problem. In particular, statewide attorney DEI efforts are currently being pursued by the State Bar of California. For example, the State Bar has launched the DEI Leadership Seal Program to recognize employers that implement specified actions to further DEI within their workplaces. The Legislature could consider the extent to which the OSPD efforts are, or should be, coordinated with these other efforts.

Should OSPD First Develop a Clear Plan Before Resources Are Provided? OSPD currently does not have an existing DEI strategic or tactical plan in place. This is because OSPD indicates that developing the office's DEI strategic or tactical plan, along with other activities, would be the responsibility of the requested positions. However, before resources are provided, it could be more appropriate for a plan to be developed. This is because a lack of such a plan can make it difficult to determine what goals or outcomes OSPD is seeking to meet, what specific steps are needed to accomplish them, and what level of resources are needed. It would also be difficult to determine whether it is consistent with existing state law—such as Proposition 209 (1996) which amended the California Constitution to prohibit discrimination or preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

Are Ongoing Resources Needed at This Time? To the extent the Legislature decides to provide OSPD with resources before a DEI strategic or tactical plan is in place, the Legislature could consider whether ongoing resources are justified at this time. On the one hand, it could be reasonable to provide limited-term resources to allow OSPD to begin its work and clearly identify its DEI plan and the steps it plans to take to accomplish them. The Legislature would then be able to review the plan to see if it is in line with legislative priorities and/or the statewide DEI plan. On the other hand, to the extent that the Legislature determines that OSPD recruitment, hiring, and training is such a pressing need that improving it should be pursued immediately, ongoing funding could be provided to specifically support those activities the Legislature believes is justified.

Would Consultants Be Better Positioned to Obtain Desired Outcomes? DEI expertise typically involves conceptual and technical expertise developed over time through research or study as well as experience. For example, DEI experts frequently have a historical and current understanding of race-related concepts, the impacts specific policies have had in particular policy areas (such as housing) over time, and behavioral theory used to overcome prevailing institutional and organizational DEI barriers. Researchers, academics, and others have spent years developing such expertise. It could be difficult for the state generally to recruit people with this background into less senior and lower-paying classifications—such as the AGPA position classification requested by OSPD. Moreover, it might not be cost-effective to use more senior, higher-paying classifications given that that the agency has under 100 employees. Instead, the Legislature could determine that providing resources to contract externally for such expertise may be more effective. For example, the Legislature could provide funding for OSPD to contract with an external consultant to develop its DEI strategic plan and/or evaluate and recommend actions to be taken specifically to improve the hiring and retention of staff—which would involve the input of OSPD staff. Ongoing staff resources, such as to execute the recommended actions, could then be requested at a future date.

What Classification(s) Are Most Appropriate for DEI-Related Work? If the Legislature determines that state employees should be used and that ongoing resources should be dedicated to OSPD, the Legislature will want to consider which classifications are most appropriate. As noted above, OSPD may have difficulty recruiting people with DEI expertise to AGPA positions. The LAO notes that CalHR received five Staff Services Manager (SSM) positions specifically to develop the statewide DEI plan. In a January 2023 progress report, CalHR reported challenges with filling these positions due to insufficient applications being received. As SSM position classifications have higher technical qualifications than AGPA positions, this raises questions regarding whether OSPD would have similar problems filling AGPA positions. If the positions are filled with individuals who lack such expertise, the quality or thoroughness of the resulting work could be impacted. Moreover, more senior classifications may be needed to inspire departmental culture or organization changes as well as to implement such changes, monitor whether the desired outcomes are being achieved, and further modify such changes as necessary. However, if the state's goal is to implement clearly specified actions identified by departmental management or hired consultants, less senior position classifications could be needed as such tasks may be less complex or technical.

How Should Legislative Oversight Be Conducted? To the extent the Legislature provides resources to OSPD or other departments, the Legislature will want to consider how to conduct oversight of how the resources are used and what outcomes are achieved. Such oversight could include requiring regular reporting on key metrics or that surveys or evaluations be conducted to assess the impact of the DEI activities. This would provide the Legislature with the necessary information to determine whether state funds were used effectively as well as whether there are any unintended challenges or unanticipated outcomes. Such information could also inform legislative deliberations on potential proposals from other departments in the future and how DEI work should be coordinated across the state.

Staff Recommendation. Hold Open.

0250 JUDICIAL BRANCH

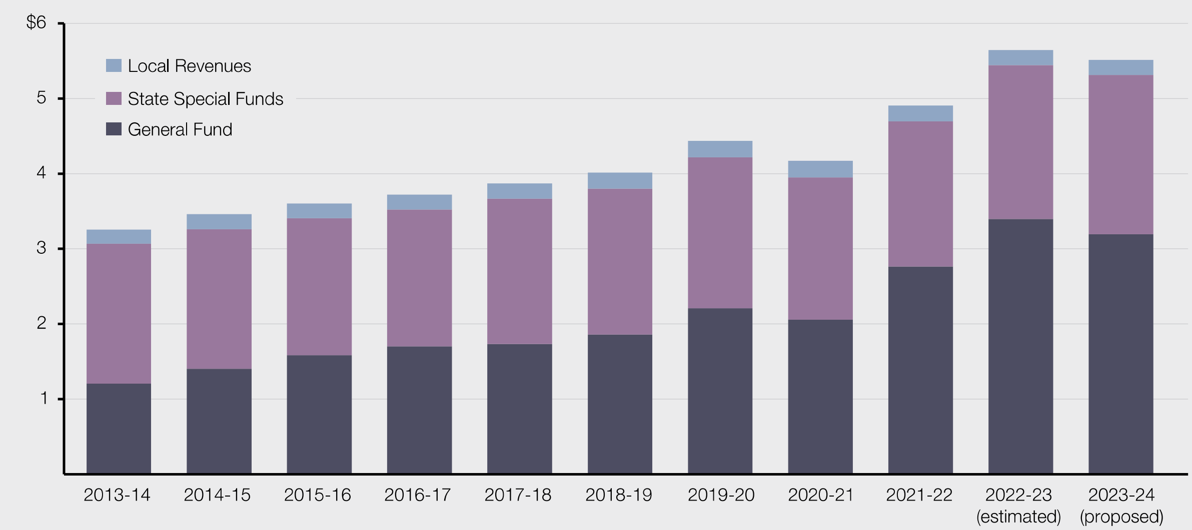
The Judicial Branch is responsible for the interpretation of law, the protection of people's rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in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

Total operational funding for the judicial branch has steadily increased from 2013-14 through 2022-23. The percent of total operational funding from the General Fund has also steadily increased during this period, from 37 percent in 2013-14 to 60 percent in 2022-23. Since 2019-20, most of the judicial branch budget has been supported by the General Fund. This growth is generally due to increased operational costs and decreases in fine and fee revenue.

For 2023-24, the Governor's budget includes nearly $5.5 billion from all fund sources in support for the judicial branch. This amount includes about $5.3 billion from all state funds (General Fund and special funds), a decrease of $130 million (2.4 percent) below the revised amount for 2022-23. These totals do not include expenditures from local reserves or trial court reserves. Of this amount, about $3.2 billion (or 63 percent) is from the General Fund. This is a net decrease of $205 million (or 6 percent) from the 2022-23 General Fund amount. This decrease is generally due to the expiration of one-time General Fund support provided in 2022-23.

Total Judicial Branch Funding[a]

(In Billions)



[a] State law requires excess property tax revenues collected by county offices of education beyond their annual funding allotment be used to offset state General Fund support of trial courts. This chart reflects these revenues as state special funds.

LAO

Source: LAO[7]

[7] https://lao.ca.gov/Publications/Report/4673

Issue 5: Proposed Reduction in Court Appointed Special Advocate Funding

Proposal. The 2022 Budget Act included $20 million per year for three years for the Court Appointed Special Advocate (CASA) program. The Governor's Budget proposes maintaining the 2022-23 funding but rescinding the funding for the 2023-24 and 2024-25 years.

Panelists.

- Mark Jimenez, Principal Program Budget Analyst, Department of Finance
- Sharon M. Lawrence, Esq., Chief Executive Officer, California CASA Association (appearing remotely)
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Charlene Depner, Director, Center for Families, Children and the Courts, Judicial Council of California

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 outcomes[8]. Earlier interventions that can help foster youth avoid becoming unhoused or involved with the criminal justice system can lead to significant long-term savings for the state.

In California, there are 44 local programs serving 51 counties. Last year, CASA volunteers served nearly 13,000 foster children, 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 2022-23 Budget included an additional $20 million per year for three years to assist local CASA programs and expand operational capacity. According to the California CASA Association, the funding is being used to help stabilize programs, improve staff compensation to bring salaries up to living wage levels, and support innovative new projects to increase numbers of children and families served by CASAs. In addition, the funds would assist with recruiting new CASA volunteers, data collection to help us learn more about the impact of CASAs on our children/families, and initiating statewide efficiencies in HR, training of new CASAs, and expanded public awareness to enhance volunteer recruitment and community philanthropy.

Staff Recommendation. Hold Open.

[8] https://nationalcasagal.org/our-impact/research-and-effectiveness/

Issue 6: Ongoing CARE Act Court Support

Proposal. The proposed budget includes $23.8 million General Fund in 2023-24, $50.6 million in 2024-25, and $68.5 million in 2025-26 and ongoing for the Judicial Branch to implement the CARE Act. In addition, the proposed budget includes $6.1 million in 2023-24 increasing to $31.5 million in 2025-26 and ongoing to support public defender and legal services organizers to provide legal counsel to CARE participants.

Panelists.

- Charlene Depner, Director, Center for Families, Children and the Courts, Judicial Council of California
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Principal Program Budget Analyst, Department of Finance

Background.

SB 1338 (Umberg), Chapter 319, Statutes of 2022 created the CARE Program—a new civil court proceeding that will allow specific people to seek assistance for certain adults with severe mental illness. In order to be admitted to the CARE Program, individuals must be over the age of 18 and currently experiencing both a severe mental illness and having a diagnosis of schizophrenia or other psychotic disorders. People in other civil and criminal proceedings—specifically assisted outpatient treatment, conservatorship, or misdemeanor proceedings in which the person has been determined to be incompetent to stand trial—could also be referred by courts to the program. SB 1338 also included requirements for the California Health and Human Services Agency (CalHHS) or Department of Health Care Services (DHCS) to collect data, contract with an independent entity to evaluate the program, and submit reports to the Legislature.

The CARE process begins when a petition is filed to admit a person to the program. The petition can be filed by the individual themselves, or a family member, first responder, county behavioral health provider, or a licensed behavioral health professional who has provided treatment to the person within the past 30 days. The court reviews the petition to assess whether the person clearly and convincingly meets the criteria for admission. If so, the court orders an individualized treatment plan, which can include behavioral health care, stabilization medications, housing, and other supportive services. These services are expected to be delivered by the counties. Participants are entitled to legal counsel for assistance and representation throughout the process. Participants are also permitted to have a "supporter," an adult providing the participant with decision-making and other assistance throughout the process. The court-ordered CARE plan lasts up to one year, but may be extended one time for up to one additional year under certain conditions.

The court-related responsibilities in the CARE process include:

- *Court Proceedings.* State law specifies a particular legal process for CARE proceedings. For example, within 14 court days of determining from a cursory review of a CARE Program petition that a person could be eligible for the program, trial courts are generally required to either (1) schedule a hearing on the CARE Program petition or (2) order the county to investigate (if needed) and report in writing on whether the person subject to the petition meets the CARE eligibility criteria, the outcome of any efforts to engage the person, and conclusions and recommendations on the person's ability to voluntarily engage in services. Subsequent hearings are required to adopt a CARE plan and to regularly monitor participant and county compliance with the plan. At the one-year status hearing, the court will determine whether to allow the participant to leave the program or continue in the CARE Program for up to an additional year. Judicial Council is required to adopt forms and rules to ensure statewide consistency in the CARE legal process, provide training and technical assistance to judges, and assist with data collection from the trial courts.

- *Legal Representation.* State law requires that legal counsel be provided to any person who is the subject of a CARE Program petition if it appears that the person may meet the eligibility requirements. Such legal counsel is to be provided by the government through a qualified legal services project (such as a legal-aid organization) or a county public defender if no legal services project is available to accept CARE cases. However, a person may choose to retain their own private counsel instead. Counsel is required to represent the person through all court proceedings (including appeals) as well as in any matters related to the CARE plan. State law requires DHCS, in consultation with other state departments, to provide training to counsel regarding the CARE process as well as the services and supports that can be included in court-ordered plans.

CARE Program Implementation Plan and Recent Developments. Senate Bill 1338 specified that one group of counties ("Cohort 1")—which included Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne Counties—are generally required to begin CARE Program operations no later than October 1, 2023. All remaining counties ("Cohort 2") are generally required to begin CARE Program operations no later than December 1, 2024. In January 2023, Los Angeles County—a member of Cohort 2—announced plans to implement the CARE Program by December 1, 2023, a year earlier than required.

Additionally, in January 2023, a group of disability and civil rights advocates filed a lawsuit with the California Supreme Court challenging the constitutionality of SB 1338 and seeking to block its implementation[9]. The plaintiffs argue that it violates due process and violates the civil rights of the participants. The Administration noted in its response that the program does not force people to participate (although a lack of compliance may be used as a factor in determining eligibility for other involuntary mental health treatment)[10].

Workload Assumptions. The Administration assumes that there will be 18,000 CARE Program petitions received annually statewide upon full implementation, resulting in 12,000 participants. These estimates are adjusted for 2023-24 and 2024-25 based on Cohort 1's and Cohort 2's share of total state population and the statutorily specified implementation dates to estimate the funding needed. The Administration noted that the prorated amounts included at Governor's Budget do not

[9] https://www.latimes.com/california/story/2023-01-26/disability-advocates-lawsuit-care-court-newsom-mental-illness-addiction-homeless
[10] https://www.sacbee.com/news/politics-government/capitol-alert/article272394748.html

account for LA County's plan for early implementation, and will have to be adjusted later in the spring. The Administration assumes that an average of one court hearing will be needed to review initial petitions, and an average of nine hearings will be needed for each CARE participant. For legal representation costs, the administration assumes that an average of 20 hours of representation would be needed per CARE client. These assumptions are outlined in the table below from the Department of Finance.

CARE Act Court Cost Assumptions	
Petitions and Cases	
Total Annual Petitions	18,000
Total Annual Cases	12,000
Cohorts	
Cohort 1	
% of total population	26%
FY23-24 percent of year hearing cases	75%
FY 24-25 and following percent of year hearing cases	100%
Cohort 2	
% of total population	74%
FY23-24 percent of year hearing cases	0
FY 24-25 percent of year hearing cases	58%
FY 25-26 and following percent of year hearing cases	100%
Court costs	
Judicial officer per hour review time	$204
Clerk per hour review time	$92
Court hearing cost per hour	$1,034
Initial Petition Review	
15 minutes judicial officer and 15 clerk review	$74.00
Total Hearings in case	
(3) 30 minute hearing	$1,551
(6) 15 minute hearing	$1,551
(9) 10 minute judicial officer review	$306
(9) 15 minute clerk review	$207
Total hearing cost	$3,615

Source: DOF[11]

Initial Funding Provided in 2022-23. The 2022-23 budget package provided $5.9 million in 2022-23 (increasing to $37.7 million ongoing in 2023-24) for judicial branch preparation to implement the CARE Program and $250,000 one-time in 2022-23 for legal-aid planning and preparation. Of the amount provided to the judicial branch in 2022-23, $2.8 million was allocated directly to the trial courts in Cohort 1 to support their administrative and other costs related to planning for CARE Program implementation. The budget also included additional funding for DHCS and CalHHS.

[11] https://esd.dof.ca.gov/Documents/bcp/2324/FY2324_ORG0250_BCP6672.pdf

Proposed Funding for 2023-24. The statewide funding for the CARE Program is outlined in the tables below from the LAO.

Summary of Total Proposed CARE Program Funding
General Fund (In Millions)

Entity	Purpose	2022-23	2023-24	2024-25	2025-26 and Ongoing
Judicial Branch					
Judicial Branch	Court Operations	$5.9	$23.8	$50.6	$68.5
Judicial Branch	Legal Representation	0.3	6.1	21.8	31.5
Totals, Judicial Branch		**$6.1**	**$29.9**	**$72.4**	**$100.0**
Health Entities					
CalHHS	Training	$5.0	—	—	—
DHCS	Training, Data Collection, and Other Activities	20.2	$6.1	$6.1	$6.1
DHCS	County Grants	57.0	16.5	66.5	108.5
Totals, Health Entities		**$82.2**	**$22.6**	**$72.6**	**$114.6**
Total CARE Program Funding		**$88.3**	**$52.4**	**$144.9**	**$214.6**

CARE = Community Assistance, Recovery, and Empowerment; CalHHS = California Health and Human Services Agency; and DHCS = Department of Health Care Services.

Summary of Allocation of Proposed Court Operations CARE Program Funding
(In Millions)

Judicial Branch Entity	Purpose	2022-23	2023-24	2024-25	2025-26 and Ongoing
Judicial Council	Trial court support, training and resources, and data collection costs	$3.0	$3.2	$2.6	$2.6
Trial Courts	Hearings, self-help attorneys, and other administrative costs	2.8	20.5	48.0	66.0
Totals		**$5.9**	**$23.8**	**$50.6**	**$68.5**

CARE = Community Assistance, Recovery, and Empowerment.

Source: LAO[12]

The Governor proposes to provide the judicial branch with additional funding to support court operations as well as legal representation costs. Specifically, the budget proposes General Fund support totaling $29.9 million in 2023-24, increasing to $100 million in 2025-26 and ongoing, representing roughly half of the proposed total funding for the CARE Program across all departments. This funding would include:

- *Court Operations.* As previously mentioned, the 2022-23 budget package assumed a funding level of $37.7 million annually beginning in 2023-24 to support CARE hearing and other court operations. The Governor's budget proposes to adjust this planned funding level. Specifically, the proposed budget includes $23.8 million in 2023-24 (increasing to $50.6 million in 2024-25 and to $68.5 million annually beginning in 2025-26). While most of this funding will go directly to the trial courts to cover hearing costs, a small amount of

[12] https://lao.ca.gov/Publications/Report/4673

this funding will go to Judicial Council for statewide coordination and support, training and resources, and data collection.

The court operations funding includes resources for five full-time staff at the Judicial Council to develop the legal and procedural framework for implementation, training and providing resources to the trial courts and stakeholders, and managing the required data collection. It also includes funding for an estimated 116 staff at the trial courts, including self-help attorneys and other administrative staff.

- *Legal Representation Costs.* The Governor's budget proposes $6.1 million in 2023-24 (increasing to $31.5 million annually beginning in 2025-26) to provide legal representation in the CARE process. The details of this funding are not finalized, but the Administration indicated that the State Bar is working on distributing planning grants, and the Administration is working with stakeholders to further develop the plans for this funding.

The table below contains a breakdown of the Judicial Branch's share of the CARE Act Funding based on hearing and staff costs. As noted above, this does not include funding for LA County, and may need to be updated later in the spring.

CARE ACT COURT BUDGET 2022-23 -- 2025-26

	2023-24	2024-25	2025-26
Petitions for initial review	3,510	12,406	18,000
Initial review costs	$259,740	$918,014	$1,332,000
Participants	2,340	8,270	12,000
Hearing costs	$8,466,120	$29,922,307	$43,416,000
Court staff FTE	58.0	116.0	116.0
Court staff cost	$ 11,310,000	$ 17,173,800	$ 21,228,000
Total Court Cost (rounded)	**$ 20,036,000**	**$ 48,014,000**	**$ 65,976,000**
Total Judicial Council Program Support	**$ 3,230,000**	**$ 2,560,000**	**$ 2,560,000**
Legal Services Representation	$ 5,800,000	$ 20,750,000	$ 30,000,000
Legal Services Admin	$ 293,000	$ 1,038,000	$ 1,500,000
Total Legal Services Cost	**$ 6,093,000**	**$ 21,788,000**	**$ 31,500,000**
TOTAL	**$ 29,359,000***	**$ 72,362,000**	**$ 100,036,000**

*The Budget includes an additional $500,000 in 2023-24 in excess of the cost estimate, which will be revised in the Spring budget revision.

Source: DOF[13]

[13] https://esd.dof.ca.gov/Documents/bcp/2324/FY2324_ORG0250_BCP6672.pdf

LAO Comments.

Funding Needs Uncertain as Program Has Not Been Implemented. The CARE process is a new court process that has not yet been implemented. Some details of the program are still being worked out by state and local entities. For example, it is not clear in which counties legal representation will be provided by qualified legal services projects versus county public defenders. Once implemented, operational processes may need to be adjusted to address unintended challenges that emerge. In addition, the number of petitions and/or participants could be significantly different from the administration's estimates. The LAO notes that the administration's assumptions and requested resources appear reasonable for the initial implementation of the CARE Program in 2023-24. However, ongoing program costs could be significantly different than assumed in the Governor's budget.

Actual Implementation Data Important for Determining Appropriate Funding Levels After 2023-24. Data collected from Cohort 1 should be used to inform the resources provided for statewide implementation. For example, monitoring the implementation of Cohort 1 may show that more time is needed by judicial and court staff to process CARE Program petitions or by legal counsel to appropriately represent their clients. This additional time could be needed for various reasons, including to ensure that all participants have the ability to be heard (which could simply require more time and resources) or to address conflicting interpretations or application of the language (which could be resolved legislatively or through statewide Judicial Council guidance).

Other Factors Can Also Impact Actual Funding Needs. Other factors—such as county decisions and court rulings—can also impact the actual level of funding needed to implement the CARE Program statewide. As noted above, the Governor's Budget funding does not include an earlier start date by LA County. The LAO estimates that additional resources in the range of $10 million would be needed in 2023-24 to support the court-related costs for LA County, which consists of about 25 percent of the state's population, as well as additional resources in 2024-25. It is also unclear whether any other counties have the intention of launching CARE Program implementation earlier than expected. Finally, court rulings or developments in the lawsuit may affect the implementation of the CARE Program.

Staff Comment. *Capacity of legal aid organizations and public defenders.* Both legal aid organizations and public defenders have significant workload and recruitment challenges. The Legislature may wish to consider how to expand the capacity of these organizations to manage their existing workload in addition to these new duties.

LAO Recommendation. *Recommend Only Providing Funding for CARE Program in 2023-24 and Require Reporting on Implementation.* The LAO recommends the Legislature only provide the requested funding in 2023-24. The LAO also recommends the Legislature require the courts scheduled to first begin CARE Program implementation report monthly on key metrics that directly impact the estimates for the level of implementation funding needed. Such information would help the Legislature ensure that appropriate levels of funding are provided in future years.

Staff Recommendation. Hold Open.

Issue 7: Capital Outlay and Facilities

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

- *Capital Outlay*. The Administration proposes $108.5 million General Fund and $153 million lease revenue bond (LRB) authority for one new capital outlay project and to continue six ongoing projects.

- *State Court Facilities Construction Fund (SCFCF) Insolvency.* 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. The Governor's Budget includes the following proposals related to the SCFCF:

  - Provide $34 million General Fund in 2023-24 to backfill the SCFCF and maintain existing service levels. Around $120 million will be needed ongoing to backfill the fund.

  - Shift $55.5 million trial court operation support from SCFCF to General Fund.

  - Extend permanently $15 million to support trial court facility modification projects that was set to expire in 2024-25.

- *Other Facilities Support.* The proposed budget includes:

  - $440,000 one-time General Fund to provide the necessary resources for the design, fabrication, and installation of new signage to rename the Superior Court of Merced County's main courthouse as the Charles James Ogletree, Jr. Courthouse pursuant to AB 2268 (Gray), Chapter 410, Statutes of 2022.

  - $5.97 million ongoing General Fund and $27 million reimbursement authority ongoing to support operations and maintenance for nine facilities which have recently completed construction and are planned to open to the public.

- *Deferred Maintenance Reduction*. The 2021 Budget Act included $188 million one-time General Fund, available through June 30, 2024, to support deferred maintenance projects in trial courts and Courts of Appeal. The Governor's Budget proposes to remove $49.5 million in 2022-23, reducing the total amount available to $138.5 million.

Panelists.

- Pella McCormick Director Facilities Services, Judicial Council of California
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Phil Osborn, Staff Finance Budget Analyst, Department of Finance

Background.

The judicial branch currently manages around 450 facilities across all 58 counties. Its facility program is responsible for various activities including maintaining these facilities, managing leases, and constructing new courthouses to replace outdated facilities. In a November 2019 assessment of its facilities[14], the judicial branch identified a need for a total of 80 construction projects—56 new buildings and 24 renovations—totaling $13.2 billion. These projects were categorized into five groups—and ranked within each group—in the following descending priority order: 18 immediate need projects ($2.3 billion), 29 critical need projects ($7.9 billion), 15 high need projects ($1.3 billion), 9 medium need projects ($1.6 billion), and 9 low need projects ($100 million). The status of these projects is listed in the table below. Additionally, in August 2022, the judicial branch identified 22,042 deferred maintenance projects totaling around $4.5 billion[15].

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

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

Source: LAO[16]

State Court Facilities Construction Fund (SCFCF). State law authorizes Judicial Council to construct trial court facilities and established a special fund, the SCFCF, to support the judicial branch's court facility-related projects. This fund was supported by increases in certain criminal and civil fines and fees. Funds may also be transferred from the SCFCF to support trial court operations. Currently, a total of $55.5 million is redirected annually for this purpose. The amount of revenue deposited into the SCFCF has steadily declined over time, largely due to declining criminal fine and fee revenue. This has resulted in SCFCF expenditures—such as debt service and facility modifications—routinely exceeding revenues. 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 2023-24.

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. Accordingly, the 2021-22 and 2022-23 budgets included General Fund support to start the construction or renovation of nearly a dozen of the highest ranked immediate need projects identified in the judicial branch's 2019 assessment of facilities.

The table on the next page outlines the status of approved court construction projects.

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

City	Courtrooms	Square Feet	Current Phase	Phase % Complete	Approved Project Budget	Forecast Project Completion
Yreka	5	67,000	Completed	100%	$78,008,000	6/2/21
Sonora	5	62,000	Completed	100%	$72,385,000	10/15/21
El Centro	4	48,000	Construction	96%	$73,431,000	5/12/22
Nevada City	6	NA	Completed	100%	$972,000	9/30/22
Willows	3	42,000	Construction	86%	$62,768,000	6/16/23
Redding	14	165,000	Construction	96%	$203,006,000	7/28/23
Los Angeles	NA	NA	Study	68%	$2,347,000	11/3/23
Menifee	9	85,000	Construction	43%	$95,253,000	3/21/24
Sacramento	53	540,000	Construction	67%	$514,792,000	5/1/24
Santa Rosa	15	169,000	Construction	34%	$204,803,000	7/31/24
Indio	5	53,000	Construction	22%	$80,874,000	10/25/24
Oroville	1	610	Working Drawings	5%	$3,955,000	11/18/24
Modesto	27	309,284	Construction	20%	$351,909,000	12/31/24
San Bernardino	2	5,000	Working Drawings	5%	$9,433,000	10/8/25
Lakeport	4	46,000	Design Build Phase	1%	$86,722,000	10/16/25
Mendocino	7	82,000	Performance Criteria	95%	$144,924,000	3/5/27
Monterey	7	83,000	Acquisition	63%	$174,684,000	3/16/28
Plumas	3	54,000	Acquisition	22%	$100,891,000	1/3/29
Solano	12	141,000	Acquisition	23%	$265,123,000	7/25/29
Fresno	36	413,000	Acquisition	26%	$749,369,000	9/23/29
San Luis Obispo	12	145,000	Acquisition	23%	$291,895,000	12/12/29
Los Angeles	24	278,000	Acquisition	20%	$519,561,000	1/25/30
Judgeship (San Joaquin)	1	1,900	Preliminary Plans	61%	$6,025,000	7/11/25
Judgeship (Sacramento)	2	10,000	Working Drawings	5%	$11,532,000	1/13/25
Judgeship (Sutter)	1	2,500	Preliminary Plans	5%	$6,025,000	7/12/24
Judgeship (Kings)	1	6,800	Preliminary Plans	52%	$6,025,000	7/12/24

Additional Support for Ongoing Facility Modification Provided in 2022-23. The annual budget typically provides the judicial branch with a specified amount of funding to support trial court facility modification projects that arise during the year. This funding is used at Judicial Council's discretion to generally address the highest-priority needs that arise. The 2022-23 budget provided $65 million from the SCFCF to support trial court facility modification projects. This amount included $50 million in annual funding and $15 million in temporary funding. The temporary funding of $15 million annually for ten years was first provided as part of the 2014-15 budget package, which means that it is scheduled to expire at the end of 2023-24. Additionally, the 2022-23 budget included $15.4 million in ongoing General Fund support for trial court facility modification projects. In combination, this increased total support for trial court facility modification projects to $80.4 million annually in 2022-23 and 2023-24—before declining to $65.4 million annually beginning in 2024-25 due to the expiration of the temporary SCFCF funding. The expiration of the temporary funding would restore funding levels to the amount available annually between 2014-15 and 2021-22.

Proposed Resources. The Governor's 2023-24 budget includes one proposal for ongoing SCFCF expenditures and two proposals to provide a total of $89.5 million General Fund in 2023-24 (increasing to $175.5 million annually beginning in 2024-25) to address the SCFCF insolvency. Specifically, the Governor's budget proposes to:

- *Make SCFCF Funding Scheduled to Expire Ongoing*. The Governor's budget proposes to make permanent the $15 million to support trial court facility modification projects that was previously approved for ten years—permanently increasing the amount available to support trial court facility projects from $65.4 million to $80.4 million annually.

- *Shift SCFCF Support of Trial Court Operations to General Fund.* The Governor's budget proposes to shift the $55.5 million currently redirected from the SCFCF to the General Fund in order to address the insolvency of the SCFCF.

- *Provide General Fund to Backfill Remaining Shortfall.* With the two above changes, SCFCF revenues are expected to be $215 million, while expenditures are estimated to be about $336 million, resulting in a $120 million shortfall. The Governor's budget proposes to spend down the balance of the SCFCF and provide a $34 million General Fund backfill in 2023-24. However, the full backfill amount of $120 million is needed on an ongoing basis beginning in 2024-25. Budget bill language authorizes the Department of Finance to increase the backfill amount 30 days after notification to the Legislature if SCFCF revenues are lower than expected.

Capital Outlay. The Governor's Budget includes $108.5 million General Fund and $153 million lease revenue bond (LRB) authority for one new capital outlay project and to continue six ongoing projects, described in the table on the next page. For three of the continuing projects, their construction costs were shifted entirely from LRB to General Fund as part of last year's budget package, due to the budget condition and federal limits on tax-exempt bond expenditures. Specifically, federal tax code for the issuance of tax-exempt bonds requires, among other things, that the bonds must be issued within three years of initial project expenditures. However, a portion of expenditures for each of these three projects are expected to fall outside of the three-year window. Due to the declining revenue projections, the Administration is proposing to fund most of the construction costs using bonds, and only cover the construction expenditures outside of the three-year window with General Fund. These projects, the El Centro Courthouse, Sacramento, and Redding Courthouses, are indicated as "Bonds to Cash" in the table.

Proposal	Status	Description
Court of Appeal - New Sixth Appellate District Courthouse	New, Performance Criteria Phase FY 23-24: $2.8 million GF Total Cost: $86.7 million Estimated Completion Date: October 2028	The proposed new courthouse project will provide construction of a new one-courtroom, two-story courthouse of approximately 50,000 square feet (SF) on an existing approximately 2-acre, state-owned property in the city of Sunnyvale in Santa Clara County. The project includes secured parking for justices and surface parking spaces. The project will use the Design-Build delivery method. The project will include the demolition of an existing building on the state-owned site as well as replace the appellate court's current leased facility.
Imperial County – New El Centro Courthouse – Bonds to Cash	Continuing, Construction Phase FY 23-24: $18.2 million GF Total Cost: $65.4 million	This proposal requests General Fund to pay a portion of expenditures for the construction phase of the Imperial County – New El Centro Courthouse project. The project includes the construction of a new 4-courtroom courthouse, containing approximately 48,000 square feet in the city of El Centro, in Imperial County. Bonds for the project are scheduled to be sold in Fall 2023.
Monterey County - New Fort Ord Courthouse	Continuing, Design-Build Phase FY 23-24: $153.0 million LRB Total Cost: $191.8 million Estimated Completion Date: December 2027	The proposed budget includes Lease Revenue bond authority for the Design-Build phase of the New Fort Ord Courthouse in Monterey County. The proposed new courthouse project will provide construction of a new 7-courtroom courthouse of approximately 83,000 square feet (SF) in the Fort Ord area. The project includes secured parking for judicial officers and surface parking spaces. The project will require acquisition of a site of approximately 5 acres. The project will use the design-build delivery method. The project will consolidate operations and replace three facilities.
Nevada County - New Nevada City Courthouse	Continuing, Acquisition Phase FY 23-24: $8.1 million GF Total Cost: $178.4 million Estimated Completion Date: August 2030	The proposed budget includes funding to acquire an approximately 5-acre site for the New Nevada City Courthouse in Nevada County. The proposed new courthouse project will provide construction of a new 6-courtroom courthouse of approximately 77,000 square feet (SF) in the city of Nevada City. The project includes secured parking for judicial officers and surface parking spaces. The project will use the Design-Build delivery method. The project will replace and consolidate two facilities, including the current Nevada City Courthouse and the Courthouse Annex. These buildings are overcrowded and not ADA-compliant, among other issues.
Sacramento County – New Sacramento Courthouse – Bonds to Cash	Continuing, Construction Phase FY 23-24: $17.0 million GF Total Cost: $473.5 million	This proposal requests General Fund to pay a portion of expenditures for the construction phase of the Sacramento County – New Sacramento Courthouse project. The project includes the construction of a new 53-courtroom courthouse, containing approximately 540,000 square feet in the city of Sacramento, in Sacramento County. Bonds for the project are scheduled to be sold in Spring 2024.
San Bernardino County – Juvenile Dependency Courthouse Addition and Renovation	Continuing, Construction Phase FY 23-24: $8.3 million GF Total Cost: $9.9 million Estimated Completion Date: October 2025	This proposal includes funding for the Construction phase for the San Bernardino Juvenile Dependency Courthouse. The project provides for an approximately 5,000 square feet (SF) addition for two courtrooms, associated clerical space, and a lobby expansion at the current Juvenile Dependency Courthouse in San Bernardino. The project will require revisions to the joint occupancy/transfer agreement with the County to construct the project. The project will use the Design-Bid-Build delivery method.
Shasta County – New Redding Courthouse – Bonds to Cash	Continuing, Construction Phase FY 23-24: $54.1 million GF Total Cost: $171.4 million	This proposal requests General Fund to pay a portion of expenditures for the construction phase of the Shasta County – New Redding Courthouse project. The project includes the construction of a new 14-courtroom courthouse, containing approximately 165,000 square feet in the city of Redding, in Shasta County. Bonds for the project are scheduled to be sold in Fall 2023.

Other Facilities Funding. The proposed budget also includes two other facilities-related proposals:

- *Charles James Ogletree, Jr. Courthouse (AB 2268).* The proposed budget includes $440,000 one-time General Fund to provide the necessary resources for the design, fabrication, and installation of new signage to rename the Superior Court of Merced County's main courthouse as the Charles James Ogletree, Jr. Courthouse pursuant to Chapter 410, Statutes of 2022 (AB 2268, Gray). The Judicial Council reported costs of approximately $175,000 during the policy process. However, through further evaluation, the building and site have more existing signage requiring replacement than initially estimated.

- *Support for Judicial Branch Facilities Operations and Maintenance*. The proposed budget includes $5.97 million ongoing General Fund and $27 million reimbursement authority ongoing to support operations and maintenance for nine facilities which have recently completed construction and are planned to open to the public. The Administration noted that the reimbursement authority level will be updated later in the spring.

LAO Comments.

Cash Financing Presents Trade-Off Between Reducing Long-Term Obligations and Funding Short-Term Budget Priorities. The Legislature will have to weigh the trade-off between reducing long-term budget obligations versus funding short-term budget priorities. Across all departments, the Governor's Budget includes $491 million cash for certain capital outlay projects (including the three courthouses noted above) which avoids about $42 million in annual debt service payments over the next 25 years. The avoided costs for these projects are somewhat larger than normal because projected interest rates are currently high (6 to 7 percent), and these projects would require taxable bonds, which carry a higher interest rate than tax-exempt bonds. On the other hand, using cash means less funding is available to support near-term budget priorities.

SCFCF Proposal Generally Reasonable. The LAO finds the Governor's SCFCF proposals generally reasonable as they address the SCFCF's insolvency on an ongoing basis. Shifting ongoing support for trial court operations to the General Fund maintains existing operational levels. Additionally, committing to an ongoing General Fund backfill of the SCFCF ensures that, going forward, the General Fund will address any shortfall in the ability of the SCFCF to meet its construction-related obligations (such as debt service for previously constructed courthouses). This is important as it will ensure that these obligations are accounted for and considered when evaluating the state's overall fiscal condition and determining General Fund priorities.

SCFCF General Fund Backfill Amount Will Change Over Time. The backfill amount required by the SCFCF will change over time. Revenues could increase or decrease. For example, the number of people required to pay criminal fines could differ by year for various reasons—including the number of tickets written by law enforcement. Additionally, expenditures will also change over time. SCFCF debt service obligations will decrease over time as more projects are fully paid off, including decreases of roughly $40 million annually beginning in 2032-33 as six construction projects are fully paid off, $50 million beginning in 2038-39, and $40 million in 2039-40.

Making Facility Modification Funding Permanent Helps Address Facility Needs, but Results in Additional General Fund Cost Pressures. As discussed earlier, the judicial branch has identified significant facility needs that will eventually need to be addressed. The Governor's proposal to make the temporary SCFCF facility modification funding permanent would be a step forward in that direction on an ongoing basis. However, because the SCFCF is insolvent, the proposal would effectively result in $15 million in additional cost pressure on the state General Fund to backfill the SCFCF.

LAO Recommendations.

Recommend Approving SCFCF Budget Proposal, Requiring Annual Reporting of SCFCF Condition, and Weighing Facility Modification Funding Extension Against Other Priorities. The LAO finds the Governor's SCFCF proposals to be generally reasonable as they address the SCFCF's insolvency on an ongoing basis. As such, the LAO recommends the Legislature approve shifting support for trial court operations from the SCFCF to the General Fund. While the LAO agrees with the Governor's proposal to provide a General Fund backfill to the SCFCF, the amount required will change over time. Thus, the LAO recommends the Legislature direct Judicial Council to report annually on the SCFCF's long-term fund condition to enable the Legislature to ensure that the budget is adjusted annually to include the appropriate General Fund backfill in future years. Finally, the LAO recommends the Legislature weigh the proposal to make SCFCF facility modification funding ongoing against its other budget priorities, since it would result in additional General Fund cost pressures. Reducing or rejecting the proposed ongoing spending on facility modification projects would provide the Legislature with a budget solution to help address the projected out-year deficits that would occur under the Governor's proposed budget.

Consider Shifting to Lease Revenue Bonds. Ultimately, the Legislature's financing approach will depend on how it weighs support for short-term budget priorities against reducing long-term budget obligations. However, given the current budget problem facing the state—including the LAO's assessment that the problem will likely be even larger than the Governor projects—and the state's relatively low debt service ratio, the Legislature might want to switch to lease revenue bonds instead of cash financing for some of the projects. In the LAO's view, this would be one reasonable way to free up some General Fund cash to maintain funding for existing programs that might otherwise need to be cut to address the budget problem. Even though interest rates are relatively high right now, if interest rates come down in the future, the state typically has the option of effectively refinancing at a lower interest rate.

Staff Recommendation. Hold Open.

Issue 8: Elimination of Sunset Dates for Expiring Civil Fees

Proposal. The proposed budget includes trailer bill language to permanently extend certain civil fee increases that were set to expire in the budget year, and are estimated to generate roughly $38 million in revenue.

Panelists.

- Zlatko Theodorovic, Director, Budget Services, Judicial Council of California
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Principal Program Budget Analyst, Department of Finance

Background. The affected fees were initially increased in 2012 to offset declining revenues during the Great Recession, and are listed in the table below. These fees are deposited into the Trial Court Trust Fund and are used to fund basic trial court operations. A sunset date was initially included, but that date has been extended multiple times. These fees have sunset dates of either July 1, 2023, or January 1, 2024. The Administration is proposing to eliminate the sunset and make the fee increases permanent. These fees include motion fees, complex case fees, and first paper fees. Most of these fees are initial filing fees, and individuals can apply for income-based waivers. Complex case fees are more likely to involve commercial entities.

Code Section	Description	2021-22 Actual Revenue	2022-23 Estimated Revenue
Motion Fees ($20 increase)			
GC 70617(a)	Motion Fee: Motion, Application or Any Other Paper Requiring a Hearing Subsequent to the First Paper Filing	$5,814,017.41	$5,580,847.61
GC 70657(a)	Subsequent Papers - Probate: Motion, application or other paper requiring a hearing after the first paper; certain subsequent petitions, applications, or other opposition	$293,487.69	$288,003.35
GC 70677(a)	Motion Fee Family Law: Motion or order to show cause in family law matter (unless it is the party's first paper and the first paper filing fee is paid)	$1,662,844.12	$1,739,692.26
Total $20 Motion Fees		$7,770,349.21	$7,608,543.22
Complex Case Fees ($450 increase)			
GC 70616(a)	Complex Case Fee - Plaintiff: Additional fee for case designated as complex (one fee for all plaintiffs)	$3,117,031.76	$2,924,510.59
GC 70616(b)	Complex Case Fee - Response: Additional fee for case designated as complex (for each defendant, up to $18,000 total for case)	$5,835,600.00	$5,684,400.00
Total $450 Complex Fees		$8,952,631.76	$8,608,910.59

First Paper Fees ($40 increase)			
GC 70611, 70602.5, 70602.6	Unlimited Civil Filing: Complaint or other first paper in unlimited civil case (amount over $25,000), including: unlawful detainer over $25,000; petition for a writ of review, mandate, or prohibition (other than issues in a limited civil case); petition for a decree of change of name or gender	$6,796,480.00	$6,849,746.67
GC 70612, 70602.5, 70602.6	Unlimited Civil Filing Response: Answer or other first paper filed by each party other than plaintiff (amount over $25,000) (including unlawful detainer)	$6,721,600.00	$6,947,413.33
GC 70650(a), 70602.5, 70602.6	First petition for letters of administration or letters testamentary, or the first petition for special letters of administration with the powers of a general personal representative pursuant to Section 8545 of the Probate Code	$797,320.00	$686,280.00
GC 70650(b), (c), 70602.5, 70602.6	Probate Petitions or Objections: Will contests (first objections to probate of will or first petition for revocation of probate of will under Prob. Code §§ 8250, 8270); later-filed petitions for letters of administration, letters testamentary, or special letters of administration with powers of general representative by persons other than the original petitioner	$287,920.00	$256,453.33
GC 70651, 70602.5, 70602.6	Probate - Opposition to Petition: Opposition to petitions for appointment of a personal representative in a decedent's estate other than competing petitions for appointment or will contests, and objections or other opposition to first account of testamentary trustee subject to court supervision	$63,720.00	$59,226.67
GC 70652, 70602.5, 70602.6	Probate - Internal Affairs: Petitions and objections or other opposition to petitions concerning the internal affairs of a trust under Probate Code §§ 17200 et seq. or first account of trustee of testamentary trust	$490,640.00	$476,040.00
GC 70653, 70602.5, 70602.6	Appointment of Conservator: Petition for appointment of conservator, guardian of the estate or guardian of the person and estate or opposition to these petitions	$154,520.00	$147,533.33
GC 70655, 70602.5, 70602.6	First Papers - Other Probate: Petition commencing other proceedings under the Probate Code and objections or other opposition to such petitions	$688,360.00	$622,720.00
GC 70658, 70602.5, 70602.6	Subsequent Papers: Petitions, objections, or other papers in opposition for orders that are filed after issuance of letters testamentary, letters of administration, letters of special administration to a personal representative of a decedent's estate, or letters of guardianship or conservatorship to a guardian or conservator	$505,640.00	$575,426.67
GC 70662	Request for special notice in decedent's estate, guardianship, conservatorship, and trust proceedings (Prob. C 1250, 2700, 17204)	$144,120.00	$130,093.33
GC 70670(a), 70602.5, 70602.6	Family Law First Paper: First paper in family law matter other than dissolution of marriage or domestic partnership, legal separation, or nullity	$533,840.00	$526,293.33

GC 70670(b), 70602.5, 70602.6	Marriage Dissolution - First Paper: Petition or other first paper (including a joint petition) for dissolution of marriage or domestic partnership, legal separation, or nullity	$3,109,520.00	$3,101,106.67
GC 70670(c), 70602.5, 70602.6	Family Law Response: First paper filed in response in family law matter other than dissolution of marriage or domestic partnership, legal separation, or nullity	$371,840.00	$356,573.33
GC 70670(d), 70602.5, 70602.6	Marriage Dissolution Response: Response or other first paper filed in response to petition for dissolution of marriage or domestic partnership, legal separation, or nullity	$991,640.00	$996,720.00
Lab. 98.2; cross-ref. GC 70611, 70602.5, 70602.6	Appeal of Labor Commission Decision: Appeal from Labor Commissioner's Award	$5,480.00	$5,973.33
Total $40 First Paper		$21,662,640.00	$21,737,600.00

Total All Fees	$38,385,620.97	$37,955,053.81

Filing Fee Waivers. The 2022 Budget Act included trailer bill language and $18 million ongoing to expand eligibility for automatic filing fee waivers. The expanded eligibility includes increasing the income threshold from 125 percent to 200 percent of the federal poverty guidelines, and automatic eligibility for recipients of the California Special Supplemental Nutrition Program for Women, Infants, and Children and of unemployment compensation.

Staff Recommendation. Hold Open.

0820 DEPARTMENT OF JUSTICE

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

The Governor's budget proposes $1.2 billion to support DOJ operations in 2023-24—an increase of $9 million (less than 1 percent) over the revised amount for 2022-23. 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 (CJIS). Of the total amount proposed for DOJ operations in 2022-23, nearly 40 percent—$486 million—is from the General Fund. This is an increase of $18 million (or 3.9 percent) from the revised 2022-23 General Fund amount.

Issue 9: DNA Identification Fund Backfill

Proposal. The Bureau of Forensic Services (BFS) is funded through the DNA Identification Fund. The DNA ID Fund is not structurally balanced due to declines in criminal fine and fee revenue. The Governor's budget proposes:

- $17.3 million in increased annual funding from the DNA Identification Fund to support BFS. This replaces $10 million previously redirected from other fund sources, and an additional $7.3 million for BFS to support equipment replacement ($5.8 million) and facility maintenance ($1.5 million).

- $53.4 million General Fund ongoing to backfill the DNA Identification Fund due to declines in criminal fine and fee revenue.

- Provisional budget language authorizing the Department of Finance to transfer additional General Fund to the DNA Identification Fund if revenues deposited into the fund decline further and are insufficient to support BFS.

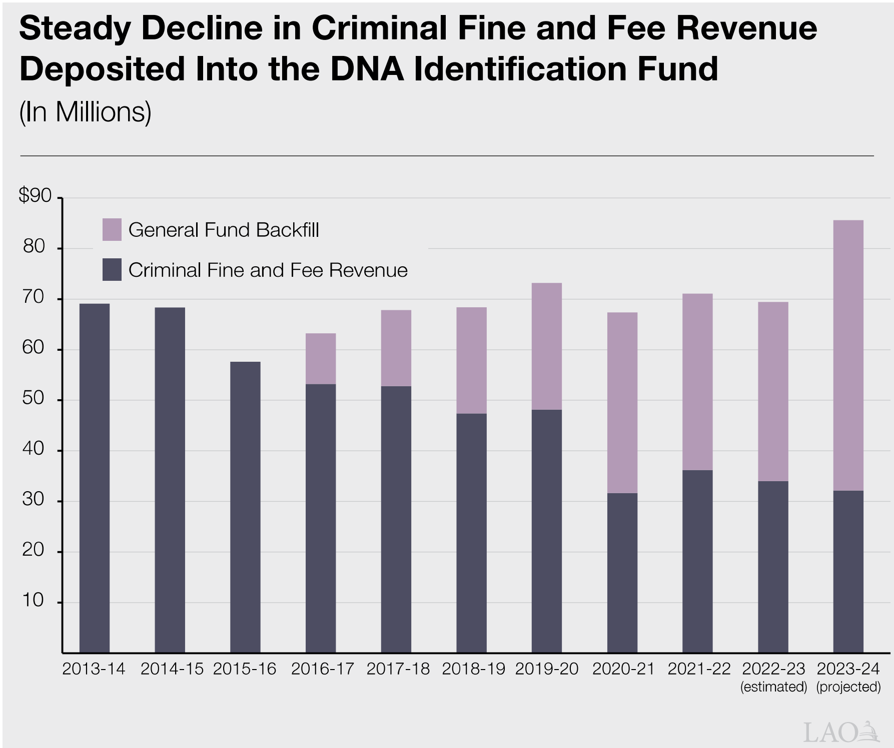
Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Barry Miller, Bureau Chief, Bureau of Forensic Services, Department of Justice
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance

Background.

BFS provides criminal laboratory services—such as DNA testing, alcohol and controlled substances analysis, and on-site crime scene investigative support. Ten regional laboratories provide services generally at no charge for local law enforcement and prosecutorial agencies in 46 counties that do not have access to those services. BFS also assists the 12 counties and 8 cities that operate their own laboratories where BFS offers services their laboratories lack. (Local agencies also contract with private or other governmental laboratories for services.) Additionally, BFS operates the state's DNA laboratory as well as the state's criminalistics training institute.

BFS receives support from various sources, but primarily from the DNA Identification Fund—a state special fund that receives criminal fine and fee revenue—and the state General Fund. As shown below, the amount of criminal fine and fee revenue deposited into the DNA Identification Fund has steadily declined over the past decade—from a high of $69 million in 2013-14 to $34 million in 2022-23 (a decline of 51 percent). To help address this steady decline and to maintain the level of services provided by BFS, the state has provided General Fund support to backfill the reduction in criminal fine and fee revenue deposited in the DNA Identification Fund since 2016-17.



Source: LAO[17]

Alternative Revenue Sources for the DNA Identification Fund. The 2021-22 budget package required DOJ to provide a report by March 10, 2022 that identifies various options—other than the state General Fund—to support BFS annual operations. The budget package specifically directed DOJ to consider an option that would require sharing costs with local agencies that make use of BFS services based on the specific type of forensic services sought, the speed of the service, the size of the agency, and any other factors DOJ chooses to include.

In response to the above requirement, DOJ provided a report to the Legislature on March 10, 2022. The department identified the following options to support BFS operations: (1) a general tax increase, (2) allowing the surcharge added to criminal history background check fees to also cover BFS costs (and adjusting the surcharge accordingly), (3) increasing the specific fee added when individuals are convicted of criminal offenses which generates the revenue deposited into the DNA Identification Fund, (4) requiring the judicial branch to provide funding to support BFS as it similarly is supported by criminal fine and fee revenue and forensic science is important to courts, and (5) requiring nonlocal government entities (such as the California Department of Corrections and Rehabilitation or CDCR) pay for their share of BFS services.

Additionally, DOJ discussed the benefits and drawbacks of various methods for implementing a cost-sharing model with local agencies. Such methods included establishing: (1) an hourly rate for services provided, (2) a flat fee by type of service provided, (3) a flat fee by county, and (4) a hybrid flat fee-hourly rate model. After its assessment of the cost-sharing model and alternative

[17] https://lao.ca.gov/Publications/Report/4701

funding options, DOJ maintained that it believes a General Fund backfill is the best approach for supporting BFS annual operations.

Proposed Resources. The Governor's budget proposes $17.3 million in increased annual funding from the DNA Identification Fund to support BFS. This amount includes $10 million to restore BFS's historical level of spending authority from the fund. In prior years, the budget partially addressed the DNA Identification Fund's shortfall by reducing the bureau's expenditure authority from the fund by $10 million and redirecting $10 million General Fund previously budgeted for CJIS to support BFS. CJIS then received a backfill from the Fingerprint Fees Account (FFA). (The FFA could not directly backfill BFS due to statutory limits on how the funds in FFA can be used.) As such actions are no longer sustainable due to the condition of the FFA, the Governor's budget proposes to restore the DNA Identification Fund to its historical expenditure levels. The proposed increase also includes $7.3 million for BFS to support equipment replacement ($5.8 million) and facility maintenance ($1.5 million).

The Governor's budget proposes to transfer $53.4 million General Fund on an ongoing basis to the DNA Identification Fund to backfill reductions in criminal fine and fee revenue deposited into the fund and to support the increased BFS funding levels discussed above. The Governor's budget also proposes provisional budget language authorizing the Department of Finance to transfer additional General Fund to the DNA Identification Fund if revenues deposited into the fund decline further and are insufficient to support BFS. This transfer could only occur 30 days after written notification is provided to the Legislature. To the extent that this proposed language is included in the annual budget act, the General Fund would be permanently responsible for backfilling the DNA Identification Fund to ensure there is sufficient funding to support BFS.

LAO Comments.

Governor's Proposal Would Permanently Address Ongoing Decline in DNA Identification Fund Revenues. The Governor's proposal would fully address the ongoing decline in DNA Identification Fund revenues and provide BFS with a stable level of funding. This is because the General Fund would be permanently responsible for supporting any BFS costs that cannot be supported by the DNA Identification Fund.

Increased DNA Identification Fund Support for BFS Reasonable. The LAO finds that the Governor's proposed level of funding for BFS generally appears reasonable as DOJ has provided sufficient workload justification for the total level of funding provided for the bureau's operations as well as the ongoing need for equipment replacement and facility maintenance.

Requiring Users of BFS Services to Partially Support BFS Merits Consideration. As noted above, DOJ was directed to provide the Legislature with funding alternatives to support BFS that did not include the General Fund. Upon review of DOJ's March 2022 report on such alternative funding options, the LAO concludes that requiring users of BFS services to partially support BFS operations is the best option.

Specifically, the LAO finds that directing local governments to partially support BFS operations merits consideration for the following reasons:

- *BFS Provides Certain Local Governments Substantial Benefits*. City and county law enforcement and prosecutorial agencies are predominantly responsible for collecting and submitting forensic evidence for testing as well as using the evidence to pursue criminal convictions in court. However, certain counties and cities benefit significantly more than others. Specifically, while 12 counties and 8 cities currently use their own resources to support local criminal laboratories, 46 counties generally do not have to use any of their resources for criminal laboratory services. This is because BFS is effectively subsidizing the agencies in these counties with tens of millions of dollars in services annually. As such, the current system is inequitable.

- *Local Governments Lack Incentive to Use BFS Services Cost-Effectively.* BFS's current funding structure provides the agencies it serves with little incentive to use its services in a cost-effective manner. Since BFS does not charge for its services, these local agencies lack incentive to prioritize what forensic evidence is collected and submitted for testing. Their submissions instead are generally only limited by BFS's overall capacity and service levels, as determined by the amount of funding provided to the bureau in the annual state budget. In contrast, counties and cities that use their own resources to support their labs—or those that decide they want to pay a private laboratory for testing—have greater incentive to carefully prioritize what evidence should be tested and how quickly it should be done.

Similarly, the LAO finds that requiring nonlocal government entities pay for their share of BFS also merits consideration. As previously mentioned, this was a funding option identified in DOJ's March 2022 report. Specifically, DOJ notes that nearly 34 percent of BFS workload in 2020 was for nonlocal governmental entities—with the California Highway Patrol and CDCR as major users. Requiring nonlocal government entities pay for their share of services encourages entities to consider what evidence is submitted, why it is submitted, and whether it should be submitted to DOJ or another entity. The LAO notes that this could require some level of increased resources for state agencies that receive BFS services. However, this would reduce the General Fund backfill needed to support BFS.

Most Other Potential Alternative BFS Funding Options Identified by DOJ Raise Concerns. In reviewing DOJ's March 2022 report, the LAO identified various concerns about the viability of some of the potential funding options identified. Specifically, the LAO has concerns related to the following options:

- *General Tax Increase.* A general tax increase would effectively be an increase in General Fund resources as such taxes are typically deposited into the state's General Fund to support various purposes. As such, this does not represent an alternative other than simply using the General Fund. As noted above, the Legislature requested options other than the General Fund to support BFS.

- *Criminal History Background Check Fee Increase.* These fees are typically assessed to cover DOJ's costs for providing criminal history information for employment, licensing, or certification purposes—including the maintenance of the systems from which the criminal history information is obtained. BFS work does not seem as if it would be consistent with the intent of these fees. For example, it is unclear the extent to which applicants seeking background checks would benefit from BFS services.

- *Criminal Conviction Fee Increase.* Given the state's complex formula for distributing criminal fine and fee revenue, there is no guarantee that increasing this specific fee will actually increase the amount of revenue deposited in the DNA Identification Fund annually. This is because the complex formula dictates the order in which special funds receive criminal fine and fee revenue that is collected. Given the fund's priority order in this formula, it is not certain that it would receive the expected revenues as funds with a higher-priority order could receive the bulk of any additional revenue collected.

- *Requiring Judicial Branch Support.* While forensic science is a key component of evidence in criminal cases, the judicial branch is not responsible for determining whether a criminal case is to be filed and the type and quality of evidence provided to prosecute such cases. In fact, this is a responsibility of local prosecutors and law enforcement rather than the judicial branch who is responsible for fairly and objectively adjudicating such cases.

LAO Recommendation.

Recommend Requiring BFS Users to Partially Support BFS and Providing Requested General Fund Backfill for Only One Year. The LAO finds that requiring users of BFS services to partially support BFS operations is a better option for maintaining support for the bureau as it minimizes the impact on the General Fund and results in the users having incentive to prioritize what workload is submitted to BFS. Accordingly, the LAO recommends the Legislature require (1) users of BFS services to partially support BFS beginning in 2024-25 and (2) DOJ develop a plan for calculating each agency's share of the BFS services it uses by October 1, 2023. To allow for this new funding structure to be implemented, the LAO recommends the Legislature provide the proposed General Fund backfill—but only for one year.

Staff Recommendation. Hold Open.

Issue 10: Fee Increase to Maintain Operations of the Missing Persons DNA Program

Proposal. The Governor's budget includes $1,464,000 Missing Persons DNA Data Base Fund and 1.0 position in 2023-24, $1,447,000 in 2024-25, and $1,610,000 in 2025-26 and ongoing to maintain operations of the Missing Persons DNA Program (MPDP). This brings the total budget for the program to $5.7 million. This proposal includes trailer bill language to increase the death certificate fee by $1.63 to support the program's operating costs.

Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Barry Miller, Bureau Chief, Bureau of Forensic Services, Department of Justice
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance

Background. The MPDP provides specialized DNA testing services to any California law enforcement agency that submits unidentified human remains or other biological samples from their missing person investigations. MPDP develops DNA profiles from the samples, which are often degraded and/or environmentally compromised, and compares them to federal missing person databases and relatives of missing persons. MPDP also assists in disaster response, providing on-site consultation, DNA collection kits, and transportation of case samples (California also does not have a State Coroner or Medical Examiner). Since 2001, the program has made identifications of more than 1,100 remains and missing persons. The current average case turnaround is about 2 months.

The MPDP is funded through a fee charged on each death certificate ordered in the state, which is deposited into the Missing Persons DNA Data Base Fund. The current fee is $2.00, and has been unchanged for more than 20 years (it did not include a CPI adjustment). However, the programs operating costs are increasing, in part due to new technologies that require more expensive supplies and equipment, and the revenue generated by the fee is no longer sufficient to support the program.

The proposed budget increases the fee to $3.63, generating an estimated $2.6 million in revenue and bringing the total program budget to $5.7 million (the program currently has budgetary authority greater than revenues, leading to the discrepancy between the amount of new revenue and the requested authority). The proposal also includes an additional supervisory position, as noted in the staffing chart below. The trailer bill language is keyed as a two-thirds vote.

	CIS II (now Crime Analyst)	Senior Criminalist	Criminalist Supervisor	Criminalist Manager
Initial Authorized Staffing (2001)	2	10	0	1
Current Authorized Staffing	2	9	1*	1
Proposed Staffing	2	9	2	1

* The MPDP lost a vacant Senior Criminalist position when it was reclassified to this Criminalist Supervisor position. The program was in need of a second supervisor to assist with oversight of the program's eleven rank-and-file staff.

According to the DOF, the proposal would increase the cost of the average death certificate in California from $21 to $22.50 (costs vary by county). An informal survey of death certificate costs in other states shows that many states charge higher fees for death certificates, e.g.,: Delaware ($25), Georgia ($25), Ohio ($25), Oregon ($25), Illinois ($29), Alaska ($30), New York ($30), and Michigan ($34).

Staff Comments. *Long term sustainability of program.* The proposed fee increase is based on the current workload of the MPDP. However, as shown in the table below from the BCP, DOJ expects the workload of this unit to continue increasing over time. It is not clear whether this is a sustainable solution to funding this program.

Workload History

	FY 2016-17*	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Analysis Requests Received	797	912	1159	1165	1272	1282
Requests Completed	746	892	1082	1120	1167	1334**
Ending Backlog	268	288	365	410	515	333
% Change In Requests Received***	-15.75%	14.43%	27.08%	0.52%	9.18%	0.79%

* The decrease in requests received in FY 2016-17 may be attributable to the use by some coroner's offices of Rapid DNA testing instruments. Despite the availability of this new technology, it is only useful for typing good quality samples. Agencies will still rely on the MPDP for testing of compromised and degraded DNA samples.
** In 2021-22, requests completed was higher than projected because the addition of a second supervisor enabled the program to investigate and close out a limited number of pending cases that no longer needed analysis.
*** The average change in the analysis requests for the last three fiscal years was an increase of 3.50%.

Projected Outcomes

	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
Authorized Expenditures*	3,898	3,898	3,898	3,898	3,898
Anticipated Revenues	3,200	5,808	5,808	5,808	5,808
Authorized Positions	14	14	14	14	14
Analysis Requests Received**	1331	1379	1428	1479	1532
Requests Completed***	1156	1156	1156	1156	1156
Ending Backlog	563	785	1057	1380	1758

* Authorized Expenditure is per the 2022-23 Budget Act Allotment.
**After 2021-22, requests received are expected to return to pre-pandemic levels as the State returns to more normal operations. The projected increase in new requests is based on the average annual increase of 3.57% observed for 2019-20 through 2021-22 (See Table 2).
*** In 2021-22, 1,156 analysis requests were completed by the nine filled Senior Criminalist positions.

Staff Recommendation. Hold Open.

Issue 11: Legal Workload and Implementation of Legislation

Proposal. Governor's budget proposes $24.5 million in 2023-24 ($15 million General Fund and $9.5 million from the Legal Services Revolving Fund (LSRF), Antitrust Account, and Unfair Competition Law (UCL) Fund)—decreasing to $20.6 million annually in 2027-28—to support DOJ's legal workload.

Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Thomas Patterson, Senior Assistant Attorney General, Civil Law Division, Department of Justice
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance

Background. The Attorney General (AG) is charged with various legal duties. These include investigating and prosecuting violations of state law when either the AG believes it is not being adequately enforced or when statutorily directed to. The AG also represents state agencies and employees in judicial proceedings (with some exceptions). About 53 percent of DOJ's budget supports the Division of Legal Services, which is responsible for these litigation activities. This funding comes from various sources—about 40 percent from reimbursements (generally from state agencies receiving DOJ legal services), 35 percent from the state General Fund, 16 percent from state special funds (including litigation proceeds, which are generally payments to the state in exchange for the state ending its pursuit of legal action), and 9 percent from federal funds.

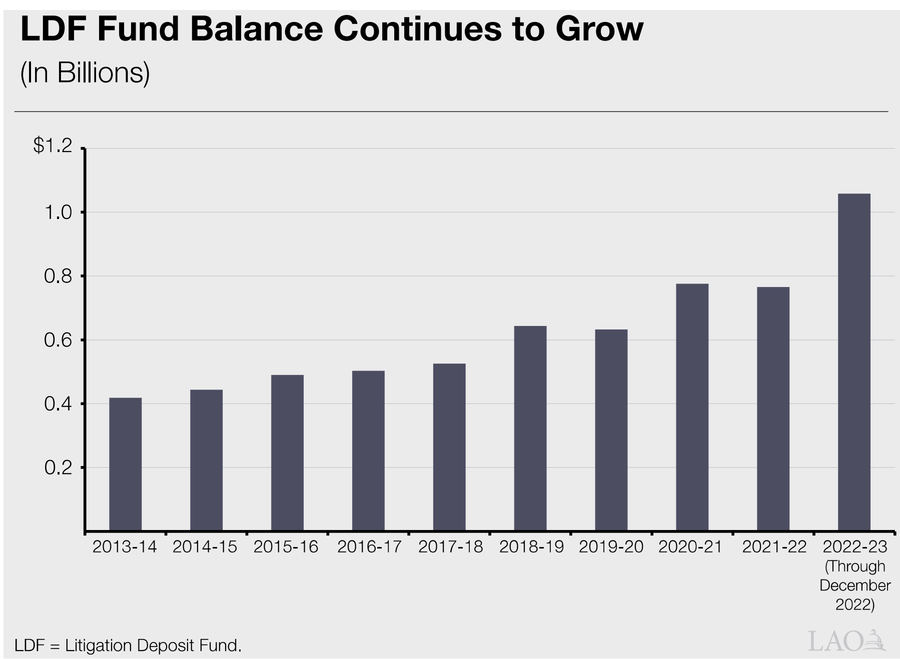
The Division of Legal Services is further divided into four subdivisions—Civil Law, Criminal Law, Medi-Cal Fraud and Elder Abuse, and Public Rights. Of the total amount of funding provided to support the division in 2022-23, $241 million (or 37 percent) supported Civil Law, $139 million (or 21 percent) supported Criminal Law, $73 million (or 11 percent) supported Medi-Cal Fraud and Elder Abuse, and $193 million (or 30 percent) supported Public Rights.

Self-Initiated Workload. DOJ can initiate legal actions, and defend or represent the state in actions filed by others. These costs are generally paid for from DOJ's budget through General Fund dollars or special funds. DOJ has significant flexibility over this workload, as it is the sole decision maker in determining whether to initiate a case, how the case is initiated, and how cases are resolved.

State Agencies Workload. State agencies can request DOJ initiate legal action, defend or represent them in legal actions filed by others, or provide legal advice. DOJ typically bills state agencies for their costs, which are reflected as reimbursements in DOJ's budget. (These reimbursements are deposited into a special fund, the Legal Services Revolving Fund.) State agencies generally pay for these costs from their own budgets, which can consist of General Fund and/or special fund dollars, such as licensing fee revenue. The DOJ has less flexibility over this workload, because decisions on whether to pursue legal action and how such cases are resolved are either determined by the state agency, or in partnership with the state agency.

***Litigation Deposit Fund (LDF*)**. The LDF is a state special fund created to receive litigation proceeds in cases where the state is a party to the legal action and no other state statutes specifically provide for (1) the handling and investing of the money and (2) how any earned interest is distributed. (The state generally earns interest from the investment of monies that are held prior to allocation, and DOJ indicated that interest is typically administered in the same manner as the principal.) The fund primarily supports payments to individuals and entities harmed by those breaking the law, as well as transfers to DOJ special funds to support DOJ litigation-related costs. State law requires that any monies remaining in the LDF that are not needed to satisfy court-ordered payments as documented in legal agreements or to support DOJ's litigation costs be transferred to the state General Fund no later than July 1 of each fiscal year.

Deposits of litigation proceeds into the LDF, as well as the amount of funds allocated from the LDF, vary over time. As shown below, the LDF fund balance—or the amount of money remaining in the fund at the end of the year after all revenues have been received and all allocations have been made—has grown significantly and relatively steadily over the past decade. As of the end of December 2022, the LDF fund balance was just under $1.1 billion. According to DOJ, this balance includes $633 million (57 percent) restricted by special fund statutes, court orders, or settlement agreements; $2.2 million (0.2 percent) unrestricted funding; and $483 million (43 percent) unavailable, e.g., the case is on appeal, the funds are held in trust for restitution or specified for other uses, etc. Over half of the restricted funding is in the Consumer Protection area, followed by Medi-Cal Fraud and Elder Abuse, False Claims, and Environmental areas. DOJ reported earning over $3 million in interest in the final quarter of 2022.



Source: LAO[18]

Because the LDF was created to hold monies as a trust fund, it is not reflected in or considered part of the state budget, similar to other state funds with this status. Instead, DOJ is only required

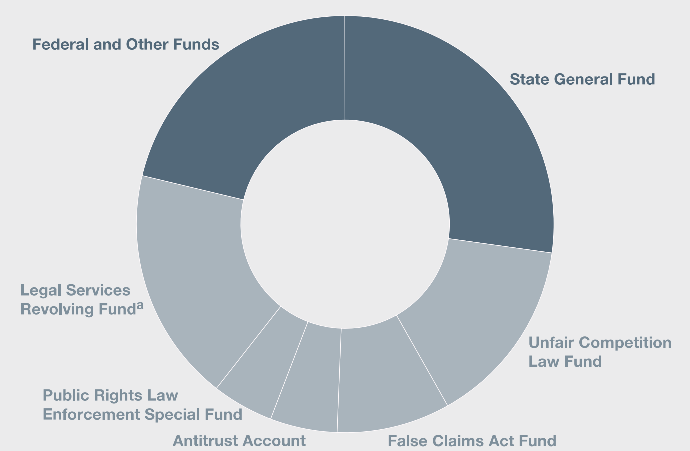
[18] https://lao.ca.gov/Publications/Report/4701

to report quarterly to the Legislature on the number of deposits received, the amount of interest received, the amount disbursed to claimants, and the amount used to support DOJ litigation costs. DOJ is generally authorized to make allocation decisions whenever, and to whomever, it deems appropriate, as long as the decisions are consistent with the terms of underlying legal agreements or state law. Until such allocations are made, monies remain in the LDF fund balance.

Transfers to Special Funds. Tens of millions of dollars in LDF monies are regularly transferred each year to four DOJ special funds: the Unfair Competition Law (UCL) Fund, the False Claims Act Fund, the Antitrust Account, and the Public Rights Law Enforcement Special Fund (PRLESF). State law specifies what types of litigation proceeds can be transferred into these funds and provides guidelines for how such proceeds are to be used. For example, state law requires the state's share of litigation proceeds from cases related to unlawful, unfair, or fraudulent business practices, as well as false or misleading advertising, be deposited into the UCL Fund to exclusively support the enforcement of consumer protection laws by the Attorney General. Most transfers to these DOJ special funds support work of roughly a dozen sections within the Public Rights Division as well as the Medi-Cal and Elder Abuse Division. As shown below, these sections generally receive support from other funds as well, including the state General Fund and federal funds. The specific level and mix of funding for these various sections can vary annually based on DOJ funding decisions.

DOJ Sections Supported by LDF Litigation Proceeds Also Receive Support From Other Fund Sources

2021-22



[a] Reflects legal services costs billed back go to state agencies. While eligible for LDF transfers, there were no LDF transfers to the Legal Services Revolving Fund in 2021-22.

DOJ = Department of Justice and LDF = Litigation Deposit Fund.

Source: LAO[19]

Fourteen Proposals Seeking to Implement Legislation. The Governor's budget proposes $11 million General Fund in 2023-24 (decreasing to $10.4 million annually in 2027-28) to implement 14 pieces of enacted legislation. Some of these proposals require DOJ take certain actions. For

[19] https://lao.ca.gov/Publications/Report/4701

example, beginning July 2023, Chapter 326 of 2020 (AB 1506, McCarty) requires DOJ review law enforcement agencies' use of deadly force policies (upon agency request) and provide specific and customized recommendations. Other proposals authorize—but do not require—DOJ to take action. For example, beginning July 2023, Chapter 857 of 2022 (SB 301, Skinner) requires online marketplaces to mandate their high-volume, third-party sellers to (1) report specific information, (2) verify the provided information, (3) suspend future sales of third-party sellers that do not comply with reporting and other specified conditions, and (4) comply with certain recordkeeping procedures. DOJ is authorized to seek civil penalties, reasonable attorney's fees and costs, and preventative relief (such as an injunction) for violations.

Four Proposals for Two Specific Cases and Other Legal Workload. The Governor's budget proposes $13.4 million in 2023-24 ($4 million General Fund and $9.5 million from various special funds)—decreasing to $10.2 million annually in 2027-28—for four budget proposals supporting DOJ legal workload. These are outlined below.

Outside Co-Counsel. To mitigate a rise in evictions caused by the pandemic, the state and various local entities passed various eviction moratoria including the COVID-19 Tenant Relief Act of 2020 (Relief Act) in August 2020 which expired in September 2021. A group of eighty-nine property owners and managers filed two suits challenging the Relief Act. Both cases involve state and federal inverse condemnation claims, and one also asserts a commandeering claim under the Emergency Services Act. Both cases are not class actions because each property owner's rights are unique to that owner. DOJ has determined that it does not have the resources to defend all 89 claims, particularly for discovery and evaluation of damages, and is requesting $3 million per year for four years to retain outside legal assistance, including a property valuation expert.

Housing Strike Force. The Attorney General announced the formation of the Housing Strike Force on November 3, 2021, including a public interface to receive public comments and complaints. The DOJ has received over 1,684 emails to that address as of July 11, 2022, but the section has been unable to pursue those tips and complaints due to insufficient resources. The Strike Force is a collaborative effort of attorneys in four sections within the DOJ's Public Rights Division, each approaching the housing crisis from their areas of expertise. These include the Civil Rights Enforcement Section, which focuses on housing discrimination and access; the Consumer Protection Section, which focuses on tenant protection; the Environmental Section, which investigates pollution in relation to housing; and the Land Use and Conservation Section, which focuses on housing production. Resources are being requested for the Civil Rights Enforcement and Land Use and Conservation Sections; the other two are supporting the Housing Strike Force workload within their existing budgets.

The Land Use and Conservation Section represents the Department of Housing and Community Development (HCD), both in an advisory capacity and in litigation, supporting its decisions enforcing California's housing laws, including the Housing Element Law and SB 9 (Atkins), Chapter 162, Statute of 2021. Prior to the advent of the Housing Strike Force, the section's housing work was all on behalf of HCD, and was almost entirely client-funded (unlike the other sections). The section is also interested in supporting to cities facing community opposition to housing production. The work of HCD has expanded recently, as it has received additional funding and formed a Housing Accountability Unit to track impediments to housing development and enforce housing laws. However, they are limited to enforcing specific housing laws and cannot pursue criminal charges. The DOJ indicated that they have regular communication with this unit to ensure their efforts are coordinated and not duplicative.

The proposed budget includes $1,375,000 ($973,000 General Fund and $402,000 Legal Services Revolving Fund) and 4.0 positions in 2023-24 and $1,337,000 in 2024-25 and ongoing to address litigation workload related to housing production and planning, expand enforcement of the state's housing production laws and fair housing laws, and take a proactive approach to increase housing.

Antitrust. DOJ is requesting $7,956,000 ($3,978,000 Attorney General Antitrust Account and $3,978,000 Unfair Competition Law Fund) in 2023-24 and $7,786,000 ($3,893,000 Attorney General Antitrust Account and $3,893,000 Unfair Competition Law Fund) ongoing to prosecute antitrust violations within the gas and oil, technology, and agricultural sectors. The proposal also includes 12 additional attorneys, 4 paralegals, 2 supervising attorneys, and 2 research specialists. The Antitrust Law Section currently has 36 staff (25 attorneys, 3 supervising attorneys, and 8 paralegals). DOJ indicated that current workload is roughly evenly split three ways: tech, gasoline, and other matters.

While antitrust laws are generally enforced at the federal level, the DOJ asserts that there is a need for additional state assistance, particularly for cases that disproportionately affect California. For example, DOJ cited mergers between agricultural entities that primarily affect California, and federal agencies are looking to the California DOJ to investigate. In the area of oil and gas, DOJ asserts that neither the federal agencies nor any other states have strong interests in California's oil and gas markets, despite calls for investigations of rising gasoline prices. Similarly, DOJ asserts the need to investigate large technology companies due to potential antitrust violations. In 2021-22, DOJ allocated and self-funded six additional positions for technology investigations temporarily. Recent reports indicate that mergers and acquisitions have increased dramatically – deal volume in 2021 was 60% higher than 2020, which was 50% higher than 2019; the number of transactions in 2021 was 24% higher than 2020[20].

Wage Theft. DOJ is requesting $1.1 million UCL Fund ongoing and 4 positions for its Worker Rights and Fair Labor Section (WRFLS) to pursue wage theft criminal prosecutions. The section currently consists of 18 positions (15 attorneys, 1 investigative auditor, and 2 paralegals), including 11 unfunded vacant positions that were transferred from other areas in the Department and funded using existing resources in the Public Rights Division. As compared to similar efforts at the Department of Industrial Relations, the Attorney General has broader enforcement powers, and can expand investigations to include tax evasion, licensing violations, insurance fraud, deceptive practices, and unfair competition claims, in addition to violations of the labor code. DOJ also has the unique ability to seek criminal sanctions. WRFLS has investigated independent contractor misclassifications, "labor consultants" who help employers evade workers compensation payments, illegal non-compete clauses, among other actions. The section is involved in multi-state efforts targeting deceptive practices and protecting worker rights, including filing amicus briefs. DOJ also states that the Section is receiving a steady stream of requests from worker advocates; federal, state, and local government agencies; and the public to examine new cases.

[20] https://corpgov.law.harvard.edu/2022/01/27/mergers-and-acquisitions-2022/

The following tables summarize the proposals included in this issue.

Summary of 2023-24 Legal-Related Budget Proposals by Requested Fund Source
(In Millions)

Budget Proposal	Legal Section and Division	2023-24	2024-25	2025-26	2026-27	2027-28 and Ongoing
General Fund						
Outside Co-Counsel	Torts (Civil)	$3.0	$3.0	$3.0	$3.0	—
Chapter 739 of 2022 (AB 256, Kalra): Criminal Procedure Discrimination	AWT (Criminal)	2.2	2.1	0.8	0.8	—
Chapter 806 of 2022 (AB 2778, McCarty): Race-Blind Charging[a]	Various (Criminal)	0.8	2.4	2.4	2.4	$2.4
Chapter 98 of 2022 (AB 1594, Ting): Firearm Civil Suits	Consumer (PRD)	0.6	0.6	0.6	0.6	0.6
Chapter 269 of 2022 (AB 587, Gabriel): Social Media Companies Terms of Service	Consumer (PRD)	0.7	0.6	0.6	0.6	0.6
Chapter 320 of 2022 (AB 2273, Wicks): California Age-Appropriate Design Code Act	Consumer (PRD)	0.9	1.2	1.1	1.1	1.1
Chapter 642 of 2022 (AB 1837, Bonta): Residential Real Property Foreclosure	Consumer (PRD)	0.2	0.2	0.2	0.2	0.2
Chapter 700 of 2022 (AB 2879, Low): Cyberbullying Online Content	Consumer (PRD)	0.3	0.4	0.4	0.4	0.4
Chapter 857 of 2022 (SB 301, Skinner): Online Marketplaces	Consumer (PRD)	0.8	0.8	0.8	0.8	0.8
Chapter 326 of 2020 (AB 1506, McCarty): Police Practices Division	CRES (PRD)	1.8	1.8	1.8	1.8	1.8
Chapter 555 of 2022 (AB 1287, Bauer-Kahan): Gender Price Discrimination	CRES (PRD)	0.3	0.3	0.3	0.3	0.3
Chapter 750 of 2021 (AB 1084, Low): Gender Neutral Retail Departments	CRES (PRD)	0.3	0.5	0.5	0.5	0.5
Chapter 854 of 2022 (AB 655, Kalra): California Law Enforcement Accountability Reform Act	CRES (PRD)	0.3	0.3	0.3	0.3	0.3
Chapter 986 of 2022 (SB 863, Min): Domestic Violence Death Review Teams	CRES (PRD)	1.5	1.1	1.1	1.1	1.1
Chapter 475 of 2022 (AB 923, Ramos): Government-to-Government Consultation Act[b]	IGLS (PRD)	0.3	0.3	0.3	0.3	0.3
Housing Strike Force	Land and CRES (PRD)	1.0	0.9	0.9	0.9	0.9
Subtotal, General Fund		($15.0)	($16.6)	($15.2)	($15.2)	($11.4)
Special Funds						
Legal Services Revolving Fund						
Housing Strike Force	Land and CRES (PRD)	$0.4	$0.4	$0.4	$0.4	$0.4
Antitrust Account						
Antitrust Gasoline Pricing, Agriculture, and Technology Enforcement	Antitrust (PRD)	$4.0	$3.9	$3.9	$3.9	$3.9
Unfair Competition Law Fund						
Antitrust Gasoline Pricing, Agriculture, and Technology Enforcement	Antitrust (PRD)	$4.0	$3.9	$3.9	$3.9	$3.9
Wage Theft Criminal Prosecutions	WRFLS (PRD)	1.1	1.1	1.1	1.1	1.1
Subtotal, Special Funds		($9.5)	($9.2)	($9.2)	($9.2)	($9.2)
Totals, All Funds		**$24.5**	**$25.8**	**$24.4**	**$24.4**	**$20.6**

[a] Also reflects associated Research Center Costs.
[b] Adjusted to reflect only legal-related portion of the request.

Consumer = Consumer Protection Section; Torts = Torts and Condemnation Section; CRES = Civil Rights Enforcement Section; AWT = Appeals, Writs and Trials Section; PRD = Public Rights Division; Land = Land Use and Conservation Section; WRFLS = Worker Rights and Fair Labor Section; and IGLS = Indian and Gaming Law Section.

Description of 2023-24 Legal-Related Budget Proposals

Budget Proposal	Description
Recently Enacted Legislation	
Chapter 739 of 2022 (AB 256, Kalra): Criminal Procedure Discrimination	Authorizes people to file a petition alleging that the state sought or obtained a criminal conviction or sentence on the basis of sex, ethnicity, or national origin and for the court to impose specified remedies (such as vacating the conviction). Also authorizes the use of nonstatistical evidence to demonstrate racial bias and requires the court to consider systemic and institutional racial bias and racial profiling when assessing evidence of racial bias. The Department of Justice (DOJ) requests resources to address such petitions from past convictions that are subsequently appealed.
Chapter 806 of 2022 (AB 2778, McCarty): Race-Blind Charging	Beginning January 2024, requires DOJ develop and publish "race-blind charging" guidelines for agencies prosecuting felonies or misdemeanors to implement a process which redacts suspect, victim, or witness racial identifying information from charging documents received from law enforcement agencies. Beginning January 2025, requires such prosecuting agencies implement versions of the DOJ guidelines. DOJ requests resources to develop these guidelines and to complete redaction and race-blind reviews of DOJ criminal cases.
Chapter 98 of 2022 (AB 1594, Ting): Firearm Civil Suits	Beginning July 2023, requires firearm industry members comply with a specified standard of conduct—such as to implement reasonable controls to prevent firearm-related loss or theft. Prohibits firearm industry members from manufacturing, marketing, importing, or selling firearm-related products that are abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety. Authorizes a person suffering harm because of a firearm industry member's conduct to seek court relief. Authorizes DOJ, city attorneys, and county counsel to bring civil actions for violations and allows the court to award damages, attorney's fees and costs, and injunctive or other relief. DOJ requests resources to investigate and pursue such cases.
Chapter 269 of 2022 (AB 587, Gabriel): Social Media Companies Terms of Service	Requires a social media company post their terms of service, including certain specific information, for each social media platform it owns or operates and report certain information semiannually to DOJ beginning January 2024. Requires DOJ make such reports publicly available on its website. Authorizes DOJ and select city attorneys to seek civil penalties. For DOJ actions, penalty revenues are split equally between the state General Fund and the county in which the judgment was entered. DOJ requests resources to post reports on its website as well as to investigate and pursue such cases.
Chapter 320 of 2022 (AB 2273, Wicks): California Age-Appropriate Design Code Act	Beginning July 2024, requires businesses that provide an online service or product likely to be accessed by children comply with certain privacy requirements—including the completion of a data protection impact assessment for any new service or product which must be provided to DOJ within five business days upon written request. Authorizes DOJ to seek civil penalties for any violations and requires that any penalties, fees, and expenses recovered be deposited into the Consumer Privacy Fund, with the intent that they be used to fully offset costs incurred by DOJ. DOJ requests resources to conduct investigations and pursue cases, to review complaints and impact assessments, and other activities.
Chapter 642 of 2022 (AB 1837, Bonta): Residential Real Property Foreclosure	Makes various changes to processes and requirements related to the sale of residential properties. Requires a trustee or its authorized agent send specific information to DOJ if the winning bidder at a trustee sale of property pursuant to a power of sale under a mortgage or deed of trust is an eligible tenant buyer, prospective owner-occupant, or other eligible bidder and requires DOJ publish a summary of such information on its website. Authorizes DOJ, county counsel, city attorneys, and district attorneys bring legal action to enforce specific residential property foreclosure sale procedures and requirements. DOJ requests resources to process the submitted data, respond to requests for information, and assist with investigations and legal cases.
Chapter 700 of 2022 (AB 2879, Low): Cyberbullying Online Content	Requires social media platforms disclose all cyberbullying reporting procedures in its terms of service and provide an online mechanism to report cyberbullying or any content that violates existing terms of service. Beginning September 2023, authorizes DOJ to seek civil penalties and injunctive relief for violations. DOJ requests resources to investigate and pursue such cases.
Chapter 857 of 2022 (SB 301, Skinner): Online Marketplaces	Requires online marketplaces to require their high-volume third-party sellers report certain specific information, to verify the provided information, to suspend future sales of third-party sellers that do not comply with reporting and other specified conditions, and to comply with certain recordkeeping procedures. Beginning July 2023, authorizes DOJ to seek civil penalties, reasonable attorney's fees and costs, and preventative relief (such as an injunction) for violations. DOJ requests resources to investigate and pursue such cases.

(continued)

Name of Budget Proposal	Description
Chapter 326 of 2020 (AB 1506, McCarty)	Requires DOJ investigate officer-involved shootings resulting in the death of an unarmed citizen. Also requires DOJ review, upon the request of a local law enforcement agency, the agency's use of deadly force policies and make recommendations. DOJ requests resources to review use of force policies and make recommendations.
Chapter 555 of 2022 (AB 1287, Bauer-Kahan)	Prohibits a person or business from charging a different price for any two goods that are substantially similar if the difference is based on the gender of the people for whom the goods are marketed and intended. Authorizes DOJ to seek a court order, after providing 5-day notice to the defendant, to prevent the continuation of such practices and allows the court to impose civil penalties. DOJ requests resources to investigate and pursue such cases
Chapter 750 of 2022 (AB 1084, Low)	Requires retail department stores physically located in the state with a total of 500 or more employees that sells childcare items or toys to maintain a gender neutral section area in which a reasonable selection shall be displayed. Beginning January 2024, authorizes DOJ, district attorneys, or city attorneys seek civil penalties and reasonable attorney's fees and costs for violations of the law. DOJ seeks resources to process, investigate, and pursue such cases as well as any other legal violations that emerge.
Chapter 854 of 2022 (AB 655, Kalra)	Requires public agencies investigate any complaint alleging its employed peace officers engaged in membership in a hate group, participated in hate group activity, or advocated public expressions of hate and requires DOJ develop guidelines for investigation and adjudication of these complaints by local agencies. DOJ requests resources to develop such guidelines, responding to inquiries, providing technical assistance to local agencies, and enforce compliance.
Chapter 986 of 2022 (SB 863, Min)	Authorizes interagency domestic violence death review teams to assist local agencies identify and review domestic violence near-death cases. Subject to available funding, requires DOJ develop by January 2025 a protocol to facilitate communication between persons conducting autopsies and those involved in domestic violence case to ensure such domestic violence incidences, near-deaths, and deaths are recognized and surviving family members receive appropriate services. Adds near-deaths to the domestic violence related data that may be collected and reported annually. DOJ requests resources to develop this protocol, to collect near-death domestic violence data, to facilitate the sharing of data, and to issue an annual report on an ongoing basis.
Chapter 475 of 2022 (AB 923, Ramos)	Encourages state agencies to consult on a government-to-government basis with tribes within 60 days of a tribal request and designates specific state officials (including the Attorney General) authorized to represent the state in such consultations. Requires these designated state officials complete an annual training on such consultations. DOJ seeks additional resources to provide legal advice and representation in tribal issues.
Special Funds	
Outside Co-Counsel	DOJ requests resources to pay for private legal services to assist in the state's defense in two pending cases related to state pandemic eviction-related laws.
Housing Strike Force	DOJ requests resources to support increased housing-related litigation workload--specifically related to land use, conservation, and civil rights—of its Housing Strike Force.
Antitrust Gasoline Pricing, Agriculture, and Technology Enforcement	DOJ requests resources to support increased workload to investigate and prosecute antitrust violations in the technology, gasoline and oil, and agriculture sectors.
Wage Theft Criminal Prosecutions	DOJ requests resources to support increased workload for wage theft criminal investigations and prosecutions as well as other labor-related violations.

LAO Comments.

Legal Workload Would Increase Due to Enacted Legislation and Other Factors... Some of the budget proposals to implement recently enacted legislation direct DOJ to engage in certain new activities that are expected to generate ongoing workload. For example, AB 1506 (McCarty), Chapter 326, Statutes of 2020 allows for any law enforcement agency to request DOJ review its use of force policies and requires DOJ to provide individualized recommendations. This is new workload that is likely to persist into the future given the number of law enforcement agencies in the state. Similarly, DOJ has demonstrated that the state can benefit from increased legal activity in certain areas—such as housing and wage theft—as it could reduce potential harm to Californians. For example, wage theft-related legal action can address business practices (such as employee misclassification or tax evasion) that are harmful to workers. DOJ has provided sufficient workload justification for these proposals that suggests additional resources appear to be needed. As such, it would be reasonable to provide the requested funding to support this workload on the assumption that all funding provided for legal activities is currently used efficiently and effectively.

Other budget proposals to implement recently enacted legislation authorize—but do not require—DOJ action. This provides DOJ with discretion on how much workload is generated—such as whether DOJ pursues investigations and litigation as well as how many such cases are initiated. For example, SB 301 (Skinner), Chapter 857, Statutes of 2022 authorizes DOJ to seek civil penalties and other remedies if online marketplaces do not comply with state law. It is important that DOJ has the ability to enforce such laws and that it do so if the law is violated. However, it is unclear the extent to which sufficient workload would be generated on an ongoing basis. For example, businesses would likely adapt their business practices to comply with Chapter 857 in the coming years. This—along with the threat of potential DOJ litigation—could reduce illegal activity and require little resources for DOJ litigation on an ongoing basis.

...But Unclear Whether Requested Resources Are Needed. The Legislature currently lacks information on how DOJ prioritizes its workload, how it uses its appropriated funds, and the extent to which LDF or offsetting revenues are available to support DOJ workload. This makes it difficult for the Legislature to determine whether additional resources are truly needed or if the Legislature could instead redirect existing resources to support this workload.

Difficult for Legislature to Monitor How Funding for Legal Workload Is Used Over Time. Annual budgets since 2009-10 have typically appropriated funding to the entire Legal Division from various fund sources. This means that DOJ has flexibility on how such resources are specifically used across the division. This includes how the legal division is organized (such as how staff are divided into sections) as well as what legal investigations and litigation are pursued based on DOJ priorities.

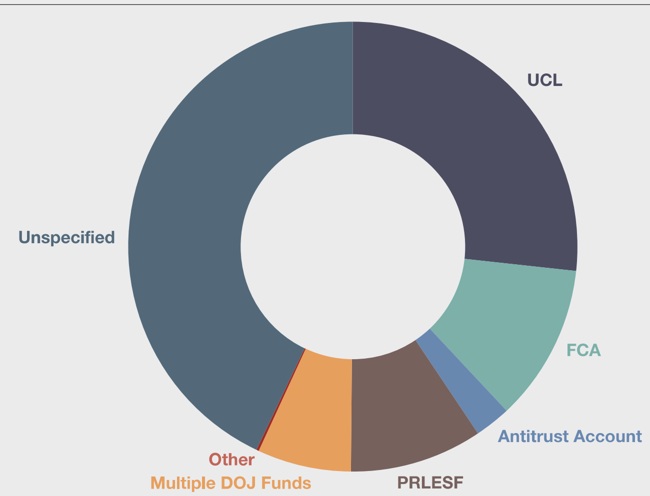
Such flexibility can be a major benefit to the state as it allows DOJ to pivot quickly to address the issues most likely to significantly impact Californians as well as to focus resources where necessary (such as if a case or investigation moves forward suddenly due to court action). It also allows DOJ to “test” the use of resources in a particular way before approaching the Legislature to seek ongoing funding. For example, because it was a priority for the Attorney General at the time, DOJ established the Bureau of Children’s Justice in 2014-15—to focus on legal workload related to children (such as school discrimination)—using one-time settlement revenues and existing positions redirected from the Public Rights Division. The bureau’s work was then used to justify DOJ’s subsequent 2018-19 budget request, which was approved, for $3.6 million on an ongoing basis from the PRLESF and 14 positions. In contrast, such a test that generated outcomes that were not effective or did not meet legislative expectations or priorities would demonstrate that ongoing funding was not merited.

However, this flexibility can make it difficult to monitor how resources provided to support DOJ's legal workload are used over time. Some DOJ budget requests seek additional funding for particular purposes. However, over time, it is unclear whether such resources are still being used for that purpose or if the resources have been redirected to other workload that has become a greater priority. For example, DOJ received $6.5 million in increased annual General Fund resources and 31 positions beginning in 2017-18 for increased workload related to challenging or responding to various federal directives that could significantly impact California in a negative manner. With a different federal administration issuing fewer such directives, it is unclear how this ongoing funding is currently used or whether the activities it is supporting are consistent with legislative priorities. Similarly, while DOJ budget requests seeking additional resources typically focus on a particular section, this flexibility could allow DOJ to shift resources between its subdivisions and sections. A lack of transparency on how legal funding is used across the Legal Division broadly makes it difficult for the Legislature to assess whether additional resources are truly needed or if funding could instead be redirected from other DOJ legal workload on an ongoing or temporary basis.

Unclear Whether LDF Could Support Workload Given Limited Opportunity for Legislative Oversight of LDF. It is unclear the extent to which funds in the LDF are eligible for transfer to support DOJ workload (all litigation funds that DOJ has decision-making authority over, not pending allocation to specific individuals or for narrowly defined purposes or cases on appeal). For example, LDF funds may be available for transfer to the UCL Fund to support the Consumer Protection Section—in lieu of the requested General Fund. This uncertainty is generally because current state law and DOJ practices related to the LDF limit the opportunity for the Legislature to conduct effective oversight of the LDF. Based on a review of high-level, DOJ-provided data, the LAO estimated that nearly 60 percent of the LDF fund balance could be eligible for transfer to various special funds. The status of the remaining 40 percent is unclear, as shown below.

Nearly 60 Percent of LDF Fund Balance Could Be Eligible for Transfer to Other Special Funds

As of January 2023



[a] Includes funds eligible to be distributed to more than one of DOJ's special funds supporting litigation activities.

LDF = Litigation Deposit Fund; UCL = Unfair Competition Law Fund; FCA = False Claims Act Fund; PRLESF = Public Rights Law Enforcement Special Fund; and DOJ = Department of Justice.

LAO

Maximizing Use of LDF Monies Would Reduce Need for General Fund Resources. To the extent LDF monies were available to support DOJ legal activities, it would reduce the cost pressure on the General Fund. This is notable as the Governor's budget proposes various budget solutions to address the estimated budget problem for 2023-24. However, the LAO's estimates suggest the budget problem is likely to be larger in May. Moreover, even under Governor's budget assumptions, the proposed solutions also are insufficient to keep the state budget balanced in future years, with projected out-year deficits in the $4 billion to $9 billion range. Reducing the amount of General Fund needed to support such requests on an ongoing basis would provide additional General Fund relief in the budget and future years relative to the Governor's budget.

Unclear How DOJ Accounts for Offsetting Revenue. Several of the proposed budget requests pertain to implementing legislation that authorizes DOJ to seek civil penalties and/or reasonable attorney fees and costs—some of which is intended to offset DOJ costs. For example, AB 2273 (Wicks), Chapter 320, Statutes of 2022 requires businesses that provide an online service or product likely to be accessed by children comply with certain privacy requirements and authorizes DOJ to seek civil penalties for any violations. AB 2273 further requires that any penalties, fees, and expenses recovered be deposited into the Consumer Privacy Fund, with the intent that they be used to fully offset costs incurred by DOJ. DOJ, however, is requesting General Fund resources to implement AB 2273. While General Fund or other funds could be needed to initially pursue such cases, litigation proceeds should be available to reimburse or offset such funds in the future. In discussions with DOJ, it is unclear the extent to which such penalty revenues and attorneys' fees will be sought, how much might be obtained, and the extent to which they will be used to offset this workload.

Anti-Trust Gasoline Pricing, Agriculture and Technology Enforcement. DOJ was able to identify recent and potential legal workload in particular sectors which could benefit California. For example, California is the home of a significant number of technology firms where antitrust violations can result in harm to consumers. DOJ temporarily redirected six existing unfunded attorney positions within the Public Rights Division to the Antitrust Law Section in 2021-22 and supported them using a total of $1.4 million in General Fund, Antitrust Account, and UCL Fund savings. According to DOJ, this redirection allowed DOJ to conduct one new major investigation in the technology industry which is anticipated to conclude in 2022-23 and result in litigation or a significant settlement. In combination, this suggests that additional, dedicated resources could be needed and benefit the state.

Unclear Whether Sufficient Revenue to Support Ongoing Antitrust Law Section Costs. While additional resources could potentially be needed for increased antitrust legal activities which could benefit the state, it is unclear if sufficient revenue will be generated for the Antitrust Account and UCL Fund to support the ongoing cost of increased investigations and prosecutions of antitrust violations. This is because the two funds partially rely on revenue generated through litigation proceeds from antitrust cases that typically are complex, technical, resource intensive, and can take quite a bit of time to resolve. While DOJ currently has sufficient Antitrust Account and UCL Fund revenues to support the increased workload costs temporarily, it is unclear whether these funds will receive sufficient proceeds from cases pursued by the Antitrust Law Section to support the section's workload costs on an ongoing basis.

Housing Strike Force. The DOJ has been able to identify recent workload, as well as potential forthcoming workload, related to ensuring compliance with recently enacted housing related laws. Part of this work would be conducted in partnership with HCD to ensure HCD's expertise is utilized. This part of the work would be supported by the LSRF portion of the budget request as DOJ would bill HCD for this workload. In addition, DOJ will pursue certain legal activities separate from HCD under the Attorney General's broad authority. Pursuing action in this manner can sometimes be a cost-effective method of enforcing state laws. For example, if a local jurisdiction seeks to implement state law in a manner that DOJ interprets to be inappropriate and HCD believes it does not have the authority to pursue legal action, immediate DOJ legal intervention can deter such implementation by other local jurisdictions as well as limit the amount of litigation generated. Such work would be supported by the proposed General Fund resources.

Ongoing Workload and Outcomes for Housing Strike Force Unclear. In recent years, there has been an increase in housing related laws which is expected to continue in the near future as it remains a significant area of concern for the Legislature, state and local government entities, and members of the public. This could result in disagreements over how such laws are or should be implemented and enforced, which could then result in litigation workload for DOJ. However, it is unclear whether the ongoing workload would remain high enough to justify the requested resources on an ongoing basis.

Additionally, the LAO notes that it is unclear the extent to which such workload may be impacted by HCD's new Housing Accountability Unit in the future. This new unit was created in 2021-22 to hold jurisdictions accountable for meeting their housing commitments and complying with state housing laws. As a result, the new unit could result in more reimbursable DOJ workload being pursued in coordination with HCD due to increased violations being referred to DOJ for legal action. As this unit and DOJ's Housing Strike Force becomes fully operational, it will be important to ensure legal activities are pursued in the most efficient and effective manner. Similarly, it is possible that DOJ's workload could be impacted by the activities of the Civil Rights Department (formerly the Department of Fair Employment and Housing), which is tasked with protecting Californians from unlawful discrimination in housing and other areas. For example, the department could increase its enforcement actions, which could have the effect of reducing the workload of DOJ. This is because a portion of the requested resources would support DOJ's Civil Rights Enforcement Section, which could work on issues similar to those handled by the Civil Rights Department. Given this housing workload uncertainty, the Legislature could consider whether annual reporting to monitor DOJ work in this area would be beneficial to conduct ongoing oversight over state legal activities in this area.

LAO Recommendation.

Recommend Requiring Annual Reporting on Legal Workload and Providing Requested Funding on a Two-Year Basis. The Governor's budget proposes $24.5 million in 2023-24 ($15 million General Fund and $9.5 million special funds), decreasing to $20.6 million annually in 2027-28, to support 18 budget proposals implementing enacted legislation and increasing legal activities in key areas (such as pursuing more antitrust litigation). The LAO finds that implementing the enacted legislation and increasing legal activities in key areas would increase DOJ's workload. However, the LAO also finds that there is insufficient information on how DOJ prioritizes its existing resources and the extent to which litigation proceeds are available to support DOJ workload. This makes it difficult for the Legislature to determine whether DOJ truly needs additional resources or if the workload could be supported with existing resources or litigation proceeds. Accordingly, the LAO recommends the Legislature (1) direct DOJ to report annually on its legal workload beginning January 2025 and (2) provide the requested funding on a two-year basis to support the increased workload while the recommended report is completed and analyzed to determine appropriate funding levels in the future.

Staff Recommendation. Hold Open.

Issue 12: Firearms Workload

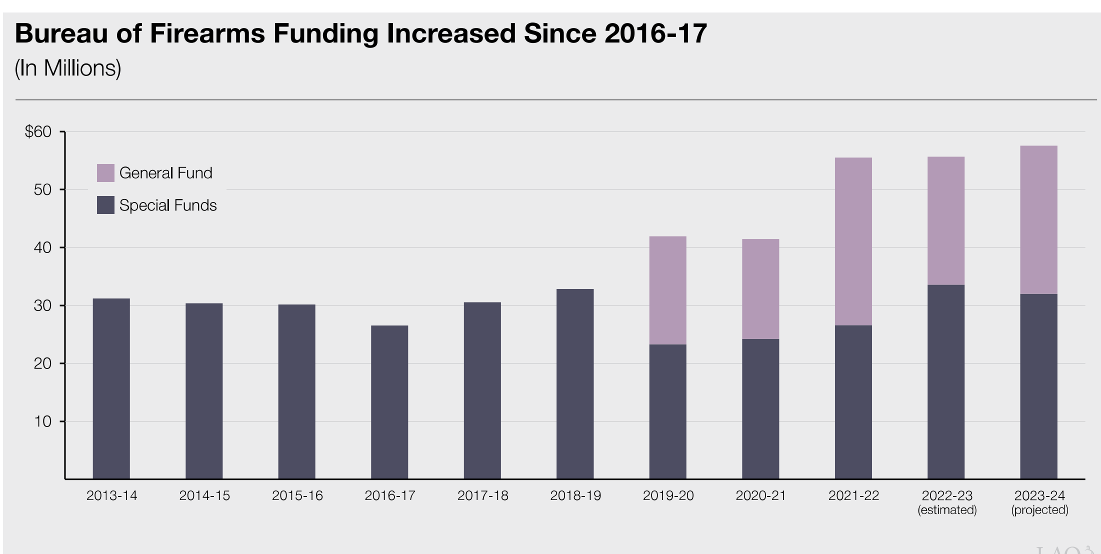
Proposal. The Governor's budget proposes $6.9 million in 2023-24 ($6.3 million General Fund and $573,000 from the DROS Special Account)—declining to $3.5 million annually beginning in 2026-27 ($3.3 million General Fund and $179,000 from the DROS Special Account)—to support DOJ firearm workload. The proposed funding would support seven budget proposals, including five related to workload resulting from recently enacted legislation.

Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Mayra Morales, Staff Services Manager III, Bureau of Forensic Services, Department of Justice
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance

Background. DOJ's Bureau of Firearms (BOF) is primarily responsible for the regulation and enforcement of the state's firearm and ammunition laws. This includes conducting background checks, licensing vendors, conducting vendor compliance investigations, ensuring lawful possession of firearms and ammunition, and administering various other programs. For example, BOF has enforcement teams who are primarily responsible for investigating the illegal purchase or possession of firearms and ammunition, as well as seizing them from individuals who are prohibited from owning or possessing them.

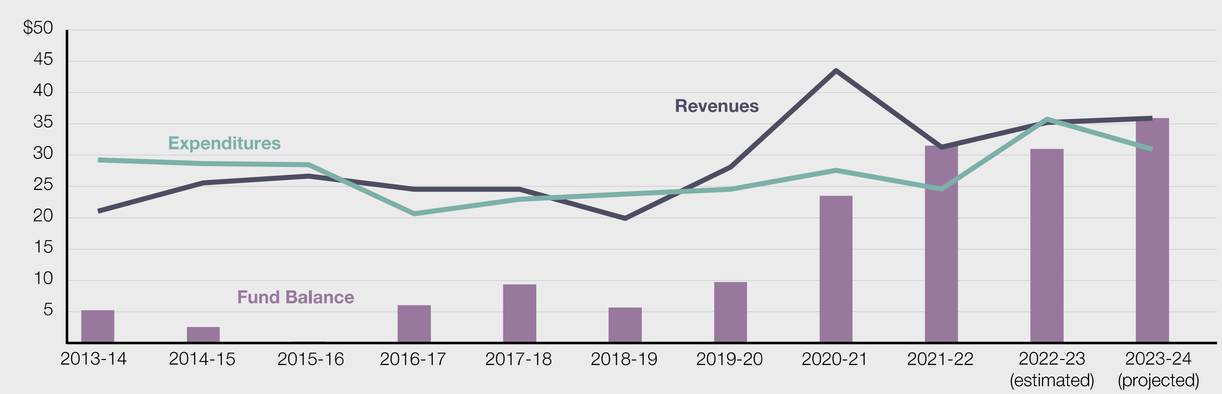
Support for BOF has increased over the past decade from $31.2 million in 2013-14 to $55.7 million in 2022-23, an increase of 78 percent. BOF began receiving General Fund support in 2019-20, and received 40 percent General Fund and 60 percent Special Fund in 2022-23. Most of the General Fund is used to support the enforcement teams (the 2019 Budget shifted full support of these teams to General Fund). CJIS separately receives millions of dollars annually from various fund sources to maintain and update various databases, such as the Automated Firearms System which tracks firearm serial numbers, needed to support BOF's activities.



DROS Special Account. State law authorizes DOJ to charge various fees related to firearms and ammunition that are deposited into special funds to support BOF programs and activities. For example, an individual purchasing a firearm currently pays fees totaling $37.19—a $31.19 fee deposited into the DROS Special Account (the "DROS fee"), a $5 fee into the Firearm Safety and Enforcement Special Fund, and a $1 fee into the Firearm Safety Account. State law also authorizes DOJ to administratively increase some of these fees to account for inflation as long as the fee does not exceed DOJ's regulatory and enforcement costs. State law authorizes revenues deposited into each of these special funds to be used for various purposes.

State law authorizes the DROS Special Account to support a wide range of BOF programs and activities (as well as CJIS activities needed to support BOF workload). As shown below, revenues often fluctuate from year to year, generally reflecting changes in fee levels and the number of firearms sold. DROS Special Account expenditures routinely exceeded revenues prior to 2019-20—resulting in the use and decline of the fund balance. To help ensure sufficient revenues would be available to support BOF workload, Chapter 736 of 2019 (AB 1669, Bonta) enabled DOJ to increase the DROS fee charged from $19 to $31.19. This resulted in DROS Special Account revenues generally exceeding expenditures in recent years—thereby allowing the fund balance to steadily increase. The Governor's budget estimates $35.9 million in DROS Special Account revenues in 2023-24 and expenditures of $30.9 million, resulting in a fund balance of $35.9 million at the end of the year.

DROS Special Account Fund Balance Increasing in Recent Years
(In Millions)



DROS = Dealers Record of Sale.

The Governor's budget proposes $6.9 million in 2023-24 ($6.3 million General Fund and $573,000 from the DROS Special Account)— declining to $3.5 million annually beginning in 2026-27 ($3.3 million General Fund and $179,000 from the DROS Special Account)—to support DOJ firearm workload.

The proposals supported by this funding are outlined in the table on the next page.

Summary of Governor's Firearm Workload Proposals

Workload	Proposed Resources	Description
Recently Enacted Legislation		
Chapter 76 of 2022 (AB 1621, Gipson)	21 positions (11 limited term) and $2.8 million General Fund in 2023-24, declining to $1.2 million annually in 2025-26	AB 1621 requires any person possessing an unserialized firearm, as well as new residents within 60 days of arrival in the state, to apply to DOJ for a unique identification mark. The legislation also modifies the definition of firearm precursor parts and generally prohibits the sale or possession of unserialized firearm precursor parts. DOJ seeks resources to address this increased workload.
Chapter 142 of 2022 (AB 2156, Wicks)	$911,000 General Fund in 2023-24	AB 1621 prohibits any person from manufacturing firearms without being licensed by the state and requires people manufacturing between 4 and 49 firearms in a calendar year now be licensed. The legislation also prohibits any person who is not licensed as a firearm manufacturer from manufacturing any firearm or precursor part using a 3D printer. DOJ requests resources to update firearms systems to enforce these provisions.
Chapter 138 of 2022 (AB 228, Rodriquez)	5 positions and $797,000 General Fund in 2023-24, declining to $738,000 annually in 2024-25	AB 228 requires DOJ generally inspect firearm dealers at least every three years and audit a sampling of 25 percent to 50 percent of each record type. DOJ seeks resources to address this increased workload.
Chapter 696 of 2022 (AB 2552, McCarty)	1 limited-term position and $408,000 ($12,000 General Fund and $396,000 DROS) in 2023-24, declining to $191,000 ($12,000 General Fund and $179,000 DROS) annually in 2025-26	AB 2552 requires DOJ conduct enforcement and inspections at a minimum of one-half of all gun shows or events in the state, public posting of certain violations, and annual reporting to the Legislature on enforcement activities. Also authorizes inspection of any firearm precursor part vendors at gun shows or events. DOJ seeks resources to address this increased workload.
Chapter 995 of 2022 (SB 1384, Min)	1 limited-term position and $177,000 DROS in 2023-24 and $164,000 in 2024-25	AB 1384 requires licensed firearms dealers to have a digital video surveillance system on business premises and to carry a general liability insurance policy. DOJ seeks resources to develop regulations for dealers to certify these conditions are met.
Other Workload		
Firearm Compliance Support Section Workload	3 positions and $342,000 General Fund in 2023-24, declining to $307,000 annually in 2024-25	DOJ requests resources to support increased carry concealed weapons licensing and Automated Firearms System workload.
Microstamping and Law Enforcement Transfer[a]	5 positions and $1.5 million General Fund in 2023-24, declining to $1.1 million annually in 2026-27	DOJ requests additional resources, above the level provided as part of the 2021-22 budget, to complete changes to existing firearms databases in order to implement previously enacted legislation related to the microstamping of handguns and the tracking of unsafe handguns.

[a] Continued implementation of Chapters 289 of 2020 (AB 2699, Santiago) and 292 of 2020 (AB 2847, Chiu).

DOJ = Department of Justice and DROS = Dealers Record of Sale Special Account.

DOJ indicated that all of the proposals requesting significant General Fund could have potentially been funded, at least partially, by DROS Special Account (implementation of AB 1621, AB 2156, and AB 288; Firearm Compliance Support Section; and part of the Microstamping and Law Enforcement Transfer).

LAO Comments.

Proposals Reasonable, but Could Be Funded by DROS Special Account Rather Than General Fund. The LAO finds the level of funding requested in the Governor's proposals to be generally reasonable to support increased workload and/or is necessary to implement enacted legislation. However, the LAO believes that all of the requested resources could be funded by the DROS Special Account rather than the General Fund. This is because the workload appears to be allowable uses of DROS Special Account revenues. Additionally, there appears to be sufficient DROS Special Account revenues and fund balance to support this workload. Specifically, DROS Special Account annual revenues are currently about $5 million higher than expenditures and the fund balance is estimated to be $35.9 million at the end of 2023-24. This is sufficient to support the $6.3 million in increased support requested in 2023-24 as well as the $3.3 million in requested ongoing support. The LAO notes that DOJ indicates that it is seeking General Fund resources to support these proposals in order to ensure that there are sufficient resources in the DROS Special Account to support future proposals—most notably a project to replace 17 firearms and ammunition databases and systems, which is currently in the planning process. However, those proposals have not been presented to the Legislature for consideration at this time.

Furthermore, the LAO notes that funding such workload from the DROS Special Account instead of the General Fund means that additional General Fund would be available to support other legislative priorities. This includes helping to balance the state budget in 2023-24 as well as to address projected out-year deficits under the Governor's budget.

Staff Comments. The BOF also has a relatively high vacancy rate (81 vacancies, or roughly 25 percent; of these 21 are sworn and 60 are professional staff). The Legislature may want to consider how to support recruitment, or else the handful of proposed new positions may not impact the effective workload.

LAO Recommendation.

Recommend Supporting Firearm Workload From Dealers Record of Sale (DROS) Special Account Rather Than General Fund. The Governor's budget proposes $6.9 million in 2023-24 ($6.3 million General Fund and $573,000 from the DROS Special Account), declining to $3.5 million annually in 2026-27, to support seven budget proposals related to increased firearm workload. The LAO finds the proposals reasonable, but recommend that they be funded by the DROS Special Account as it appears to be an allowable use of the fund and the fund can support the proposals.

Staff Recommendation. Hold Open.

Issue 13: Special Operations Unit

Proposal. The Governor's Budget includes $7,206,000 General Fund in 2023-24 and ongoing to maintain the Special Operations Unit Program.

Panelists.

- Luis Lopez, Assistant Chief, Division of Law Enforcement, Department of Justice
- Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance

Background. The Special Operations Unit (SOU) Program provides statewide enforcement for combating violent career criminals, gangs, and organized crime groups. SOU expertise lies in electronic surveillance and advanced investigative techniques, and works to support local agencies and task forces. The SOU Program consists of three regional teams: Fresno, Sacramento, and Riverside. The California Highway Patrol (CHP) provided 4 officers to each team, in addition to DOJ special agents and special agent supervisors.

In 2012-13, DOJ received $3.9 million General Fund and 9 positions for the Fresno team. In 2014, DOJ along with CHP received $9.4 million in two-year funding to create the Sacramento and Riverside teams. The funding for these two teams was renewed multiple times, and is set to expire in 2023. CHP has indicated to DOJ that it does not plan to renew the funding.

Existing SOU Organization

The existing SOU program is managed by one SAC, and the individual teams are comprised as follows, with participation of 12.0 CHP Officers:

	SAC	SAS	SA	CHP	CA I	OT
Sacramento	1*	1	7	4	1	1
Fresno	-	1*	6*	4	1	1
Riverside	-	1	7	4	1	1

*Denotes General Funded positions.

The Governor's Budget includes $7.2 million and ten new positions ongoing to DOJ to permanently support the Sacramento and Riverside teams without the support of CHP. The proposed organization of the teams is listed below.

Proposed SOU Organization

	SAC	SAS	SA	CA II	OT
Sacramento	1	1	10	1	1
Fresno		1	10	1	1
Riverside		1	10	1	1

- 1.0 Special Agent in Charge (existing)
- 3.0 Special Agent Supervisors (3.0 existing)
- 30.0 Special Agents (20.0 existing / 10.0 new)
- 3.0 Crime Analyst II (upgrade from existing 3.0 Crime Analyst I positions)
- 3.0 Office Technicians (existing)

*Totaling 40.0 personnel

The SOU works on cases at the request of local police departments, which coordinate the investigation. In calendar year 2021, the SOU received 45 requests, and initiated 29 investigations (the remaining requests were either rejected or are backlogged). The potential crimes involved range from murder, conspiracy to commit murder, attempted murder, conspiracy to commit assault with a deadly weapon, assault likely to produce great bodily injury, identity theft, child abduction, robbery, grand theft, human trafficking, and extortion. These multi-faceted, multi-jurisdictional investigations focused on Transnational Criminal Organizations including criminal street gangs and prison gangs. The investigations resulted in 139 search warrants, 280 felony arrests, seizure of approximately 2,180 pounds of drugs (cocaine, methamphetamine, fentanyl, heroin and illegal cannabis), 349 firearms seized, $775,870.00 in U.S. currency seized, and the prevention of 12 violent crimes. From calendar year 2017 to date, SOU has solved approximately 51 homicides, prevented 136 violent criminal acts (almost entirely of which were planned shootings), and seized 349 firearms from dangerous individuals.

Workload Measure	2017	2018	2019	2020	2021
Opened Cases	25	28	15	24	29
Closed Cases	19	19	9	13	24
Felony Arrests	493	250	268	218	280
Search Warrants	448	224	256	128	139
Pen Registers/Electronic Surveillance	405	315	528	635	269
Firearms Seized	360	129	194	149	349
U.S. Currency	$359,868	$58,905	$149,062	$618,555	$775,870
Methamphetamine	369.1 lb	16.7 lb	34.5 lb	150 lb	131.25 lb
Heroin	6 lb	5.6 lb	4.2 lb	5.3 lb	168.5 g
Cocaine	82.12 lb	N/A	17 lb	8 lb	21.3 lb
Illegal Marijuana	122 lb	8 lb	60 lb	49 lb	2,025 lb
Fentanyl	N/A	N/A	N/A	N/A	333 pills/10 g
Violent Crimes Prevented	52	30	23	19	12

Staff Recommendation. Hold Open.

Protect Our Progress
EFFECTIVENESS & ACCOUNTABILITY INITIATIVE

Maximizing Industry and Workforce Opportunities Resulting from Federal and State Climate Investments

Senate Labor, Public Employment and Retirement Committee & Senate Budget Subcommittee #5 on Corrections, Public Safety, Judiciary, Labor and Transportation
Joint Hearing

March 22, 2023 at 9:30am
1021 O Street, Room 2200

I. Opening Remarks

II. Alignment of State and Federal Investments

- Francisco Arzú, UCB Labor Center Green Economy Program
- Carol Zabin, Ph.D., UCB Labor Center Green Economy Program

III. Procurement Process and Administrative Perspective

- Tim Rainey, Executive Director, California Workforce Development Board
- Michael Keever, Chief Deputy Director, CalTrans

IV. Identifying Best Practices and Challenges - Labor and Industry Perspective

- Miguel Cabral, Senior Executive Officer – Diversity & Economic Opportunity, LA Metro
- Derek Maunus, CEO and President, Gillig LLC
- Caitlin Vega, California Labor Federation
- Jeremy Smith, State Building and Construction Trades Council
- Scott Wetch, International Brotherhood of Electrical Workers

V. Implementation and Ensuring Equity

- Saba Waheed, UCLA Labor Center

VI. Public Comment

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

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

Thursday, March 23, 2023
9:30 a.m. or upon adjournment of Session
State Capitol - Room 112

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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

ITEMS FOR DISCUSSION

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

Issue 1: Peace Officer Certification Hearings (SB 2)

Governor's Budget. The Governor's Budget proposes $4.5 million from the General Fund in 2023-24 and $3.9 million ongoing to fund the Office of Administrative Hearings' costs associated with implementation of Senate Bill 2 (Bradford and Atkins, Chapter 409, Statutes of 2021).

Panelists.

- Manny Alvarez, Executive Director, POST
- Annemarie Del Mugnaio, Assistant Executive Director, Peace Officer Standards and Accountability Division, POST
- Sarah Tomlinson, Department of Finance
- Allison Hewitt, Department of Finance
- Jared Sippel, Legislative Analyst's Office

Background. POST is an 18-member commission responsible for overseeing standards and training for certain California peace officers, including city police and county sheriff's deputies. 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 has proposed $109.18 million ($60.91 million General Fund, $46.3 million State Penalty Fund, and $1.96 million reimbursements) and 263 total positions to support POST in 2023-24.

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

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

Senate Bill 2 requires POST to review allegations of serious misconduct to determine whether decertification is warranted. Starting January 1, 2023, all agencies employing peace officers must report to POST allegations of serious misconduct when they occur. Similarly, by July 1, 2023, such agencies must report to POST any allegations of serious misconduct that occurred from January 1, 2020 to January 1, 2023. In addition, beginning January 1, 2023, members of the public can report allegations of serious misconduct directly to POST, including misconduct that occurred prior to January 1, 2023. POST can also choose to review an allegation of serious misconduct it becomes aware of in other ways, such as through media coverage.

Senate Bill 2 created a new division within POST—the Peace Officer Standards and Accountability Division—to review all allegations of serious misconduct to determine whether decertification is warranted. 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. (Seven members of the new board are appointed by the Governor, one member by the Speaker of the Assembly, and one member by the Senate Rules Committee.) 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. (Fifteen of the POST commissioners are appointed by the Governor and confirmed by the Senate, one commissioner by the Speaker of the Assembly, and one commissioner by the Senate President pro Tempore. The Attorney General is an ex officio member and also serves as a commissioner.) If the POST commission votes for decertification, the case is referred to an administrative law judge at OAH who will render the final decision.

The 2022-23 budget provided $22.6 million from the General Fund (decreasing to $20.6 million in 2023-24 and ongoing) and 127 positions to implement SB 2. As discussed below, POST is currently in the process of filling many of these positions.

Office of Administrative Hearings (OAH) Provides Administrative Hearings for State and Local Entities. OAH, within DGS, provides administrative law judges to hear administrative disputes for over 2,500 state and local agencies, including POST, as described above. These judges conduct adjudicatory hearings, prehearing and settlement conferences, and mediations. Statute requires that all OAH costs be recovered from the agencies it serves. Accordingly, OAH charges fees to state and local agencies for the services it provides. Specifically, OAH charges state and local agencies an hourly rate of $355 in 2022-23, which will increase to $369 in 2023-24. In addition, OAH charges in-person and virtual filing fees, as well as fees for electronic evidence and recording, among others.

Funding for Peace Officer Decertification Cases Filed With OAH. The Governor's budget proposes $4.5 million from the General Fund in 2023-24 (decreasing to $3.9 million annually beginning in 2024-25) to fund the costs of peace officer decertification hearings before OAH. OAH is funded from the Service Revolving Fund, and as the office charges POST for its services, the proposed funds for POST will be deposited into the Service Revolving Fund. (The administration has a related proposal to authorize OAH to use Service Revolving Fund resources for both peace officer decertification and cannabis-related workload.)

Anticipated Workload. POST anticipates receiving thousands of allegations and cases of serious misconduct monthly under the provisions of SB 2 and estimates approximately 3,500 cases of serious misconduct will result in decertification action annually. Of those cases, POST estimates approximately 10 to 15 percent will be appealed and administrative adjudication proceedings will be initiated to set those cases for a hearing. It should be noted that while some cases settle prior to the actual hearing, there is still administrative work associated with the intake and management of the case, including an analysis of the case to determine the duration of the hearing and setting the hearing calendar for the case.

LAO Comments.

Number of Decertification Cases That Will Be Referred to OAH Is Uncertain. POST took several steps to estimate the number of cases that will reach OAH, including reviewing the number of complaints received by the California Department of Justice on peace officer misconduct and surveying law enforcement agencies to estimate the number of investigations that might rise to the level of misconduct. Based on this research, POST estimated that 3,500 serious misconduct cases may rise to the level of decertification annually, with approximately 300 to 350 being contested and a hearing set with OAH. Further, POST estimates that there could be a higher caseload in the first year given that law enforcement agencies are initially required to report allegations of serious misconduct that have occurred since January 1, 2020. By the end of January 2023, POST reported receiving approximately 1,200 cases from law enforcement agencies and 6 public complaints. The Peace Officer Standards and Accountability Division was in the process of reviewing these cases, prioritizing them based on public safety considerations, and processing them for serious misconduct actions.

Several factors make it difficult to predict how many cases will actually reach OAH because there are multiple points in the decertification process where a case may not proceed. For example, the officer may choose to voluntarily surrender their certificate when the Peace Officer Standards Accountability Division finds that their case rises to the level of revocation or suspension. Further, in the event that the officer requests a hearing, either the Peace Officer Standards Accountability Advisory Board or the POST commission could decide to reject the division's decertification decision after reviewing the facts and circumstances of the case.

In addition, it is difficult to predict what the trends in cases will be over time, especially in the early years. POST's expectation of an influx of cases in the first year because law enforcement agencies are required to report serious misconduct cases that have occurred since January 1, 2020 is reasonable, but it is difficult to estimate how large this influx will be. Conversely, it is reasonable to expect that POST could observe a reduction in cases over time if suspensions and revocations through the decertification process change behavior in peace officers and thus reduce the number of serious misconduct cases. Again, however, the precise size of the reduction is also difficult to estimate.

OAH Billable Hours Could Vary Widely by Case. It is also difficult to predict the number of billable hours charged for each decertification case. While POST estimates an average of 36 hours per case, the complexity of the cases could vary significantly, leading to a wide range of hours billed to POST.

POST Is Still Building Its Capacity to Process Cases. The 2022-23 Budget Act roughly doubled POST's staffing to implement SB 2, and POST is still in the process of filling many of the positions responsible for reviewing and investigating misconduct cases. As of January 2023, POST had filled roughly one-third of its 16 positions in the Intake and Disposition bureau, which is responsible for analyzing and evaluating complaints received from the public and serious misconduct allegations received from law enforcement agencies. Further, as of January 2023, POST had filled nearly half of the 51 positions across its four Decertification Unit bureaus that are responsible for conducting the decertification investigations, prosecutions, and administrative proceedings against peace officers. Given this, POST's limited staffing could initially reduce the number of cases reaching OAH until POST fills more of its positions.

LAO Recommendations.

Approve Funding on Limited-Term Basis, Require POST to Report on OAH Hearing Costs. The LAO recommends that the Legislature approve the requested funding on a three-year, limited-term basis (rather than on an ongoing basis as proposed by the Governor). This will give POST more time to build capacity, monitor trends in its caseload, and track costs from its OAH hearings. In addition, the LAO recommends that the Legislature require POST to report data on its annual OAH hearing costs—such as the number of cases scheduled for OAH hearings and the number of billable hours—to the Legislature by January 10, 2026. After this time and with this data, POST's ongoing funding needs should become clearer. The administration can then submit a request for ongoing resources for legislative consideration as part of the Governor's 2026-27 budget proposal.

Require Unspent Funds to Revert to General Fund. Because POST is still building its staffing capacity to review cases and the number of cases that will reach OAH is uncertain, it is possible that POST may have overestimated the amount of funding needed for OAH to hear decertification cases. Accordingly, the LAO recommends that the Legislature adopt provisional language limiting the use of the funds to OAH hearing costs and requiring any unspent funds revert back to the General Fund. This will ensure that, if the OAH hearing costs are less than estimated, the unused funds could not be redirected by POST to other priorities, but would instead return to the General Fund.

Staff Recommendation. Hold Open.

0690 OFFICE OF EMERGENCY SERVICES (CAL OES)

Issue 2: Department Overview with Director Ward

Panelists.
- Nancy Ward, Director, Cal OES
- Eric Swanson, Deputy Director of Finance and Administration, Cal OES

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

The Governor's Budget includes $3.3 billion ($771.7 million General Fund) and 1,877 positions for Cal OES. Of this total, $2.65 billion is proposed for Special Programs and Grant Management which includes the administration of various federal homeland security, emergency management, and victim service grants.

The 2022 Budget Act included a requirement for OES to submit a report to the Legislature by February 1, 2024 that outlines the department's emergency preparedness and response planning for the state, including the department's operational framework for determining the appropriate resource capabilities and necessary capacity to carry out its duties.

On December 31, 2022, Governor Gavin Newsom appointed Nancy Ward as the new Director of Cal OES, pending Senate confirmation. Director Ward has worked at Cal OES since 2014, first as the Chief Deputy Director and Department of Homeland Security Advisor from 2014 to 2017, and then as a Retired Annuitant. Before that, she was at the Federal Emergency Management Agency (FEMA) from 2000 to 2014, where she served as the Regional Administrator for FEMA Region IX from 2006 to 2014 and as the Response and Recovery Division Director from 2000 to 2006. She is the first woman appointed to direct OES.

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

Issue 3: Implementing a 9-8-8 Behavioral/Mental Health Hotline

Governor's Budget. The Office of Emergency Services (Cal OES) is requesting 4 positions and $23,838,000 988 State Suicide and Behavioral Health Crisis Services Fund in FY 2023-24 and ongoing ($3,558,000 state operations and $20,280,000 local assistance) to support activities required to implement Chapter 747 Statutes of 2022 (AB 988.) Cal OES is also requesting to shift the $5,975,000 ongoing General Fund authorized in the 2022-23 Budget from the General Fund to the 988 State Suicide and Behavioral Health Crisis Services Fund.

Panelists.

- Budge Currier, Assistant Director of Public Safety Communications, Cal OES
- Eric Swanson, Deputy Director of Finance and Administration, Cal OES
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst's Office
- Tess Scherkenback, Finance Budget Analyst, Department of Finance
- Stephen Benson, Principal Program Budget Analyst, Department of Finance

Background. The federal National Suicide Hotline Designation Act of 2020 (NSHD) 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 states and telecommunication carriers to implement 9-8-8 by July 16, 2022.

Lifeline Call Centers. In California, these calls are 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.

AB 988. California's 988 system was formalized in the Miles Hall Lifeline and Suicide Prevention Act (Ch. 747, Stats 2022 (AB 988, Bauer-Kahan)), which established the Established the 9-8-8 Crisis Hotline Center. AB 988 included the following key provisions that affect Cal OES.

- *9-8-8 Surcharge*. AB 988 provided a funding mechanism for the 988 system by a creating surcharge on telephone access lines, mirroring the funding mechanism for 911 operation and as authorized by the NSHD. This surcharge is set at eight cents per line per month through December 2024, which is estimated to generate roughly $44 million in revenue per year. After that, the fee will be based on need, not to exceed thirty cents per line. The California Department of Tax and Fee Administration (CDTFA) is responsible for coordinating the collection of the fee.

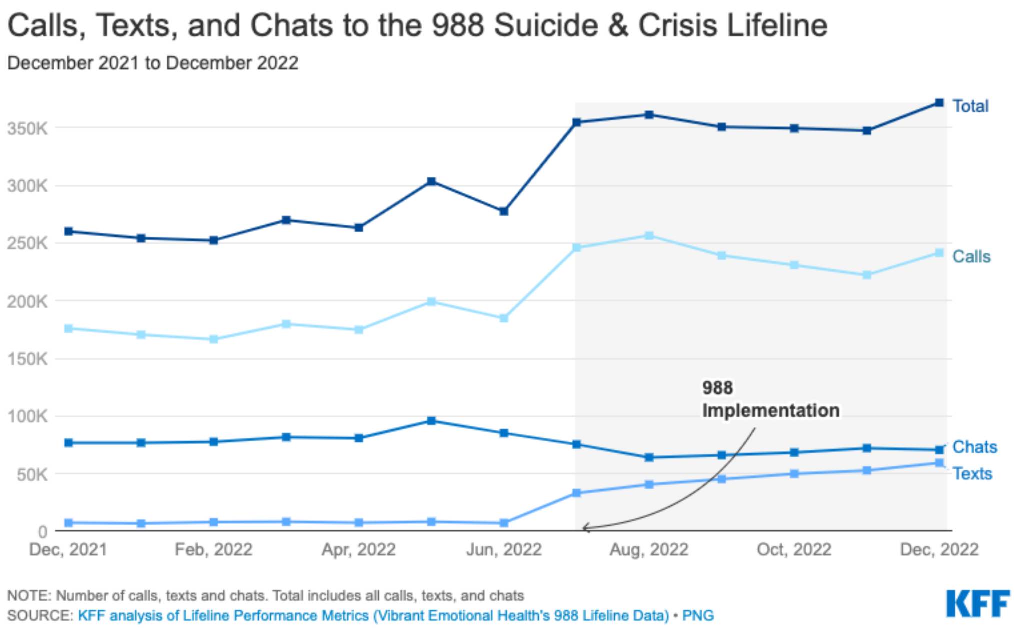
  The revenue is deposited into the 988 State Suicide and Behavioral Health Crisis Services Fund. The funds will first be used to support the call centers and the technology behind the system, and then may be used for the operation of mobile crisis teams connected to 988, to provide a physical, in-person response where appropriate and possible. Cal OES will develop regulations and administer this fund, including collecting expenditure reports from entities seeking funding from this source.

- *911 and 988 Integration.* AB 988 required Cal OES to develop (by December 1, 2023, in conjunction with Cal HHS) and implement (by July 1, 2024) a plan to ensure that 911 and 988 are integrated and that calls, and all associated data, are transferable. As of February 2, 2023, the state can do basic transfers, including audio and chat, between 911 and 988. To achieve full interoperability, Cal OES indicated that they had released a Request for Proposals and selected a vendor, the required technology would be installed by July 2023, and the entire rollout would be completed by the deadline. Cal OES also planned to meet with all 13 Lifeline centers by the end of February.

- *State 9-8-8 Technical Advisory Board and Director.* As directed by AB 988, Cal OES has appointed a 988 System Director and an Advisory Board, who are charged with developing policies, managing the budget, and creating standards and guidelines for 911 transfer, among other duties. In February, Cal OES indicated that the Board had already met and was planning on meeting again within the month.

Role of Cal OES and HHS. As described above, Cal OES indicated that their primarily 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 (SAMHSA), and the call centers. Cal OES indicated that DHCS and SAMHSA are leading on response and outreach and public education, although Cal OES has worked with 911 centers throughout the state to ensure that they understand the new system. AB 988 required this planning group advise on a five-year implementation plan, which would include best practices, integration with the NSPL network, technological compliance, administration of behavioral health crisis services accessed through 988, response and staffing standards, public awareness campaigns, processes for budgeting and distributing the surcharge funding, and other aspects. Beginning in 2024, HHS will report by the end of each calendar year on the implementation of 988.

Call Volume Since 988 Implementation. Data from the Lifeline centers indicates that national call volume increased after the implementation of 988[1] (see figure below). Lifeline data indicates that California received and routed 26,949 calls in December 2022, with an in-state answer rate of 88 percent[2], compared to 22,378 calls and 86 percent in December 2021[3]. In December 2022, the average speed to answer was 37 seconds, and the contact time was 12 minutes and 32 seconds.



National Call Volume After 988 Implementation.
Source: Kaiser Family Foundation Analysis of Lifeline Performance Metrics[4]

Existing and Proposed Resources for Cal OES. The 2022 Budget included $7.5 million General Fund in 2022-23, $6 million General Fund in 2023-24 and ongoing, and ten positions for Cal OES to implement the technical side of the 9-8-8 system. The Administration proposes to shift that ongoing funding from General Fund to the newly established 988 State Suicide and Behavioral Health Crisis Services Fund, and increase the spending authority to $23.8 million ($3,558,000 state operations and $20,280,000 in local assistance) in 2023-24 and ongoing. Cal OES is also requesting 4 additional positions due to new duties imposed by AB 988, including two positions to administer the Surcharge Fund and two positions for the Technical Advisory Board.

Statewide Resources. In addition to the resources provided for Cal OES, the 2022 Budget included $8 million one-time General Fund to support the Lifeline centers and established qualifying mobile crisis interventions services as a Medi-Cal covered benefit through the Medi-Cal behavioral health delivery system. DHCS has also indicated that they have awarded $150 million General Fund to date in grants to counties to build out crisis care mobile units.

[1] https://www.npr.org/sections/health-shots/2023/01/16/1149202586/988-lifeline-sees-boost-in-use-and-funding-in-first-months
[2] https://988lifeline.org/wp-content/uploads/2023/01/FINAL-2022-12_988-State-Report-1.pdf
[3] https://988lifeline.org/wp-content/uploads/2022/10/FINAL-2021-12_988-Monthly-State-Report.pdf
[4] https://www.kff.org/other/issue-brief/taking-a-look-at-988-suicide-crisis-lifeline-implementation/

The proposed 2023-24 budget also includes the following resources for CalHHS[5] and CDTFA[6] to implement the program, including:

- $661,000 2.5 positions in 2023-24 and $617,000 in 2024-25 and ongoing 988 Fund for CDTFA to oversee the surcharge collection.

- $13.2 million in 2023-24 and $16 million ongoing to CalHHS for the implementation of 988, including:

  - $5.5 million one-time 988 Fund for CalHHS to convene a state 988 policy advisory group to advise on development of a comprehensive implementation plan to build out a comprehensive 988 behavioral health crisis prevention, response, and care system.

  - 10 positions and $1.5 million ongoing (half 988 Fund, half Federal Fund) for DHCS to oversee county behavioral health plans compliance with the requirements of AB 988.

  - $4 million in 2023-24 and $12.5 million annually thereafter for DHCS to support eligible 988 call center behavioral health crisis services.

  - 7.5 positions and $2 million annually for the Department of Managed Health Care (DMHC) to oversee health care service plans.

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, with similar expectations in terms of physical, immediate responses and assistance. While that concern is not specifically related to this BCP, the Legislature should ensure that the entire system is adequately resourced.

Staff Recommendation. Hold Open.

[5] https://esd.dof.ca.gov/Documents/bcp/2324/FY2324_ORG0530_BCP6813.pdf
[6] https://esd.dof.ca.gov/Documents/bcp/2324/FY2324_ORG7600_BCP6346.pdf

Issue 4: Next Generation 9-1-1 and the California Public Safety Microwave Network

Governor's Budget. The Office of Emergency Services requests $137,644,000 in 2023-24, $132,780,000 in 2024-25, and $91,440,000 ongoing State Emergency Telephone Number Account (SETNA) to support the completion of the California Public Safety Microwave Network buildout, completion of the Next Generation 9-1-1 system, and the ongoing maintenance and support of these systems.

Panelists.
- Budge Currier, Assistant Director of Public Safety Communications, Cal OES
- Eric Swanson, Deputy Director of Finance and Administration, Cal OES
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst's Office
- Tess Scherkenback, Finance Budget Analyst, Department of Finance
- Stephen Benson, Principal Program Budget Analyst, Department of Finance

Background. Cal OES began two initiatives, the Next Generation 9-1-1 system and upgrading the California Public Safety Microwave Network, in 2018-19 using SETNA funding. Both efforts were originally scheduled to be completed by 2022-23, but are now on track to finish in 2023-24 due to a year of deferred funding, COVID-19 and supply chain related delays, and disaster impacts.

Next Generation 9-1-1 (NG 9-1-1). OES has responsibility for developing and maintaining the state's 9-1-1 system. The existing 9-1-1 system is based on technology that was developed and deployed in the 1980s and has various limitations. For example, during disaster events, the system can get overwhelmed, making it difficult for callers to reach dispatchers. Additionally, the system has limited ability to handle data—such as photos and text messages—or provide accurate location information to first responders.

Government Code (GC) Section 53121 requires Cal OES to implement and operate NG 9-1-1, which transitions California's 9-1-1 network from analog to an Internet Protocol (IP) based NG 9-1-1 technology. Cal OES has validated and tested the core NG 9-1-1 system, set up a testing environment, developed routing plans for 449 Public Safety Answering Point (PSAP) locations, and installed equipment at 429 of 449 PSAPs, among other milestones. As of July 2022, five of the 449 sites have gone live, and Cal OES has completed successful testing at 100 of 449 sites.

Next Generation 9-1-1 Augmentations Approved in 2018-19 Budget

(Dollars in Millions From the State Emergency Telephone Number Account)

Category	2018-19	2019-20	2020-21	2021-22	2022-23 and Ongoing
State Operations	$1.1	$1.1	$1.1	$1.1	$1.1
Local Assistance	10.4	$20.4	23.0	34.1	38.6
Totals	**$11.5**	**$21.5**	**$24.0**	**$35.1**	**$39.7**

Source: LAO[7]

[7] https://lao.ca.gov/Publications/Report/3961#Funding_the_9.20111.20111_System_

California Public Safety Microwave Network (CAPSNET). CAPSNET has been in service for more than 50 years spanning the entire State of California with over 300 locations. Managed and maintained by Cal OES' Public Safety Communications (PSC), the statewide microwave network enables greater communication coverage for first responders given the vast topology of California. During the 2018-19 budget cycle, PSC sought to address these issues by proposing to use SETNA funds to advance CAPSNET with newer digital technologies allowing for greater capabilities, much needed redundancy, resiliency, as well as provide the capacity needed to provide a backup wireless network for the state's NG 9-1-1 PSAPs.

The original CAPSNET proposal was approved and funded with 17 positions and $78,290,000 in SETNA funding spanning five-years. PSC has upgraded infrastructure at 146 of 297 sites, conducted site surveys and microwave path analysis at 207 sites, provides backup connectivity for the California Radio Interoperable System (CRIS), the California Earthquake Early Warning System, and NG 9-1-1 transport, among other milestones.

Proposed Resources. The CAPSNET Upgrade and the transition to NG 9-1-1 will be completed in 2023-24. During 2023-24 and 2024-25, legacy 9-1-1 services will be terminated after each Public Safety Answering Point is fully transitioned to NG 9-1-1 and the services have been validated. In 2024-25 and following years, the authority and positions will be used to maintain the system, complete CAPSNET connectivity to the PSAPs, support lifecycle replacement, and provide cyber security for the systems. Cal OES has determined a need for on-going positions and funding to support, manage, and maintain NG 9-1-1 and CAPSNET. These positions will focus on network security, technical support, and network design. The funding for each project and fiscal year are outlined in the table below.

Expense Category	FY 22-23	FY 23-24	FY 24-25	FY 25-26	Ongoing
NG 9-1-1	$70,720,000	$77,629,000	$85,595,000	$85,595,000	$85,595,000
Legacy 9-1-1 Network, CPE, and other Local Assistance	$76,500,000	$93,740,000	$88,305,000	$52,870,000	$52,870,000
CAPSNet	$15,993,000	$18,552,000	$11,152,000	$3,752,000	$3,752,000
Other SETNA and State Ops	$5,954,000	$7,172,000	$6,902,000	$8,397,000	$8,397,000
BCP Request:		$137,644,000	$132,780,000	$91,440,000	$91,440,000

Fund Condition. SETNA is supported by a telephone access line surcharge. The fee structure was updated as part of the 2019 Budget. This fee is currently approximately 30 cents, and is capped at 80 cents. The Administration has indicated that the fund can support these proposed resources within the current fee structure.

Staff Recommendation. Hold Open.

Issue 5: Federal Funding and Grant Management

Governor's Budget. The proposed budget includes the following resources for Cal OES to administer disaster and non-disaster related federal funding, and manage state and federal grants:

- 55 permanent positions, all funded with existing appropriation authority, to administer various state and federal grants.

- 37 positions, $9,500,000 ($7,024,000 Federal Trust Fund and $2,476,000 General Fund) in 2023-24, and $9,124,000 ($6,742,000 Federal Trust Fund and $2,382,000 General Fund) ongoing to establish a Resiliency Branch within the Hazard Mitigation Section to administer hazard mitigation funding available through various Federal Emergency Management Agency (FEMA) programs.

- 8 positions, $1,251,000 Federal Trust Funds, and $416,000 General Fund to implement the new FEMA Validate As You Go payment process.

- $1 billion federal trust fund authority to process FEMA reimbursements.

Panelists.

- Ryan Buras, Deputy Director of Recovery, Cal OES
- Eric Swanson, Deputy Director of Finance and Administration, Cal OES
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst's Office
- Tess Scherkenback, Finance Budget Analyst, Department of Finance
- Stephen Benson, Principal Program Budget Analyst, Department of Finance

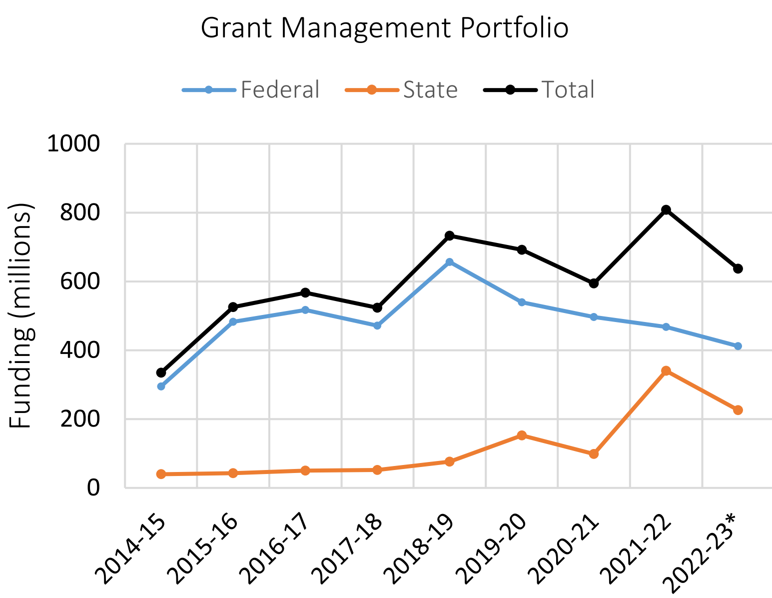
Background.

Disaster Funding Realignment. OES currently has both state operations and local assistance authority tied to reimbursements received from the Federal Emergency Management Agency (FEMA) for federally declared disasters. In the 2021 Budget Act, a new item of appropriation was included in the OES budget to track all state agency and OES reimbursement funding, Item 0690-006-0890. Currently, all local assistance disaster reimbursements flow through Item 0690-101-0890, which means disaster grants are comingled with non-disaster grants such as Hazard Mitigation Grant Program, Emergency Management Program Grant, Homeland Security Grant Program, etc.

OES is requesting to establish a new item of appropriation and create baseline authority levels to delineate disaster grants for both state agencies and locals from non-disaster grants. Similar to the establishment of Item 0690-006-0890 in the 2021 Budget Act to track all FEMA reimbursements for state agencies, OES is requesting a new local assistance item, Item 0690-106-0890, to track all local assistance FEMA disaster reimbursements. Based on the last four-years of total needed authority, absent COVID-19 to avoid skewing the data, OES is requesting a baseline amount of $339,000,000 for Item 0690-006-0890 and a baseline amount of $662,516,000 for Item 0690-106-0890, for a total of $1 billion federal trust fund authority. The baseline authority is a combination of realigning existing baseline budget authority as well as increasing authority to reflect average actual expenditures over the last four years. This authority will help OES better track these disaster-related reimbursements.

In addition, OES is requesting budget bill language to provide provisions similar to those included for Item 0690-006-0890 that exempts augmentations to this new item from Control Section 28.00 because the funding that will flow through both items is strictly federal reimbursements to be provided back to the General Fund, another state agency, or a local government for disaster-related expenditures. These provisions also include a requirement for written notification to the Legislature whenever an augmentation is approved to maintain transparency related to any increase in the amount of reimbursements received.

Grant Management. Cal OES Grants Management is responsible for administering approximately 100 federal and state grant programs to support local governments, community-based organizations, and nonprofit organizations. This workload has increased significantly over the last seven years, including in total volume of grant funding (shown in the figure below), and in the number of fund sources (from 21 in 2014 to 40 in 2021) and in the complexity of the administration and requirements.



This portfolio of federal and state grants includes, but is not limited to, the Homeland Security Grant Program (HSGP), Emergency Management Performance Grant Program (EMPG), the federal Nonprofit Security Grant Program (NSGP), the state California NSGP, the Victims of Crime Act (VOCA) Grant, the Services, Training, Officers, and Prosecutors (STOP) Violence Against Women (VOWA) Formula Grant and the 2021 American Rescue Plan (ARP) COVID-19 Supplemental funding.

Cal OES can typically use up to five percent of the funding for administrative costs. Cal OES has relied on this funding and a mix of temporary and permanent positions to manage the grant portfolio. The temporary positions typically have a maximum length of 2 years, which is shorter than the typical grant performance periods. For grant administration, the limited-term positions have a 24 percent vacancy rate, compared to 6 percent for the permanent positions. Cal OES is requesting permanent authority for 55 positions (bringing the total to 118 staff), which will be funded by the provided administrative costs. This number is based on program specialists with a maximum caseload of 25 subaward projects and associated non-caseload staff. In 2022-23, there were 2940 grant subawards.

Hazard Mitigation Staffing. Some specialized grants are administered by other sections of OES. The Hazard Mitigation Section administers Federal Emergency Management Agency (FEMA) funding related to Hazard Mitigation Assistance (HMA).

Available FEMA Funding. At the federal level, FEMA has the following non-disaster HMA programs, which together provided $3 billion nationwide in 2022:

- *Building Resilient Infrastructure and Communities (BRIC) Program*. BRIC is an annual, competitive program that funds large-scale risk reduction projects, particularly focused on nature-based solutions and community resilience. FEMA launched this program in 2020 with an initial $500 million investment, and the funding has steadily increased to $2.3 billion in 2022. California has so far been successful under the BRIC program, receiving roughly 20 percent of the nationally available funding in both 2020 and 2021.

- *Flood Mitigation Assistance (FMA) and Pre-Disaster Mitigation (PDM).* These two programs were pre-existing non-disaster grants from FEMA, and were historically funded at less than $200 million per program per year. However, in 2022, FEMA allocated $800 million to FMA and $150 million for PDM.

- *Safeguarding Tomorrow Through Ongoing Risk Mitigation (STORM*) Act. The STORM Act creates a revolving loan fund for communities to access funding for mitigation projects, and was allocated $100 million in 2022.

In addition, FEMA administers a disaster-related HMA program, the Hazard Mitigation Grant Program (HMGP). When a major disaster is declared, California receives 20 percent of the total cost of the disaster recovery to invest in mitigation (the baseline is 15 percent, and California receives an extra 5 percent for being an Enhanced State with a comprehensive mitigation program). California also receives funding (roughly $1 million per major fire) through HMGP Post-Fire. California has received roughly $780 million through these programs since 2020.

Altogether, these HMA programs have provided roughly $2 billion in federal funds to the state for mitigation and climate adaption projects in the last decade, with over $1 billion of that funding allocated to California since 2020. Cal OES expects to see increasing federal investment in these programs.

Cal OES's Role. Cal OES assists local governments in all stages of applying for and receiving these funds, and selects which state projects are submitted to FEMA. Due to the complexity of the FEMA programs and application requirements, the HMS invests significant time in technical assistance for applicants. Each of Cal OES's selected projects requires hundreds of hours of individual technical assistance and review over the application period, which can last over a year, with the most time required for communities that are historically underserved. In addition, some of California's challenges and strategies are unique, and require additional assistance to conform to FEMA guidelines. Cal OES also helps develop mitigation strategies, and monitors the implementation of the funding and ensures compliance with state and federal laws and regulations.

Cal OES cited the following project examples:

- One California project, a groundwater recharge drought activity for Kern County, was selected as a "White House Justice 40 Project," recognizing it as an innovative project for a disadvantaged community.

- A recent Cal OES study revealed that a single $500,000 Cal OES vegetation management project resulted in $73,000,000 in avoided losses (an 8,448 percent return on investment) by protecting the Lick Observatory in Santa Clara County during the SCU Lightning Complex Fire.

- Sustained investment in Sonoma County's Residential Flood Elevation Program through federal mitigation programs over the last two decades has saved over $70,000,000 in avoided losses along the Russian River.

Focus on Underserved Communities. Cal OES indicates that it is focusing on reaching underserved communities, using the CDC's Social Vulnerability Index, Cal Enviroscreen, and other established indices. Cal OES intends to track the number of applications, number of funding awards, and amount of funding that these communities receive.

Current Resources. The section currently has 56 positions, with 23 (19 AGPAs and 4 managers) dedicated to managing these HMA grants. The section also has 20 vacancies (36 percent). The grant periods last anywhere from three to ten years, meaning that these grants are not closing out as quickly as new application rounds, and therefore new grant projects to manage, are opening. Currently, each of those staff members is responsible for overseeing at least 29 active grants and review at least 15 applications. Cal OES indicates that up to 20 active projects and 5 applications should be the maximum workload for a grant management analyst, and is proposing to separate the active grant monitoring and application assistance duties into separate teams.

Proposed Resources. Like the grant staffing proposal discussed earlier, Cal OES is currently relying on supplementary temporary staffing to support this work. These positions will largely be supported through administrative resources provided with the grants, but will required some General Fund, because there is a 25 percent state match requirement. The proposed resources will be used to create a Resiliency Branch within the Hazard Mitigation Section that combines existing mitigation planning and special project teams with a new technical assistance team focused on underserved communities. The TA team will also contain technical expertise in civil engineering, forestry, and other areas, and will also help connect locals with relevant expertise in other state departments (such as the Department of Water Resources).

Validate As You Go Process. The Public Assistance Grant Program**,** also administered by FEMA, includes supplemental grants for activities after a major disaster or emergency, for activities such as debris removal, life-saving emergency protective measures, and restoring public infrastructure. The federal government typically pays 75 percent of eligible state and local government costs. In the case of state costs, the state pays the remaining 25 percent. In the case of local activities, the remaining cost is typically shared between the state (19 percent) and the local government (6 percent). At times, the federal government has covered an even greater share. For example, the federal government covered 90 percent of eligible debris removal costs after the 2017 fires that affected Northern and Southern California. The four components of eligibility are: applicant, facility work, and cost:

- *Applicant*: a state, territory, tribe, local government, or certain type of private nonprofit organization.

- *Facility*: a building, public works system, equipment, or improved and maintained natural feature.

- *Work*: categorized as either "emergency" or "permanent" and must be required as a result of the declared incident, located within the designated disaster area, and is the legal responsibility of the eligible applicant.

- *Costs*: expenses tied directly to eligible work, and must be adequately documented, authorized, necessary and reasonable. Eligible costs include labor, equipment, materials, contract work, and management costs.

FEMA has implemented a new process, Validate As You Go, or VAYGo, to document and validate expenditures from its Public Assistance Grant Program. Previously, subrecipients self-validated their costs through the recovery process, and validation was completely at the end by Cal OES's Disaster Closeout Division. Now, subrecipients will be required to submit validation when requesting resources, which Cal OES will have to review for eligibility before the reimbursement can be processed. FEMA intends to randomly sample validations completed with VAYGo to ensure funds are being spent properly. There are currently two units that handle the VAYGo process, including the FPD and the Disaster Closeout Division. Cal OES proposes to create a new division focused on VAYGO processing, with 8 staff. The proposed unit will have four regions (Coastal, Inland, Southern, and Statewide). The proposed eight staff would include four AGPAs, a Staff Services Manager I, and two Staff Services Analysts and an Office Technician to provide support services. The proposed funding for the unit would be 75 percent federal funding and 25 percent General Fund.

Staff Recommendation. Hold Open.

Issue 6: COVID-19 Emergency Expenditures

Governor's Budget. The proposed budget includes the following resources for Cal OES's COVID-19 response:

- $4,500,000 one-time General Fund to continue daily COVID-19 testing protocols at multiple department locations.

- Reduction of $37 million that was provided in the 2022 Budget for replacing expired supplies.

Panelists.

- Eric Swanson, Deputy Director of Finance and Administration, Cal OES
- Marvin Green, Deputy Director of Logistics Management, Cal OES
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst's Office
- Tess Scherkenback, Finance Budget Analyst, Department of Finance
- Stephen Benson, Principal Program Budget Analyst, Department of Finance

Background.

SMARTER Plan Expenditures. The Administration announced the SMARTER Plan in February 2022, the next phase in California's COVID-19 response[8]. The plan outlines the steps the state will take to manage COVID-19 while moving out of a state of emergency. SMARTER stands for Shots, Masks, Awareness, Readiness, Testing, Education, and Rx.

The Governor's Budget proposes $4,500,000 one-time General Fund for Cal OES to continue daily COVID-19 testing protocols at multiple department locations to help ensure it is always prepared to continue emergency response and disaster recovery efforts across California. The Governor proclaimed a State of Emergency on March 4, 2020, for the COVID-19 Pandemic. The Budget Act of 2022 provided Cal OES with $13,500,000 in General Fund to continue response activities. As of July 1, 2023, no funding will be available for Cal OES to continue to any COVID-19 related operations. The current year appropriation has been used to maintain the State Operations Center, purchase personal protective equipment (PPE), provide testing, and support local mutual aid assistance.

Current Daily Testing Protocols. Any individual, whether they are an employee or guest, who enters the State Operations Center (SOC) and other designated areas is tested for COVID. The administration of the test is performed by personnel from the California Military Department. The COVID testing is supported by approximately 20 personnel, who cover three sites Monday through Friday—weekend testing is available if required—at Cal OES Headquarters, the Joint Field Office, and the Homeland Security Directorate. The testing teams are comprised of medics and admin staff to test Cal OES employees prior to entry. The team tests staff from 6 a.m. through 5 p.m.; however, the time is subject to change to meet the expanding needs of the Cal OES staff and the

[8] https://calmatters.org/health/coronavirus/2022/02/california-covid-plans/

Governor's team. This team also continues to support the Governor's office if they have requests for testing. During a typical month, the COVID testing team conducts 7,000 to 8,000 COVID-19 tests; however, testing drastically increased during the month of January due to the activation of the State Operation Center during the winter storms. In January, the testing team conducted nearly 15,000 COVID-19 tests.

Reduction in Warehousing Operations. The 2022-23 budget included $114.3 million one-time General Fund to provide warehouse space, purchase new and replace expiring personal protective equipment (PPE), increase commodity supply, and secure logistic support equipment. Of this, $37 million was for the PPE stockpile and the replacement of expiring PPE. However, Cal OES currently has 125 million masks on hand, and the new SMARTER Plan calls for a stockpile of 75 million, so there was not a need to purchase new PPE. The Administration is returning this funding to the General Fund.

Staff Recommendation. Hold Open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 7: Division of Juvenile Justice Closure

Governor's Budget. The Governor's budget includes savings of $95.6 million ($93.2 million General Fund and $2.4 million other funds) and 603.1 positions in 2023-24, $98.9 million ($96.1 million General Fund and $2.8 million other funds) and 631.4 positions in 2024-25, and $95.8 million ($93 million General Fund and $2.8 million other funds) in 2025-26 and ongoing to reflect the closure of DJJ in June 2023.

The Governor's budget proposes to retain $29.1 million in 2023-24 and $26.6 million in 2024-25 and ongoing that was previously designated for DJJ-workload, which would be realigned under CDCR's budget. The proposed budget includes the following:

- 124 temporary positions to ramp down DJJ operations and facilitate the transition of youth to county care, with these positions terminating throughout the fiscal year.

- $4.7 million ongoing and 25 permanent positions to maintain DJJ facilities in warm shutdown, manage ongoing DJJ-specific activities and workload, such as processing workers' compensation claims, and continue management of an automotive facility.

- $6.9 million ongoing and 27.6 permanent positions to continue operations of Pine Grove Youth Conservation Camp.

- $15 million annually to cover open workers' compensation costs.

Panelists.
- Dr. Heather Bowlds, Director, Division of Juvenile Justice, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Allison Hewitt, Department of Finance

Background. The 2020-21 budget included a plan to close the Division of Juvenile Justice (DJJ) at the California Department of Corrections and Rehabilitation (CDCR). While most juvenile offenders were already housed or supervised locally, counties could choose to send juveniles who had committed violent, serious, or sex offenses to state facilities operated by DJJ. There were typically about 650 youth statewide in DJJ facilities. The closure of DJJ means that the juvenile justice system is now completely realigned to the county level.

Juvenile Courts Decide Where to Place Youths. Youths accused of a crime that occurred before they turn 18 years of age start in juvenile courts. If the court determines the youth committed the crime, it then determines where to place the youth based on statute, input from the defense, county probation, and prosecutors, as well as factors such as the youth's offense and criminal history. Depending on the circumstances of the case, the juvenile court currently can take several possible actions including placing the youth under county supervision or in DJJ. In 2022, a total of 2,706 youths were either held in a DJJ or county facility, which is about 5,600 fewer youths than the

8,320 youths held in 2012. In addition, the court may choose to transfer certain youth cases to adult court if a transfer request is filed with the court by a prosecutor in cases where youths have committed very serious crimes.

Responsibility and Funding for Certain Youth Has Shifted From the State to Counties. Various pieces of legislation have significantly reduced the number of youths eligible for placement in DJJ. In particular, two keys pieces of legislation shifted, or "realigned," responsibilities for certain youth from the state to the counties by limiting which youths could be sent to DJJ. Specifically:

- Chapter 175 of 2007 (SB 81, Committee on Budget and Fiscal Review) restricted the type of youths that juvenile courts could place in DJJ to only those who committed certain significant crimes listed in statute. The state currently provides over $200 million annually to counties for costs associated with supervising youths that might otherwise have been placed in DJJ.

- Chapter 337 of 2020 (SB 823, Committee on Budget and Fiscal Review) realigned responsibility for most remaining youths from the state to the counties. Since July 1, 2021, youths can only be placed in DJJ if they (1) committed certain significant crimes listed in statute (such as murder, robbery, and certain sex offenses) and (2) had a transfer request to adult court filed in their cases by a prosecutor. To assist counties with their increased responsibility, the state provides funding to counties—in addition to the funding provided from SB 81—which is estimated to be $122 million in 2022-23 and reaching over $200 million annually by 2024-25. Chapter 18, Statutes of 2021 (SB 92, Committee on Budget and Fiscal Review) further specified that DJJ will close and all youth will be transferred to county supervision by June 30, 2023.

In addition to the block grants referenced above, the state has provided one-time resources for county facilities, including $9.6 million for planning and facilities in 2020-21, $100 million for facilities in 2022-23, and $300 million for facilities in 2007 (associated with SB 81).

Most Youths Placed With Counties. Prior to the planned closure of DJJ, most youth were already supervised at the county level, with about 650 youth statewide in DJJ's four facilities (N.A. Chaderjian Youth Correctional Facility, O.H. Close Youth Correctional Facility, Ventura Youth Correctional Facility, and Pine Grove Youth Conservation Camp). Youths placed under county supervision are typically allowed to remain with their families with some level of supervision from county probation officers. However, some youths—typically those who have committed more serious crimes—are housed in county juvenile facilities, such as juvenile halls or camps. In 2022, there were roughly 2,146 youths housed in county juvenile facilities.

Small Number of Youths Placed in DJJ Until June 30, 2023. Consistent with the realignment discussed above, existing state law specifies that DJJ shall close on June 30, 2023 and that no placements to DJJ may occur after that date. Counties are currently responsible for paying the state an annual rate $125,000 or about $340 per day for the time the youths are housed in a DJJ facility.

The Governor's budget estimates an average daily population of 465 youth in 2022-23, with 360 youth remaining at the time of DJJ's closure, based on historical discharge rates. However, of the remaining youth, roughly half were potentially eligible for discharge before the closure date, and the remaining youth are being returned to their counties over the next few months. As of January 2023, there were about 390 youths housed in DJJ's four facilities.

DJJ Facilities to Close by July 2023. DJJ's facilities will close by July 1, 2023. However, Pine Grove Youth Conservation Camp will become a camp operated by CDCR to train justice-involved youth in wildland firefighting skills. Youths still housed in DJJ at that time—including those housed at Pine Grove—will be transferred to county jurisdiction. As part of the process of transitioning youths to county responsibility, CDCR staff are currently completing individualized transition plans for each youth that notifies the county of the youth's needs, participation in programs, and security concerns.

Following the closure of DJJ, CDCR (rather than DJJ) will operate Pine Grove to train justice-involved youth in wildland firefighting skills through a state-local partnership. Specifically, CDCR is authorized to enter into contracts with counties to accept into Pine Grove youths who are under the jurisdiction of the juvenile court for a serious crime and are at least 18 years old, as well as other eligibility criteria established by the department. Similar to other placements, juvenile courts, with input from defense as well as county probation and prosecutors will be responsible for deciding whether to place youths that meet the eligibility criteria at Pine Grove.

Goals of Realignment. Youth housed in DJJ facilities largely did not have access to the types of rehabilitative programming and community connections that are necessary for a humane and successful juvenile justice system. First, the location of DJJ facilities means that many youth offenders were moved far from home, making it difficult to maintain ties with their families and communities. Second, DJJ facilities were notorious for violence and had high recidivism rates. 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 Board of State and Community Corrections (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.

Proposed Resources. The Governor's budget for 2023-24 proposes various adjustments related to the closure of DJJ. In total, the Governor's proposal reduces DJJ's budget from $258 million (largely from the General Fund) in 2022-23 to about $3 million in 2023-24. The Governor's budget also proposes a net increase of $22.8 million annually to CDCR (outside of DJJ's budget) for ongoing workload related to the closure and the continued operation of Pine Grove. These proposals are described below.

Eliminates Most Resources From DJJ's Budget. Although DJJ will be closed to youth in 2023-24, the Governor's proposal would not completely eliminate DJJ's budget. As discussed below, the administration is proposing to maintain some DJJ staff in 2023-24 for temporary workload associated with DJJ closure and transitioning youth. According to the administration, it might need to make further technical adjustments to eliminate additional funding from the DJJ budget as part of the May Revision.

Maintains Limited-Term DJJ Resources for Temporary Workload Associated With Closure and Transitioning Youth. The Governor proposes to maintain about 124 positions for temporary workload associated with closure activities and activities to transition youth to the counties. These include:

- *Staff to Complete Closure*. The Governor's proposal includes funding to keep 111 positions between one and six months to complete the DJJ closure. These positions consist of various staff to document inventory, deactivate facilities, and move equipment and records out of DJJ facilities, as well as supervisors for this temporary staff.

- *Staff to Help Transition Youth to Counties*. The Governor's proposal also includes funding to keep 13 positions between 6 and 12 months to help transition youth. The positions consist of two Parole Agents that would provide counties with subject matter expertise on gangs, one Teacher and Superintendent to provide counties with support related to DJJ education, and eight Psychologists and one Chief Psychologist to create a mental health transition team that will support counties.

Eliminates Some Related Funding From CDCR's Non-DJJ Budget. The Governor's budget also eliminates $3.9 million and 24 positions from CDCR that are not part of DJJ's budget, but currently support DJJ workload. For example, the proposal would eliminate accounting positions from CDCR's Fiscal Services unit that are dedicated to DJJ workload.

Augments CDCR's Non-DJJ Budget for Ongoing Workload Associated With Closure. The Governor proposes to augment CDCR's budget outside of DJJ on an ongoing basis with $19.8 million and 27 positions for workload associated with DJJ's closure. This includes staff and resources for:

- *Workers' Compensation Claims ($15.3 Million).* The workers' compensation system provides benefits to employees for work-related injuries or illnesses. These benefits may include medical treatment, payments for lost wages, and payments that compensate the injured employee for having a permanent impairment or limitation. The obligation to pay these costs for former DJJ employees will remain after the closure. Accordingly, the Governor's proposal includes two permanent positions for processing such claims and $15 million to pay for the claims.

- *Warm Shutdown of Facilities ($3.4 Million).* When CDCR facilities are deactivated, their basic infrastructure is often maintained to ensure it does not deteriorate while the facility is unused—a practice referred to as warm shutdown. The Governor's proposal provides 15 positions for CDCR to place all DJJ facilities—with the exception of Pine Grove—on warm shutdown. These positions will be funded on an ongoing basis to conduct pest control, safety maintenance, and other preventive care.

- *Administrative Workload ($900,000).* The Governor's proposal provides six positions for administrative workload, such as ongoing recordkeeping and maintenance of transcripts as well as processing of transcript requests. CDCR expects that this workload will continue permanently.

- *Automotive Maintenance for California Health Care Facility ($200,000*). Because the California Health Care Facility (CHCF) does not have an in-house automotive repair shop, the adult prison staff must take the CHCF vehicle fleet off-site for repair. The Governor's proposal requests resources to use the existing DJJ automotive facilities, which are located in close proximity to CHCF, to service the CHCF vehicle fleet. Included in the request are two automotive mechanic positions that would service the CHCF fleet.

Provides CDCR Resources for Operation of Pine Grove. The Governor proposes $6.9 million and 27.6 positions ongoing for CDCR to maintain operations of Pine Grove. The administration has indicated that CDCR entered into contracts with five counties that would send youth to Pine Grove, and expects to add 19 additional counties. Under the proposed contracts, the state would pay most of the costs associated with Pine Grove operations. However, counties would be responsible for paying a rate of $81 per day that a youth is in training and $10 per day otherwise—or a maximum of about $4,600 per year. This means counties would cover—at most—around $460,000 of the costs of the camp (or about 7 percent), given it can hold a maximum of 100 youth. As discussed above, youths must meet certain criteria set in statute and established by CDCR to be eligible for placement. These include that youth must be under the jurisdiction of a juvenile court, at least 18 years of age, have a high school diploma or equivalent, and must not have a sex or arson offense.

LAO Comments.

Some Temporary Staff to Complete Closure Could Be Unnecessary. As previously mentioned, the Governor's budget proposal includes funding to keep 111 positions on a temporary basis in the budget year to complete the DJJ closure. However, it is possible that the workload associated with some of these positions could be completed in the current year ahead of the closure. Some of the requested 111 temporary positions and associated workload that could be completed prior to closure includes: two Chaplain positions for one month to archive records and inventory property, two Pharmacists and two Pharmacy Technicians for one month to inventory medications, two Lieutenants for two months to process contraband and take inventory of various correctional officer equipment, and ten Case Records Technicians for at least two months to help transition DJJ files to the counties. Given that the administration's request is based on estimates for the amount of temporary workload to remain post-closure as of last fall, revised estimates this spring on the amount of workload remaining could show that some or all of the above positions are not necessary on a workload basis.

Temporary Staff to Help Transition Youth Unnecessary. Given that each youth transitioning to county jurisdictions from DJJ will have an individualized transition plan that notifies the county of the youth's needs, participation in programs, and security concerns, the LAO finds the 13 temporary staff to help transition youth post-closure seem unnecessary. Although DJJ staff indicate that these positions could help address concerns from counties, they also indicated that counties have not requested this specific support.

Proposed CDCR Resources for Workload Associated With Closure Appear Justified for 2023-24, but Some Positions Likely Unnecessary on Ongoing Basis. The LAO finds that the permanent positions and associated funding proposed for CDCR for workload associated with the closure appear needed in the budget year. However, some of the proposed resources are likely to be unnecessary in the future as some of the workload will decline. For example, as DJJ workers' compensation claims close in the future and no new workers' compensation claims are filed because of the closure, the workload necessary to process the remaining open claims will decline. Similarly, the administrative workload related to maintaining and processing DJJ files will likely decline over the years. For example, as former DJJ youth age, there are likely to be a declining number of transcript requests. Accordingly, the resources could be unnecessary in the future.

Funding for Automotive Maintenance for Nearby CHCF Not Justified. As previously mentioned, the administration indicates that it will be more efficient for CHCF to service its vehicle fleet by using the existing DJJ positions and automotive facilities rather than taking the fleet to be serviced off-site as is currently done. However, while the Governor's budget proposes $200,000 to support the DJJ automotive facilities, the budget does not eliminate the funding that is currently being used to pay the costs of taking the fleet to be serviced off-site—resulting in an increase in total costs rather than savings. As a result, the LAO finds the funding requested for the two positions unnecessary, as it appears that CDCR could redirect the existing resources it is using to service the CHCF fleet off-site to support the cost of servicing it at the DJJ automotive facilities.

Permanent CDCR Staff for Pine Grove Operations Appears Reasonable. The requested resources to staff Pine Grove appear justified since the proposed staffing package is similar to the existing staffing package used by DJJ. For example, in recent years Pine Grove's existing annual budget was between $6 million and $7 million. While it is unclear how many counties will send youths and how many youths will be at the camp, the number of youths in the camp will not significantly impact the resources needed to operate Pine Grove. This is because most of the expenses of the staff and other overhead will occur regardless of how many youths are in the camp at any given time.

Proposed Pine Grove Contracts Inconsistent With Realignment. As previously mentioned, under the current contracts and the Governor's proposal, the state would be responsible for at least 93 percent of the cost of the camp, with counties paying fees supporting only 7 percent of the costs. The LAO finds that this is inconsistent with underlying goal of realignment to make juvenile justice solely a county responsibility. Moreover, the contracts would result in the state effectively double paying counties that choose to send realigned youth to Pine Grove. This is because the state already provides funding to counties for these youth through the grant programs created by SB 81 and SB 823.

LAO Recommendation.

Approve Reductions Associated With Closure. The LAO has no concerns with the proposed reductions to the DJJ budget. Accordingly, the LAO recommends the Legislature approve the reductions. If the administration proposes further reductions in the spring—as it has indicated could be necessary—the LAO intends to advise the Legislature on such proposals at that time.

Withhold Action and Direct Department to Report on Need for Temporary Staff to Complete Closure. As discussed above, it is possible that some of the workload for the temporary staff requested for the closure will be completed before 2023-24. The department will have better information in the spring as to the amount of workload remaining and the corresponding number of temporary staff it will need. Accordingly, the LAO recommends the Legislature withhold action on this part of the proposal and direct CDCR to provide in spring budget hearings updated estimates of the workload remaining to complete the closure.

Reject Temporary Positions to Help Transition Youth. The LAO recommends the Legislature reject the proposed temporary positions to help counties transition youth. The LAO finds these staff to be unnecessary because each youth will have a county transition plan to inform counties of their specific needs. Moreover, the department indicates that counties have not directly requested this type of support.

Modify Resources for Ongoing Workload Associated With Closure. The LAO recommends the Legislature modify the proposed ongoing resources for CDCR associated with closure of DJJ. Specifically, the LAO recommends:

- Approving the $15.3 million and two positions to process workers' compensation claims and $900,000 and six positions for administrative workload on a two-year, limited-term basis as the need for these resources is likely to decline in the future. The LAO notes the department can request to retain these resources in the future if the need for them persists.

- Approving the two automotive maintenance positions to provide repair and maintenance services to the CHCF vehicle fleet, but rejecting the requested $200,000 as CHCF should have sufficient resources for these positions within its existing budget from the funding freed up from servicing the CHCF fleet at DJJ facilities.

- Approving the proposed $3.4 million and 15 positions requested for warm shutdown.

Require Department to Charge Counties a Fee That Minimizes State Costs for Pine Grove. The LAO recommends the Legislature require CDCR to charge counties a fee that covers a larger share of the costs of operating Pine Grove. For example, an annual fee of about $70,000, or about $192 per day, would roughly cover all of the costs of Pine Grove assuming the camp operates at full capacity. This would ensure counties remain fiscally responsible for most of the costs of youth in the juvenile justice system, as well as minimize the extent to which the state would effectively be paying counties twice for realigned youth.

Monitor Continued Need for Pine Grove. The LAO recommends the Legislature monitor the continued need for operating Pine Grove. For example, if it becomes unviable to operate Pine Grove because few counties place youths in the camp, then the Legislature could reconsider the cost-effectiveness of maintaining Pine Grove. However, to the extent it remains a legislative priority, the Legislature could consider taking steps to encourage counties to place youth there, such as reducing the county share of costs in the future if cost is the primary factor preventing counties from placing youths in the camp.

Staff Comment. This is the only proposal related to DJJ closure and juvenile justice realignment in the Governor's Budget. However, there are concerns about the ability of counties to provide appropriate programming and placement options for the youth returning to their care, and about the ability of the Office of Youth and Community Restoration with the Health and Human Services Agency to provide appropriate state-level guidance and oversight of county programs. These concerns were discussed at the Subcommittee No. 3 on Health and Human Services hearing on March 2, 2023.

Staff Recommendation. Hold Open.

Issue 8: CalAIM Technical Adjustments

Governor's Budget. The California Department of Corrections and Rehabilitation/California Correctional Health Care Services request a reduction of $11.7 million ($6.4 million General Fund and $5.3 million in reimbursement authority) in fiscal year 2023-24 and ongoing for 81.2 positions related to the 2022-23 California Advancing and Innovating Medi-Cal (CalAIM) proposal. In addition, the Department requests to shift the General Fund/reimbursement offset amounts from 2023-24 to 2025-26, consistent with the revised implementation timelines for CalAIM.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management Section, CCHCS
- Lisa Heintz, Director, Legislation and Special Projects, CCHCS/CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

Background.

CalAIM Consists of Various Initiatives That Impact Behavioral Health. Adopted in the 2021-22 budget package, CalAIM is a large set of reforms in Medi-Cal to expand access to new and existing services and streamline how services are arranged and paid. Some key initiatives include (1) enhanced care management, which provides comprehensive care coordination to certain at-risk individuals; (2) community supports that provide housing support, transitional services, and other benefits that address the social determinants of health; (3) various capacity building initiatives that help counties and other service providers provide a continuum of care that ranges from in-home support to more intensive inpatient and residential services; and (4) behavioral health payment reform to help counties transition to a less administratively burdensome and more timely process for receiving federal Medicaid funds for behavioral health-related services.

Justice-Involved Initiative. The California Justice-Involved initiative ensures continuity of coverage through Medi-Cal pre-release enrollment and provides key services to support a successful re-entry. CalAIM proposes to improve outcomes for justice-involved populations by mandating county inmate pre-release application processes, allowing Medi-Cal reimbursement services in the 90-day time period prior to release from incarceration, and by ensuring a facilitated referral and linkage ("warm hand-off") to behavioral health services and substance use disorder treatment services, both to providers in managed care networks and to county behavioral health departments. Specifically, under the initiative, county jails, county youth correctional facilities, and state prisons:

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

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

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

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

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

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

PATH Funding. In addition, the waiver authorizes $410 million for Providing Access and Transforming Health (PATH) Justice-Involved (JI) Capacity Building grants to support collaborative planning, and IT investments intended to support implementation of pre-release and reentry planning. The PATH JI funding is being distributed in two rounds: a completed planning grant round, and an in-progress implementation grant round (applications are due on March 31, 2023)[9]. CDCR received $350,000 in PATH Round 1 Funding, which will be used to obtain a consultant to assist with Medi-Cal Enrollment processes between CDCR, counties, and the Department of Health Care Services (DHCS). CDCR also indicated that they will apply for Round 2 funds.

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

Status and Implementation Timeline. California sought to implement Medi-Cal coverage for all eligible incarcerated individuals releasing from prison by January 1, 2023, with a 90-day pre-release from prison component to start by July 1, 2023. Currently, Medi-Cal benefit application assistance (so the individual is enrolled upon release) is available and accepted by approximately 80 percent of the total releasing population.

However, as of the Governor's Budget, the federal government had not yet approved the waiver necessary to implement the pre-release services (the waiver has since been approved, on January

[9] https://www.dhcs.ca.gov/CalAIM/Pages/Justice.aspx

26, 2023). The Administration modified the anticipated start date for 90-day pre-release services to a "no sooner than" date of April 1, 2024, with up to 24 months for implementation. CDCR assumes implementation for the Department will occur during the 2025-26 fiscal year. CDCR has indicated that the major implementation challenge will be developing a new Medi-Cal billing system to become a billable entity and collect reimbursements.

Proposed Resources. The CalAIM Initiative has shifted its start date to be no sooner than April 1, 2024, with an allowance of up to 24 months for state/county implementation. In response, CCHCS proposes to reduce the 81.2 positions received through a 2022-23 proposal, along with the associated funding, with the intent to re-assess staffing needs closer to the point-in-time of CalAIM implementation. These positions consisted of 39.6 Licensed Vocational Nurses, 39.6 Correctional Officers, and 2.0 Research Data Managers. In addition, CDCR/CCHCS requests to shift the General Fund to reimbursement authority offset until 2025-26, as indicated in the table below.

CalAIM Fund Shift					
	2023-24	2024-25	2025-26	2026-27	2027-28
General Fund	$0	$0	$ (7,613,000)	$ (19,596,000)	$ (27,076,000)
Reimbursements	$0	$0	$ 7,613,000	$ 19,596,000	$ 27,076,000

Staff Comment. As indicated in the table above, CDCR is not requesting any resources for CalAIM until fiscal year 2025-26, even though the earliest implementation date is April 1, 2024, which is in fiscal year 2023-24. As noted above, CDCR has indicated that the largest challenge will be billing. However, the Legislature may wish to consider whether CDCR can and should accelerate the implementation timeline, and whether resources for planning may be required earlier.

Staff Recommendation. Hold Open.

Issue 9: Integrated Substance Use Disorder Treatment Program (ISUDTP)

Governor's Budget. The Governor proposes a net decrease of $28.6 million in 2022-23 and $51 million in the 2023-24 for ISUDTP relative to the planned amount when the 2022-23 budget was adopted. This would bring total funding for ISUDTP to $262.8 million in 2022-23 and $276.8 million in 2023-24. These changes are the net effect of (1) various population-driven adjustments based on existing methodologies and (2) a proposed increase in funding for toxicology testing based on a newly proposed methodology.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management Section, CCHCS
- Lisa Heintz, Director, Legislation and Special Projects, CCHCS/CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

Background.

ISUDTP Treats Substance Use Disorder (SUD) as a Medical Need. ISUDTP, initiated as part of the 2019-20 budget, provides a continuum of care to people in prison to address their SUD and other rehabilitative needs. Prior to ISUDTP, CDCR generally assigned people to SUD treatment based on whether they had a "criminogenic" need for the program—meaning the person'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. For example, as part of ISUDTP, each person leaving prison receives two doses of naloxone, a medication that can help reverse the effects of an opioid overdose. In addition, people who are part of ISUDTP are assigned to SUD treatment based on whether they are assessed to have a medical need for such treatment. For example, when people are admitted to prison, Licensed Clinical Social Workers (LCSWs) determine the appropriate level of care for those identified as having a potential SUD with the National Institute on Drug Abuse Quick Screen. Similarly, for those within six months of release from prison, LCSWs administer an SUD assessment that identifies other needs necessary to facilitate transition into the community.

ISUDTP Expanded Availability of Medication Assisted Treatment (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 cognitive behavioral therapy, a type of therapy which helps change negative patterns of behavior) with medications designed to reduce the likelihood of people 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 to targeted groups starting in 2019-20.

Toxicology Testing Used When Receiving MAT. Toxicology testing is the process of collecting samples from a person to test for the presence of toxins, poisons, or substances, including illegal substances. Regular testing is important for those receiving MAT. Toxicology results can be used for various purposes, such as to determine a baseline level of toxins in the body before people receive MAT, monitor their adherence to treatment, adjust the dosage level of medications, and determine whether people are continuing to use substances.

ISUDTP Expanded in 2022-23. ISUDTP was expanded through the 2022-23 budget, which brought total current funding for the program to $291.4 million General Fund and 740.6 positions, increasing to $327.9 million in 2023-24. As part of the ISUDTP expansion, the department indicated that it would annually propose both current- and budget-year population-driven adjustments to the program's resources. This means the level of funding would be adjusted based on changes in the population affecting ISUDTP workload, such as changes in the MAT patient population. Population-adjusted resources include those for medications used for MAT and toxicology tests. They also include adjustments to staffing levels for various classifications, such as LCSWs as well as Licenses Vocational Nurses (LVNs), Pharmacists, and Pharmacy Technicians involved in dispensing MAT medications. Accordingly, the $291.4 million in the 2022-23 budget and the planned $327.9 million for 2023-24 would be adjusted to account for population changes.

Proposed Resources. The Governor proposes a net decrease of $28.6 million in 2022-23 and $51 million in the 2023-24 for ISUDTP relative to the planned amount when the 2022-23 budget was adopted. This would bring total funding for ISUDTP to $262.8 million in 2022-23 and $276.8 million in 2023-24. These changes are the net effect of (1) various population-driven adjustments based on existing methodologies and (2) a proposed increase in funding for toxicology testing based on a newly proposed methodology. As a part of the May Revision, the department will update these budget requests based on updated spring 2023 population projections.

Population-Driven Adjustments Based on Existing Methodologies. The Governor proposes various population-driven adjustments to ISUDTP based on existing methodologies that result in a decrease in funding of $41.6 million General Fund and 51.6 positions in 2022-23 and $65 million General Fund and 105.4 positions in 2023-24. These changes consist of:

- *Adjustments Based on MAT Patient Population*. Most of the adjustments are due to the MAT patient population being projected to be about 15,500 in the current year and about 16,600 in the budget year rather than 25,500, as was previously projected for both years. For example, the department proposes reducing funding for MAT medications by $16.6 million in current year and $23.1 million in the budget year.

- *Adjustment to LVNs Based Partially on MAT Patient Population*. The LVN positions are only partially adjusted based on the MAT patient population. Specifically, the department receives 1.77 LVNs per 225 MAT patients unless this adjustment would result in the department receiving less than 139.8 LVN positions, in which case the number of LVNs remains at 139.8—equivalent to the number of LVNs required to distribute MAT medications to 17,717 patients. The department indicates that it must retain these 139.8 positions even if the MAT patient population is below 17,717 in order to effectively distribute both MAT medications for ISUDTP and other medications not part of ISUDTP. Given that the MAT patient population is projected to be below 17,717 in both the current and budget year, the department proposes to retain 139.8 LVN positions in both years. This reflects a reduction in both the current and budget years of 62 LVN positions. The LAO notes that the department indicated that it might revise this budgeting methodology in the spring.

- *Adjustments Based on MAT Patient Population and Other Factors*. Some of the ISUDTP adjustments are based both on the number of MAT patients and other factors. For example, the number of Pharmacists and Pharmacy Technicians is adjusted based on calculations incorporating the MAT patient population and other factors, such as the MAT inventory (referred to as Omnicell Count). Based on changes in these factors, the department is requesting an increase of 2.3 additional Pharmacists in the current year and 1.9 Pharmacists in the budget year. In addition, the department is requesting to reduce the number of Pharmacy Technicians by 6.5 in the current year and 10.2 in the budget year.

- *Adjustments Based on Factors Other Than the MAT Patient Population.* Several adjustments are based on factors other than the MAT patient population. For example, the level of funding for naloxone and the number of LCSWs is based on the historical number of admissions to and releases from prison each month. Specifically, based on an assumption that there will be an average of 3,000 monthly prison admissions and releases, the department is proposing an increase of 13.5 LCSWs in the current year and a reduction of 0.5 LCSWs in the budget year. However, the department is not proposing a change in funding for naloxone in either year as its existing funding for the medication is sufficient, despite changes in prison admissions and releases.

Resources for Toxicology Testing Based on New Methodology. The 2022-23 budget provided sufficient resources to conduct ten toxicology tests per MAT patient per year. However, the administration is proposing to change the methodology to increase the number of toxicology tests per MAT patient to 14 per year going forward to reflect actual testing data. Accordingly, the budget proposes an increase of $13 million General Fund in 2022-23 and $13.9 million General Fund in 2023-24 to provide ISUDTP with sufficient resources to conduct 14 toxicology tests per MAT patient annually on a permanent basis. According to the department, the permanent 14 toxicology tests rate per MAT patient is necessary given that the MAT program has been ramping up significantly, which has resulted in a corresponding increase in toxicology testing being observed. Moreover, CDCR indicates that a higher number of toxicology tests per MAT patient have been used because more testing is necessary in the initial stages of treatment.

LAO Comments.

LVNs Requested Not Solely Based on ISUDTP Workload. Under the department's current methodology for budgeting LVNs, LVNs positions are not reduced despite the MAT patient population being less than 17,717. According to the department, this is because LVNs have to distribute both MAT-related medications for ISUDTP and other medications not part of ISUDTP. This suggests that LVN positions budgeted through ISUDTP have workload outside of ISUDTP. This is problematic because LVN workload outside of ISUDTP is already funded elsewhere in the health care budget—resulting in the department receiving more funds than necessary to complete the workload.

Unclear Justification for Adjustment Proposed for Pharmacy Positions. The Governor proposes to adjust the number of Pharmacists and Pharmacy Technicians based on calculations incorporating the MAT patient population and various other factors, such as the Omnicell Count. However, the department has not provided sufficient information on how these factors are used to calculate the number of positions needed. For example, it is unclear why, despite a decrease in the number of MAT patients and MAT medications, there would be an increase in the need for Pharmacists. Accordingly, it is unclear whether the number of Pharmacists and Pharmacy Technicians proposed is justified.

Request for LCSWs and Naloxone Inconsistent With Recent Data on Admissions and Releases. As discussed above, the need for LCSWs and naloxone is based on a projection that there will be 3,000 monthly admissions and releases in both the current and budget year. This is roughly consistent with the number of admissions and releases that have occurred historically. However, this assumption is inconsistent with more recent data. For example, data from the department indicates that in 2022, an average of 2,400 people were admitted and 2,700 people were released from prison each month. This is 600 fewer admissions (or 20 percent) and 300 fewer releases (or 10 percent) than assumed in the Governor's proposal. This suggests that the department is requesting more resources than it needs in the current and budget year for LCSWs and naloxone.

Budgeting Toxicology Testing Based on Current Frequency Could Be Flawed in the Future. Given that data on the number of toxicology tests used per MAT patient suggests the department needs to be budgeted for 14 rather than 10 tests annually, the LAO does not have concerns with increasing funding for such tests in the current and budget year. However, the LAO finds that it could be problematic in the future. Although the current rate of toxicology testing for those on MAT is higher than anticipated, it is possible that, as patients spend more time in the MAT program, the need for toxicology testing could decrease as the department indicates patients in the initial stages of treatment need more testing. Accordingly, the assumption that the average MAT patient needs 14 toxicology tests annually could be flawed in future years.

LAO Recommendation.

Withhold Action. Given that the department indicates it will update the proposed funding for ISUDTP at the May Revision, the LAO recommends that the Legislature withhold action until that time.

Direct Department to Make Specific Changes to Methodology Used for Revised and Future Proposals. The LAO recommends that the Legislature direct the department to make specific changes to the budgeting methodology for LCSWs, naloxone, and LVNs both for the revised spring proposal and future proposals. Specifically, the LAO recommends the department (1) base requests for LCSWs and naloxone on either updated projections of or recent data on the number of admissions and releases each year rather than a historical rate and (2) develop a methodology—that does not include other workload that is not ISUDTP related—to base the number of LVNs requested for ISUDTP. To the extent the recommended changes result in insufficient LVNs for other workload, the department could present a separate proposal justifying the need for such LVNs. These changes would better tie the level of resources requested to the department's actual workload.

Direct the Department to Provide Sufficient Justification for Pharmacy-Related Positions. The LAO recommends that the Legislature direct the department to provide sufficient information explaining and justifying its budgeting methodology for Pharmacists, and Pharmacy Technicians at budget hearings. This information would help the Legislature to review the revised spring proposal when it becomes available and to determine whether the budgeting methodology for these positions needs to be revised.

Annually Adjust Resources for Toxicology Testing Based on Actual Usage and MAT Projections. The LAO recommends that the Legislature direct the department to adjust the level of funding to administer toxicology tests in future years based on the projected MAT patient population and the average testing rate in the most recently completed prior year. For example, for the 2024-25 fiscal year, this means basing funding for toxicology testing on the 2024-25 projected MAT population and the average number of tests per MAT patient administered in 2022-23.

Staff Recommendation. Hold Open.

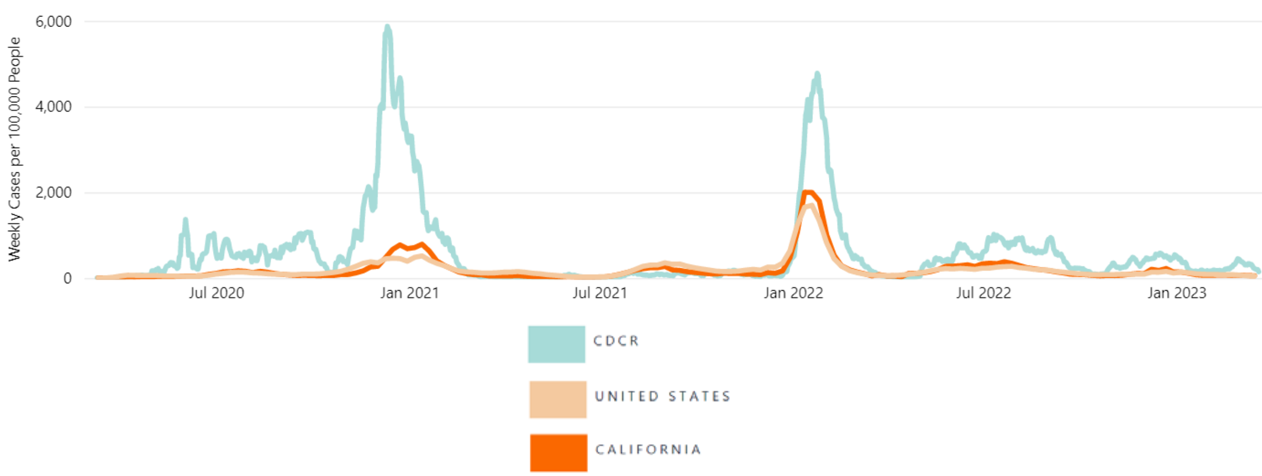
Issue 10: COVID-19 Direct Response Expenditures

Governor's Budget. The California Department of Corrections and Rehabilitation and the California Correctional Health Care Services (CCHCS) request $141.8 million one-time General Fund in fiscal year 2023-24, for continued costs related to response and mitigation from the impacts of the COVID-19 Pandemic.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management Section, CCHCS
- Madelynn McClain, Deputy Director, Office of Fiscal Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

Background. As of March 20, 2023, the incarcerated population has had a total of 92,750 cases and 260 deaths since the beginning of the pandemic[10]. There are currently 295 active, in custody cases. As of the end of the state of emergency on February 28, 2023, CDCR is no longer reporting staff COVID-19 testing data[11]. Rates of COVID-19 within the incarcerated population have outpaced state and national averages throughout much of the pandemic (see below).



Vaccinations. Vaccinations are currently required for employees and incarcerated workers in health care settings. As of March 20, 2023, 78 percent of the incarcerated population and 71 percent of CDCR employees had completed their primary vaccination series. However, only 38 percent of the incarcerated population are completely up-to-date, including recommended booster shots. In addition, vaccination rates vary widely across facilities and settings. For example, at High Desert State Prison, only 49 percent of staff completed their primary series. 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. The percentages of employees who are up to date with their boosters is not currently available.

---

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

In 2021, as part of ongoing oversight related to the *Plata* case and at the Receiver's recommendation, 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[12]. 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 shortages[13].

Testing and Masking Protocols. CDCR primarily uses testing for individuals who have symptoms, were potentially exposed, or who are transferring. There is no regularly screening testing of the incarcerated population or staff (even if staff are not vaccinated). Masks are not generally required, but may be depending on whether the institution or unit is in an outbreak phase and the levels of COVID-19 transmission in the surrounding community.

Impact on Visitation and Programming. COVID-19 severely impacted CDCR's ability to provide in-person visitation and programming. In particular, if an individual contracts COVID-19, they are isolated for a minimum of ten days, and have limited access to programming and visitation (although they can access video visitation). They may also have to move to a new dorm or housing unit at the end of their isolation, depending on availability of beds.

Previously Allocated Resources. In 2019-20, 2020-21, and 2021-22 collectively, the Department expended $1.5 billion for COVID prevention, mitigation, and response activities. The 2022 Budget Act included $240.1 million one-time General Fund for the Department to support COVID-19 response activities. A summary of the expenditures to date, along with projected costs for 2022-23 and 2023-24, is included below within the CDCR and CCHCS COVID Cost History charts.

CDCR COVID Cost History

Expenditures	2019-2020	2020-2021	2021-22	2022-23*	2023-24*
Suspended Intake/Local Assistance	$ 31,215,233	$ 89,861,259	$ 57,618,020	$ -	$ -
Medical Surge Tents/ Equipment Contracts	$ 1,188,287	$ 55,055,272	$ 235,179	$ -	$ -
Staff Testing (CDCR)	$ 2,526,450	$ 189,968,114	$ -	$ -	$ -
Personal Services/ Overtime	$ 14,533,739	$ 70,367,163	$ 36,594,258	$ 14,784,670	$ 14,672,008
PPE/Cleaning	$ 41,537,578	$ 38,342,371	$ 28,571,542	$ 10,399,069	$ 1,851,079
Total	**$ 91,001,288**	**$ 443,594,178**	**$ 123,018,999**	**$ 25,183,739**	**$ 16,523,087**

*Projections for 2022-23 and 2023-24

CCHCS COVID Cost History

Expenditures	2019-2020	2020-2021	2021-22	2022-23*	2023-24*
Testing (Employee)	$0	$81,196,784	$222,540,348	$79,183,200	$32,798,520
Testing (Inmate)	$6,092,838	$131,813,459	$104,182,554	$78,478,289	$56,440,884
Medical Expenses (Registry)	$0	$99,573,959	$18,225,276	$9,098,400	$15,098,400
Other Staffing & Operational Costs	$30,175,879	$83,720,454	$50,070,094	$28,658,111	$10,484,216
Personal Protective Equipment	$21,308,599	$17,884,415	$10,640,988	$9,000,000	$9,000,000
Cleaning	$180,000	$1,566,766	$1,443,960	$1,500,000	$1,500,000
Total	**$57,757,316**	**$415,755,837**	**$407,103,220**	**$205,918,000**	**$125,322,020**

*Projections for 2022-23 and 2023-24

Requested Resources. This request proposes $141.8 million in fiscal year 2023-24, to continue the Department's efforts to prevent the spread of COVID-19 and minimize risks to incarcerated

[12] https://prisonlaw.com/wp-content/uploads/2021/09/21.09.27-Doc-3684-Order-re-mandatory-vaccinations.pdf
[13] https://www.latimes.com/california/story/2021-11-04/newsom-guards-challenge-vaccine-mandates-at-prisons

persons and staff. The funding will be utilized to perform testing of the incarcerated individuals and staff; administer medical treatment, medications, and vaccines; prepare for medical surges; and procure PPE. This includes:

- CCHCS is requesting $125.3 million, which will primarily be used for testing and vaccinating incarcerated persons and staff, medical staffing registry and overtime, medical treatment, and purchasing PPE.

- CDCR is requesting $16.5 million, which includes approximately $1.8 million for PPE items, such as masks, gloves, eye protection, gowns, cleaning supplies, and high-efficiency particulate air filter and air purifier machines, and $14.7 million for personal services, which primarily includes overtime expenditures for extra coverage to support the COVID-19 response.

The amount requested is based on current projections and expenditure data that has been collected to date. It is possible these cost estimates will continue to be refined later in the current fiscal year as more information becomes available.

LAO Comment. *Lack of Justification for Some of the Resources Requested in 2023-24.* The LAO finds that the department adequately justified its need for some of the resources it is requesting for COVID-19 direct response costs, such as the $6.1 million requested for overtime among medical staff related to COVID-19. This funding is based on an assumption that the department's expenditures for 2023-24 will be about half of the expenditures in 2022-23, which the LAO finds reasonable. However, at the time of this analysis, the department did not provide sufficient information to justify all of the requested resources. For example, the department indicated that it expects to test about 32,000 employees per month, but did not provide information on how it arrived at the monthly estimates. Without this information, it is difficult for the Legislature to determine whether the level of resources requested is justified.

LAO Recommendation. *Withhold Action and Direct CDCR to Provide Adequate Justification*. The LAO recommends that the Legislature withhold action on the proposed resources for CDCR's 2023-24 COVID-19 direct response costs given that the department indicates it will submit a revised proposal at the May Revision. The LAO also recommends directing the department to provide sufficient justification for all requested resources in the revised proposal. For example, the department should provide details on the methodology used to estimate the number of employees needing testing.

Staff Recommendation. Hold Open.

Issue 11: Comprehensive Employee Health Program

Governor's Budget. The California Department of Corrections and Rehabilitation and California Correctional Health Care Services request 148.0 positions and $22.7 million General Fund in 2023-24 and ongoing to maintain a comprehensive Employee Health Program to mitigate risks and drive compliance with federal and state regulations.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management Section, CCHCS
- Debra Amos-Terrell, Assistant Deputy Director of Nursing Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

Background.

Federal Law Lays Out Workplace Standards for Safety and Health. The federal Occupational Safety and Health Act of 1970 provides that employers—including state departments—have a general duty to provide their employees with a place of employment that is free from recognized hazards that are likely to cause death or serious harm. Under the act, the federal Occupational Safety and Health Administration is responsible for setting specific standards related to workplace safety and health and has authority to inspect workplaces and enforce these standards. Federal law provides that states may, with federal approval and oversight, optionally assume responsibility for enforcement of federal occupational safety and health standards. In California, the Division of Occupational Safety and Health (Cal/OSHA) within the Department of Industrial Relations administers the state's responsibilities for occupational safety and health. Under state law, the Occupational Safety and Health Standards Board is authorized to develop additional occupational safety and health standards for California employers that may clarify or exceed federal standards. Cal/OSHA's role includes enforcing both federal and state occupational safety and health standards, which it does by inspecting workplaces and issuing fines when violations are found. For example, CDCR indicates that in the past five years it has accumulated about $1 million in workplace violations and citations from Cal/OSHA, with most fines related to the prevention of aerosol transmitted diseases (diseases transmitted through the air).

Employee Health Program (EHP) Established to Mitigate COVID-19 Transmission. In October 2022, CDCR started EHP to mitigate COVID-19 transmission among CDCR staff by providing education, conducting contact tracing, administering vaccines, and reporting positive tests to staff. The federal Receiver—appointed by the *Plata v. Newsom* court to take control over the direct management and operation of the state's medical care—oversees EHP, which is primarily operated by medical staff. The *2022-23 Budget Act* provided $22.8 million from the California Emergency Relief Fund and 157 positions on a one-time basis for the program to operate at each prison. This funding was provided as part of a larger $240.1 million one-time CDCR proposal for COVID-19 direct response costs approved by the Legislature.

Prior Efforts. Prior to EHP, there was not one centralized program area with dedicated resources to manage Health and Safety. The Department worked with various areas including the Office of Correctional Safety, Human Resources, Office of Employee Wellness, and Facilities to address federal regulations. As indicated above, CDCR was not in compliance with these existing regulations. Beginning in February 2021, the Deputy Receiver and Undersecretaries advocated to stand up the Injury and Illness Prevention Program (IIPP) and the Aerosol Transmission Diseases Program. Subsequently, the Respiratory Protection Program (RPP) began around September 2022, which previously had been managed locally by Facilities and the Division of Adult Institutions, until the Employee Health Program was established.

Proposed Resources.

Provide Ongoing Funding for EHP and Expand Focus to Other Diseases. The Governor's budget proposes $22.7 million General Fund and 148 positions in 2023-24 (decreasing to $22.3 million annually in 2024-25) to maintain EHP at every prison on an ongoing basis. These resources maintain the program at the same size as was previously established. There are 16 headquarters staff and 4 staff per institution for local EHPs. Under the proposal, EHP would begin to focus on mitigating diseases in addition to COVID-19, such as tuberculosis, Hepatitis B, and influenza. The administration proposes redirecting to EHP $2.8 million in existing General Fund support that CDCR currently uses for contracts to provide tuberculosis testing as well as Hepatitis B and influenza vaccinations. The redirected funds would continue to be used for the same purpose, but would now be funded through EHP—and overseen by medical staff—instead of CDCR's operations budget. According to CDCR, expanding the focus of EHP to include other diseases would help the department reduce the spread of these disease to staff, as well as workplace citations and fines associated with noncompliance with workplace safety regulations.

LAO Comments.

Requested Resources Appear Reasonable While COVID-19 Remains a Concern. Minimizing the transmission of COVID-19 is particularly important in prisons because it can spread easily between people held in prison and staff. While the department has not provided specific data on how effective EHP has been in minimizing the spread of the virus among staff, it is reasonable to think that the program can help achieve this goal through contact tracing, tracking employee vaccination requirements, and supporting testing efforts. EHP would not only help protect staff and people held in prison, the program could also generate other benefits for the state. For example, EHP could reduce medical costs, the overtime costs associated with other employees filling in for sick employees, and lockdowns due to COVID-19 in prisons.

Unclear Whether Additional Resources for Other Diseases Needed. While it could make sense for the department to dedicate resources to minimize the transmission of diseases other than COVID-19 among prison staff, the appropriateness of the level of proposed resources and the benefits to be achieved are unclear. For example, the department has not provided information on how prevalent these other diseases are within state prison staff, as well as what needs are not being met with the existing $2.8 million for tuberculosis testing and Hepatitis B and influenza vaccinations. In addition, under the Governor's proposal, it is unclear how much of the proposed $22.7 million in the budget year would be dedicated to diseases other than COVID-19.

Unclear Whether Proposed Level of Resources Needed in the Future. It is also unclear whether the ongoing level of resources proposed is justified. This is because it is unclear how much COVID-19-related workload will persist beyond the budget year and how much workload related to diseases other than COVID-19 exists. Moreover, as noted above, the department has not been able to provide information on the actual benefits of the program for the Legislature to determine what level of resources should be provided (if any) in the future.

LAO Recommendation.

Approve Additional Resources on a One-Time Basis. Given the ongoing presence of COVID-19 in the state's prisons, the LAO finds it is reasonable to maintain EHP during the budget year. However, because data is not available on how effective this program is and it is unclear whether these resources are needed in the future, the LAO recommends the Legislature approve the $22.7 million proposal on a one-time basis (rather than on an ongoing basis as proposed by the Governor). The LAO notes that approving these resources on a one-time basis appears to be sufficient for the department to continue its COVID-19 mitigation efforts and start its efforts of mitigating the transmission of other diseases among CDCR employees.

Direct CDCR to Report on the Program. In order to assess the ongoing need for the program, the LAO recommends that the Legislature direct CDCR to report by January 10, 2023 on (1) the amount of EHP workload associated with COVID-19; (2) the amount of EHP workload associated with diseases other than COVID-19; and (3) estimates of the benefits generated by EHP, such as avoided infections, overtime reductions, citation reductions, and any other outcomes that capture the benefits of the program. This information would allow the Legislature to be better positioned to weigh the merits and cost-effectiveness of EHP when considering whether to approve ongoing resources—as well as the level of resources to provide—for the program as part of its deliberations on the 2024-25 budget when funding would expire for EHP under our recommendation.

Staff Recommendation. Hold Open.

Issue 12: Statewide Mental Health Program Regional Staffing Augmentation

Governor's Budget. The California Department of Corrections and Rehabilitation requests 13.0 positions and $3.9 million General Fund in 2023-24 and ongoing to enhance regional oversight and support provided to the institutional Suicide Prevention coordinators, regional psychiatric oversight and support, and utilization management. These positions will be responsible for regular site visits at institutions, monitoring bed utilization, training, and policy development associated with mental health service delivery and the Department's ongoing Suicide Prevention strategies.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management Section, CCHCS
- Dr. Amar Mehta, Deputy Director of Mental Health Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

Background.

Coleman. 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 2015, the *Coleman* court ordered CDCR to implement 29 safeguards related to suicide prevention. Fifteen of those are currently unmet. On February 28, 2023, the judge in the *Coleman* court announced that the state would be fined $1,000 per day per unmet safeguard beginning April 1, 2023.

Suicide Prevention Safeguards. In 2013, the Office of the Special Master (OSM) hired Lindsay Hayes as a suicide prevention expert; Mr. Hayes conducted his initial monitoring tour and released his first report in 2015 and identified 32 recommendations. The identified 32 recommendations were ultimately litigated down to 29, which were adopted by the *Coleman* court and ordered CDCR to implement. The safeguards include things like suicide prevention training, suicide risk evaluations, suicide-resistant cells, and checking on vulnerable inmates every 30 minutes, and often more frequently, to make sure they aren't harming themselves. Mr. Hayes has subsequently completed five additional re-audits of CDCR institutions. In the reports associated with these re-audits, Mr. Hayes identified ongoing deficiencies in various aspects of the initial recommendations. Following his most recent report, CDCR was found noncompliant with 15 of the remaining 29 recommendations. CDCR continues to improve internal oversight to manage these processes without OSM intervention and to support institutions in achieving sustained compliance with the recommendations.

Recent Developments. On January 6, 2023, the *Coleman* court invited the U.S. Attorney General to rejoin the case due to ongoing constitutional violations in the delivery of mental health care[14]. The judge specifically cited a lack of progress around mental health staffing and suicide prevention, as well as insufficient monitoring tools. The U.S. Attorney General rejoined for a status conference held on February 10, 2023. On February 28, 2023, the *Coleman* court ordered that CDCR pay $1,000 per day per unmet safeguard starting April 1, 2023[15]. The court also ordered CDCR to hire more mental health professionals or face fines equal to the maximum salary for each unfilled position[16], and set an August hearing to discuss the collection of more than $1.7 million in fines that CDCR has accumulated since 2017[17].

Statewide Mental Health Program. CDCR developed four regional Mental Health (MH) teams that serve as a bridge between headquarters (HQ) and the institutions that they monitor and assist. The existing regional resources within the Statewide Mental Health Program (SMHP) consist of four regional MH Administrators, three Senior Psychologist Supervisors, 16 Senior Psychologist Specialists, 18 Clinical Psychologists, five Retired Annuitants - Clinical Psychologists, and four Associate Health Program Advisors. Of those resources, 24 positions are allocated for sustainable process audits, continuous quality improvement and management, and *Coleman* Tours, while the other 26 positions are allocated to the Offenders with Mental Health Disorders Program.

The SMHP regional teams have the responsibility of operationalizing and ensuring adoption of policies, procedures, and initiatives. Resources are required at the regional level to support and monitor the pre-and post-program rollouts to assist prison with implementation challenges and clarify conflicting priorities. CDCR created regional positions for four limited-term Senior Psychologist Specialists and four Senior Psychiatrist Specialists, based out of each of the four regional offices. CDCR states that permanent funding will allow SMHP to provide adequate staffing to address identified deficiencies and ensure sustainable compliance with court mandates.

Specifically, CDCR has maintained a dedicated suicide prevention unit at HQ that historically consists of 2.5 Senior Psychologist Specialist positions, who have been tasked with responding to deaths by suicide and writing detailed suicide case review reports and managing suicide prevention efforts in the institutions. Limited HQ staffing resources have led to ongoing difficulties in managing both suicide response and suicide prevention initiatives. As a part of CDCR's Mental Health Services Delivery System (MHSDS) Program Guide, court mandated timelines for completion of the suicide case review process use a majority of the resources devoted to suicide prevention and response. Given limited resources and other competing workload, focus on the suicide prevention practices within the institutions has not been consistently feasible at the HQ or regional level, and there is a necessary amount of oversight of institutional suicide prevention practices. Current resources of the suicide prevention unit focus on the completion of suicide case reviews. It should be noted that Quality Improvement Plans (QIP) that are assigned to institutions

[14] https://rbgg.com/wp-content/uploads/Dkt-7699-ORDER-Inviting-US-DOJ-to-Intervene-1-6-2023-0489-3.pdf
[15] https://rbgg.com/wp-content/uploads/Dkt-7743-ORDER-Directing-Defs-to-Fully-Implement-All-Outstanding-Ct-Ordered-Suicide-Prevention-Measures_02.28.23_0489.03.pdf
[16] https://rbgg.com/wp-content/uploads/Dkt-7742-ORDER-to-MC-File-Joint-Statement-re-Staffing-Vacancy_02.28.23_0489.03.pdf
[17] https://rbgg.com/wp-content/uploads/Dkt-7741-ORDER-Resetting-Hrg-to-08.25.23-re-PIP-Transfer-Delays-Contempt-Fines_02.28.23_0489.03.pdf

during the suicide case review process have increased. However, CDCR does not have the resources to follow up on QIPs and ensure sustainable improvements at the institution level.

This requested funding of $3.9 million for 13 additional positions, dedicated to suicide prevention oversight and support and psychiatric oversight and support will support and enhance core components of CDCR's MH system and help CDCR to sustain and improve compliance with Coleman mandates. The request positions include the following:

- Four of these positions will be psychologists who conduct regular site visits that replicate the official monitoring tours of the court expert. Each visit will result in a formal report that includes recommendations and corrective action plans (CAPs) for any deficiencies identified. CDCR began conducting these tours with limited-term positions. In the first half of 2022, the RSPCs have already conducted over 40 site visits to institutions across the state to monitor their SP practices. These site visits have generated 53 recommendations and 45 formal CAPs from deficiencies noted. For those institutions that had follow up visits, 47 of the recommendations and CAPs assigned in 2021 and 2022 to date were resolved and closed. These positions will also help with support and coaching for the institution staff, conducting off-site audits, and assisting with the suicide review process. They will track the QIPs and ensure implementation. CDCR expects 192 QIPs annually.

- Four positions will be psychiatrists dedicated to addressing *Coleman* benchmarks, including working with CDCR HQ staff, regional teams, *Coleman* monitors, and plaintiffs. They will also fill vacancies as needed and provide clinical guidance to institutions.

- Four Nurse Consultant positions will provide program reviews, including standardizing review processes, monitor waitlists and review referrals to mental health crisis beds, among other duties.

- One Nurse Consultant Supervisor will assist with monitoring CDCR's systems, including data indicators to measure compliance.

Staff Recommendation. Hold Open.

Issue 13: The Joint Commission (TJC) Accreditation

Governor's Budget. The Governor's budget proposes $3.2 million General Fund and 15 positions in 2023-24 (increasing annually to $6.1 million and 38 positions in 2027-28 and ongoing) to obtain and maintain TJC accreditations in Behavioral Health and Human Services, Ambulatory Health Care, and Nursing Care Center for all state-owned and operated prisons over a five-year period. The resources would support accreditation fees, training of staff, and ongoing positions dedicated to preparing prisons for the accreditation audits.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management Section, CCHCS
- Kenneth Martin, Associate Director of Licensing and Compliance, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

Background.

CDCR's Provision of Mental Health Care Under Federal Court Oversight. In 1995, a federal court ruled in the case now referred to as *Coleman v. Newsom* that CDCR was not providing constitutionally adequate mental health care to the prison population. As a result, the court appointed a Special Master to monitor and report on CDCR's progress towards providing an adequate level of mental health care. The Special Master continues to monitor and issue recommendations to CDCR for the care delivered to the prison population participating in an in-prison mental health program, which is about one-third of the total population. The Special Master also appoints experts to review mental health delivery processes and compliance with court-ordered recommendations, such as experts who regularly perform in-person audits of CDCR's suicide prevention practices. The federal court in the case will decide when care has improved to the point where oversight through the Special Master can end. However, the court has not provided the state with specific benchmarks that must be met for court oversight to end.

CDCR's Provision of Medical Care Under Federal Court Management. In 2006, after finding the state failed to provide a constitutional level of medical care to people in prison, a federal court in the case now referred to as *Plata v. Newsom* appointed a Receiver to take control over the direct management and operation of the state's prison medical care delivery system from CDCR. The Receiver's mandate is to bring the department's medical care program into compliance with federal constitutional standards. Unlike a Special Master, a Receiver has executive authority in hiring and firing medical staff, entering contracts with community providers, and acquiring and disposing of property.

In order for the state to regain control of the delivery of prison medical care, the state must demonstrate that it can provide a sustainable constitutional level of care at every prison. The federal court has outlined a specific process for delegating care at each prison back to the state. Specifically, each prison must first be inspected by the Office of the Inspector General (OIG) to determine whether the institution is delivering an adequate level of care. The Receiver then uses the results of the OIG inspection—regardless of whether the OIG declared the prison's provision of care adequate or inadequate—along with other health care indicators to determine whether the level of care is sufficient to be delegated back to CDCR. To date, 20 out of the 33 state-owned and operated prisons have been delegated back to the state. However, the *Plata v. Newsom* court and the OIG continue to monitor and audit the delegated institutions.

Health Care Accreditations Can Provide External Oversight. Health care accreditations can provide insight into whether an organization providing care is achieving a minimum standard of care. The accreditation process uses an external, independent body that applies standardized criteria to ensure that organizations provide care consistent with the criteria. This is typically done by preparing an organization for the review process and then performing an unannounced audit of the organization's procedures based on standardized criteria. Once accredited, an organization must continue to meet the quality standards every audit cycle to maintain its accreditation. Various agencies provide different types of accreditations designed for the specific health care service being delivered, such as medical and mental health accreditations. The Joint Commission (TJC) is one agency that accredits about 80 percent of U.S. hospitals for various types of health care services. For example, TJC issues accreditations in Behavioral Health and Human Services (covering mental health care), Ambulatory Health Care (focusing on emergency medical care), and Nursing Care Center. CDCR indicates that four prisons obtained at least one TJC accreditation and two prisons are preparing for Behavioral Health and Human Services TJC accreditation in 2023-24 using existing resources.

LAO Comments.

Accreditations Not Required to End Court Oversight. Neither the *Coleman v. Newsom* or *Plata v. Newsom* courts have ordered the state to obtain accreditations as a way to demonstrate care has improved to a desired level or as a condition of exiting court oversight. Nor have the courts selected a specific accreditation as the most appropriate for the delivery of care in prisons. Instead, each court establishes its own requirements to determine whether care has improved to the point where court oversight is no longer necessary. As such, it is unclear whether achieving accreditations will address specific recommendations or remedial plans ordered by the courts.

Proposed Accreditation Could Unnecessarily Duplicate Oversight of Health Care. The LAO also finds that the Governor's proposal to dedicate resources to obtain TJC accreditations at each prison could unnecessarily duplicate oversight already provided by the courts, court-appointed experts, and OIG in the *Plata v. Newsom* and *Coleman v. Newsom* cases. The state, through the OIG and state payments to court appointed experts, already dedicates resources for oversight of prison health care. It is likely that TJC would find the same deficiencies already captured by existing oversight entities, thereby not providing much additional value regarding the delivery of health care in California's prisons.

Accreditations Are a Laudable Goal, but Exiting Court Oversight Should Be Prioritized. Attaining accreditations for CDCR's prison health care system could have merit in the future, but achieving compliance with current court standards in order to exit court oversight should be a higher priority. This is because the state has not yet been able to fully demonstrate to the courts that adequate care is being provided at all prisons. The LAO acknowledges accreditations could indirectly help in achieving court standards, such as if achieving accreditations requires improvements that the courts have ordered. However, the state is already aware that it needs to make these improvements. Moreover, to the extent that achieving the accreditations requires improvements that are not ordered by the courts, it would demand resources and effort that should instead be prioritized for court compliance. Dedicating resources and staff effort to address specific court orders or concerns should remain the priority until court compliance is achieved. The LAO notes that accreditation would be of greater value when the state has control over medical care as a way to help ensure the state maintains adequate care after federal court oversight ends.

LAO Recommendation.

Reject Proposal. In view of the above, the LAO recommends the Legislature reject the Governor's proposal to provide CDCR resources to obtain and maintain TJC accreditations at all state-owned and operated prisons. The LAO finds that it is more appropriate for the state to prioritize its resources and efforts for ending court oversight rather than pursuing these accreditations. The LAO notes this proposal could be considered in the future if achieving these accreditations is ordered by the courts or to ensure the quality of care is maintained once the state exits court oversight. The General Fund resources that are "freed up" under our recommendation would be available for other legislative priorities.

Staff Recommendation. Hold Open.

Issue 14: The Integrated Gender Affirming Healthcare Program

Governor's Budget. The California Department of Corrections and Rehabilitation/California Correctional Health Care Services Statewide Mental Health Program, Medical Services Division, and Nursing Services request $2.2 million General Fund and 7.5 positions in 2023-2024 and ongoing to support implementation of the Integrated Gender Affirming Health Care Program and to deliver gender-affirming care to the incarcerated population for the transgender and gender diverse patients consistent with Departmental policy and Penal Code Sections 2605 and 2606.

Panelists.
- Duane Reeder, Deputy Director, Fiscal Management Section, CCHCS
- Dr. Trisha Wallis, Senior Psychologist Specialist of Mental Health Services
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

Background.

Based on CDCR population data, the adjusted number of individuals identifying as transgender, intersex, and nonbinary has increased by 234 percent in the past six years (2016-2022), despite the overall decline of the incarcerated population. As of January 7, 2023, CDCR's TGD point-in-time population was 1,617 adults (1.7 percent of the total population). This proposal requests specific resources to be dedicated to provide quality and responsive health care to this population.

The World Professional Association for Transgender Health (WPATH), along with several courts, have raised urgent concerns and developed recommendations and requirements related to transgender health care provided in carceral settings. These changes include the elimination of blanket bans for gender-affirming care, rejection of freeze-frame approaches (only authorizing hormone therapy prescriptions upon incarceration for those who have verified prescriptions in the community) for Gender-Affirming Hormone Therapy (GAHT), clarification of adherence to Prison Rape Elimination Act standards, non-acceptance of unconstitutional delays in assessing for and delivering treatment for gender dysphoria, stipulating that gender-affirming surgery (GAS) may be required to treat a serious medical need, and forbidding correctional agencies from placing transgender inmates into male or female units solely based on anatomy. In order to support efforts to implement these recommendations, the Department requests permanent positions to support delivering this type of care and measuring the department's accessibility, delivery, and outcomes appropriately.

In 2017, the first GAS completed for an incarcerated person took place in California. Around this time, the Gender-Affirming Surgery Review Committee (GASRC) was created within CCHCS, for which no permanent positions were allocated, to assist in developing this committee. The workload has steadily increased related to 745 separate gender-affirming procedure requests spanning over seven years, driving an increase in the complexity of workload, including assessment, consideration, follow-up, and oversight of GAS requests. Currently, CDCR/CCHCS are only able to process approximately two to three cases per week with the help of volunteer participation. At a minimum, the committee requires nine members, with a six member quorum achieved when two psychologists, two psychiatrists, one primary care provider (PCP) and a Chair are present, resulting in at least 30 hours per week spent collectively by GASRC members as a whole, to review and hear these cases. As a result of the current resource allocation, a backlog of GASRC workload has developed which also limits the ability to respond to the average of 12 GAS request packets submitted per month to GASRC for review.

Workload Measure	PY – 4 (2017-18)	PY – 3 (2018-19)	PY – 2 (2019-20)	PY-1 (2020-21)	PY (2021-22)	CY (2022-23)
Gender Affirming Surgery Review Committee Individual Surgery Requests	37	50	66	99	270	145 (through November 30th, 2022)
Number of transgender, non-binary, and intersex patients identified in the transgender registry	559	694	936	1,094	1,055	1,751

SB 132. On September 26, 2020, Governor Newsom signed Senate Bill 132 (Wiener), which put the Transgender Respect, Agency & Dignity Act into law. The law took effect January 1, 2021, and added to Penal Codes 2605 and 2606, a requirement that CDCR must perform the following:

- Ask every incarcerated person upon entering into custody their gender identity.
- Ask every incarcerated person upon entering into custody if they identify as transgender, nonbinary, or intersex.
- Ask every incarcerated person upon entering into custody what their gender pronouns and honorifics are.
- Allow each incarcerated person upon entering into custody and when requested the ability to select a search preference.
- Allow each incarcerated person upon entering into custody and when requested the ability to request housing based on their perception of health and safety including to be housed in a facility designed for men or women based on their preference.

The work completed to implement the new law has demonstrated that cross-discipline gender-affirming care must be delivered in an organized fashion with distinct leadership, due to the innate complexities in a carceral setting. The change to allow patients to self-disclose their gender identity as well as pronouns/honorifics resulted in some unanticipated challenges with CDCR/CCHCS clinical tools and tracking systems to manage and monitor this population. The cross-gender facility movement can potentially interfere with other types of gender-affirming care, such as GAS, which requires extensive interdisciplinary coordination. CDCR/CCHCS are now requesting dedicated resources to address some of these issues, which have been identified during the course of SB 132 implementation.

One limited-term (LT) Senior Psychologist Specialist and one LT Senior Psychiatrist Specialist in the SMHP have been filled to assist with implementation of this law, along with a 0.5 permanent PCP position. These LT positions will expire in 2023, but are needed permanently for the Department to implement the IGAHP. As of July 2022, there were 95 requests in the queue for cross-gender housing requests that were still in the process of being evaluated by CDCR's Division of Adult Institutions and the Mental Health Program. Additional positions are requested to prevent delays related to mental health evaluation completion, offerings of the Right Person Right Prison course to these individuals, and consideration of other gender-affirming care that can be offered while awaiting a response to their housing requests.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Thursday, April 13, 2023
9:30 a.m. or upon adjournment of Session
State Capitol - Room 112

Consultant: Christopher Francis, Ph.D.

Items for Discussion

Public Comment

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

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT
7350 DEPARTMENT OF INDUSTRIAL RELATIONS

Issue 1: Governor's Proposed Reductions and Shifts, Part 1

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office

Available for additional questions and detail:

- Javier Romero, Employment Development Department
- Eric Rood, Department of Industrial Relations' Division of Apprenticeship Standards
- Jay Sturges, Labor and Workforce Development Agency

Background

The 2022 Budget Act leveraged a revenue surplus to make unprecedented investments for workforce and training initiatives across multiple policy areas. Two investments were in Emergency Medical Technician Training and a new Apprenticeship Innovation Funding Program.

Emergency Medical Technician Training. The 2022 Budget Act includes $20 million General Fund annually from 2022-23 through 2024-25 to launch a program that provides targeted emergency medical technician training. This Targeted EMT Training targets youth and those who may have barriers to employment for roles as Emergency Medical Technicians. These trainings are to 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.

In addition to the projects, the funding was provided to 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.

Apprenticeship Innovation Funding Program. The 2022 Budget Act included $170 million over three years ($55 million General Fund in 2022-23 and $60 million General Fund in each of 2023-

24 and 2024-25) for the Apprenticeship Innovation Funding Program, which expands non-traditional apprenticeship programs and supports additional apprentice activities. Trailer bill legislation in SB 191 (Committee on Budget and Fiscal Review), Chapter 67, Statutes of 2022 did the following:

- Established the program, which requires the Division of Apprenticeship Standards (DAS) at the Department of Industrial Relations to administer the program, which provides grants, reimbursements, or other funding for the support of an apprenticeship program or training of apprentices.
- Authorized an apprenticeship program or eligible entity, as specified, to submit an application to the DAS to request funds in a manner specified by the DAS. Identifies specified entities that have registered apprentices with the DAS as "eligible entities," including public educational institutions, labor organizations, and industry associations, among others.
- Authorized the DAS, upon application of an apprenticeship program or eligible entity, to provide support funds to organize, run, and sustain an apprenticeship program in an amount determined by the DAS and specifies factors to be considered by the DAS in determining the amount.
- Specified eligible activities for using support funds, including employer outreach, support, onboarding, and management, among others.
- Authorized DAS to provide training funds either directly to public educational institutions for the training of apprenticeships or to apprenticeship programs that meet specified criteria, and specifies eligible activities for using training funds, including development of courses and classroom instruction, among others.

State's Fiscal Condition Has Resulted in Proposed Delays, Reductions, and Pauses. In their November 2022 economic outlook for California, the Legislative Analyst's Office assessed that the Legislature would face a budget problem of $24 billion in 2023-24. The budget problem is mainly attributable to lower revenue estimates compared to budget act projections between 2021-22 through 2023-24. Typically, revenue losses are offset by lower spending in certain areas, which could be aided by pauses or delays in recent appropriations that have not yet been distributed.

<u>Governor's Budget</u>

Emergency Medical Technician Training Trigger Reduction. The budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment from $60 million to $40 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.

Apprenticeship Innovation Fund Trigger Reduction. The Governor's budget proposes to withdraw $40 million ($20 million in each 2023-24 and 2024-25), reducing the total three-year investment from $175 million to $135 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.

Staff Comments: Staff notes that in addition to the trigger reductions mentioned above, the Governor's budget also proposes trigger reductions, pauses, and reductions for the Women in

Construction Priority Unit, COVID-19 Worker Outreach Program and California Youth Leadership Program. These three programs will be covered in Part 2 at the May 4th, 2023 Subcommittee No. 5 hearing.

Suggested Questions

- For the programs described in this item, has funding in 2022-23 been appropriated? If so, how much? Will all 2022-23 funding be disbursed by June 30, 2023?
- To date, what steps have the departments taken to implement these agreements? What data, if any, have the departments collected about it? Do the departments have any participation data for these initiatives?
- Were there activities that did not start yet? What challenges, if any, have the departments/organizations encountered as it implements these initiatives?
- How do the proposed trigger reductions impact this program's planned activities going forward?

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		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
6040	California Workforce Development Board	76.0	107.0	107.0	$405,657	$281,683	$131,938
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**76.0**	**107.0**	**107.0**	**$405,657**	**$281,683**	**$131,938**

FUNDING		**2021-22***	**2022-23***	**2023-24***
0001	General Fund	$391,368	$266,846	$121,060
0890	Federal Trust Fund	6,576	8,030	8,030
0995	Reimbursements	804	4	4
3228	Greenhouse Gas Reduction Fund	1,909	6,803	2,844
3290	Road Maintenance and Rehabilitation Account, State Transportation Fund	5,000	-	-
TOTALS, EXPENDITURES, ALL FUNDS		**$405,657**	**$281,683**	**$131,938**

Issue 2: Status Update on Previous Budget Act Investments (Oversight)

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Curtis Notsinneh, Chief Deputy Director, California Workforce Development Board

Background

The subcommittee has requested status updates for the following investments included in the Budget Acts of 2022 and 2021:

- **Statewide Reentry Employment Grant Program.** The 2022 Budget Act included $50 million General Fund in 2022-23 for a Statewide Reentry Employment Grant Program at the CA Workforce Development Board. This new program awards competitive grants to eligible non-profit organizations and local partnerships to support activities including, but not limited to, reskilling, upskilling, training, and supportive services for the reentry population to ensure employment, employment opportunities, and job mobility.

- **Prison to Employment.** The 2021 Budget Act provided $20 million one-time for the Prison to Employment Initiative that are available for expenditure or encumbrance until June 30, 2024. The program, initially funded in the 2018 Budget Act with $37 million over three fiscal years, was designed to support regional planning efforts, fund regional plan implementation, and provide resources for direct services to the formerly incarcerated and other justice-involved individuals. It set aside specific resources for both supportive services and earn-and-learn activities which were identified as a major gap by current grantees and local service providers. The initiative sought to create a partnership between rehabilitative programs within California Department of Corrections and Rehabilitation (CDCR) and incorporating CDCR within the policy umbrella of the State Workforce Plan. The Budget Act of 2020 appropriated $1 million for an evaluation of the Prison to Employment program and to support departmental operational costs.

Suggested Questions

- For all mentioned above:
  - To date, what steps has CWDB taken to implement these initiatives?
  - What data, if any, has CWDB collected about it? Does CWDB have any participation data for these initiatives?
  - What challenges, if any, has CWDB encountered as it implements these initiatives? Are there statutory changes or funding challenges that the Legislature should consider that would help support these initiatives?

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

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		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
5900	Employment and Employment Related Services	1,332.6	1,382.4	1,342.7	$819,937	$309,365	$248,414
5915	California Unemployment Insurance Appeals Board	658.3	571.0	567.9	116,408	104,281	104,746
5920	Unemployment Insurance Program	5,765.3	3,559.4	3,264.6	34,368,669	6,925,533	7,283,181
5925	Disability Insurance Program	1,604.5	1,482.5	1,526.7	10,521,734	10,099,358	10,661,608
5930	Tax Program	1,643.5	1,586.3	1,588.3	383,527	368,764	362,521
5935	Employment Training Panel	159.8	111.0	85.1	162,712	142,402	122,471
5940	Workforce Innovation and Opportunity Act	202.2	202.2	202.2	420,389	466,871	408,502
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)		**12,068.7**	**9,597.3**	**9,280.0**	**$46,838,776**	**$18,461,974**	**$19,236,843**

FUNDING		2021-22*	2022-23*	2023-24*
0001	General Fund	$1,134,040	$808,217	$1,359,129
0184	Employment Development Department Benefit Audit Fund	22,054	22,439	22,544
0185	Employment Development Department Contingent Fund	164,348	233,538	235,725
0514	Employment Training Fund	84,650	110,255	125,325
0588	Unemployment Compensation Disability Fund	10,594,242	10,176,085	10,738,644
0869	Consolidated Work Program Fund	465,389	511,871	453,502
0870	Unemployment Administration Fund	1,393,956	1,211,025	1,149,922
0871	Unemployment Fund	32,712,742	4,996,377	5,018,729
0908	School Employees Fund	215,828	105,941	98,745
0995	Reimbursements	47,897	32,596	32,941
3288	Cannabis Control Fund	-	3,630	1,637
3345	Cannabis Tax Fund - Employment Development Department	3,630	-	-
8506	Coronavirus Fiscal Recovery Fund of 2021	-	250,000	-
TOTALS, EXPENDITURES, ALL FUNDS		**$46,838,776**	**$18,461,974**	**$19,236,843**

Issue 3A: EDDNext

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Nancy Farias, Director, Employment Development Department

- Ron Hughes, Special Consultant on Technology, Employment Development Department

Available for additional questions and detail:

- Grecia Staton, Employment Development Department

<u>Governor's Budget</u>

The Governor's budget includes $198 million one-time in 2023-24 ($99 million General Fund) to continue the planning and development of EDDNext, for the second year of a five-year plan to modernize EDD. The effort includes enhancements to EDD's benefits system, improving call centers, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and training. As part of the Administration's April 1st proposals, the expenditure or encumbrance date for 2023 EDDNext appropriation would be June 30, 2025. As well, the Administration proposes to extend the encumbrance period for the 2022 Budget Act appropriation for EDDNext to June 30, 2024.

<u>Background</u>

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

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

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

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

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

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

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

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

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

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

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

EDDNext has five listed project objectives:

1) **Customer-Centered Service Design:** Ensure equity access via optimizing service channels (i.e. mobile social media, self-service website, chatbot, live chat) with multiple language access.

2) **Increase Self-Service Opportunities:** Simplify self-service functionality across all programs for claims intake and process.

3) **Mitigate Fraud:** Protect claimant identity, reduce fraudulent activities, and reduce the costly risk to the state by re-engineering claims processing and enhancing technology driven security.

4) **Improved, Consistent, Integrated Program Delivery:** Extend data analytics, improved dashboards, daily reporting on claim progress, fraud analysis, standardized user experience, and enhance EDD training to better serve claimants.

5) **Greater Adaptability for Faster Program Changes:** Integrated system that enables rapid program changes and enable scalability to meet he unusual spikes in workload demand and modifications required for compliance with the U.S. Department of Labor and California Rules and Regulations.

Suggested Questions

- High-level estimates for the project in May 2022 were $1.131 billion over a five-year period. Is your current projection the same as last year's? If not, what is the revised estimate and cause for this increased estimate?
- Are you on track with the first year of implementation's planned activities? If you are falling short, then why? What challenges, if any, have the departments encountered as it implements these initiatives?
- The April 1 proposal requests an extended encumbrance date for EDDNext's 2022 appropriation to June 30, 2024. Why is this being proposed now and how much funding is expected to be expended or encumbered by June 30, 2023? Are there activities that will be occurring but on a slower timelines?
- Can you elaborate on how phone systems and call center processes have been revamped so far under the first phase of EDDNext?
- What activities has the department funded with fraud prevention funding included in the 2022 Budget Act and what activities will the funds included in the Governor's budget for 2023-24 cover?

Staff Recommendation. Hold Open

Issue 3B: Improving CA's Current Unemployment Insurance (UI) Program During Transition to EDDNext

Panel

- Chas Alamo, Legislative Analyst's Office
- Jenna Gerry, Senior Staff Attorney at National Employment Law Project
- Nancy Farias, Director, Employment Development Department
- Grecia Staton, Unemployment Insurance Deputy Director, Employment Development Department

Available for additional questions and detail:

- Patrick Toppin and Andrew March, Department of Finance

Background

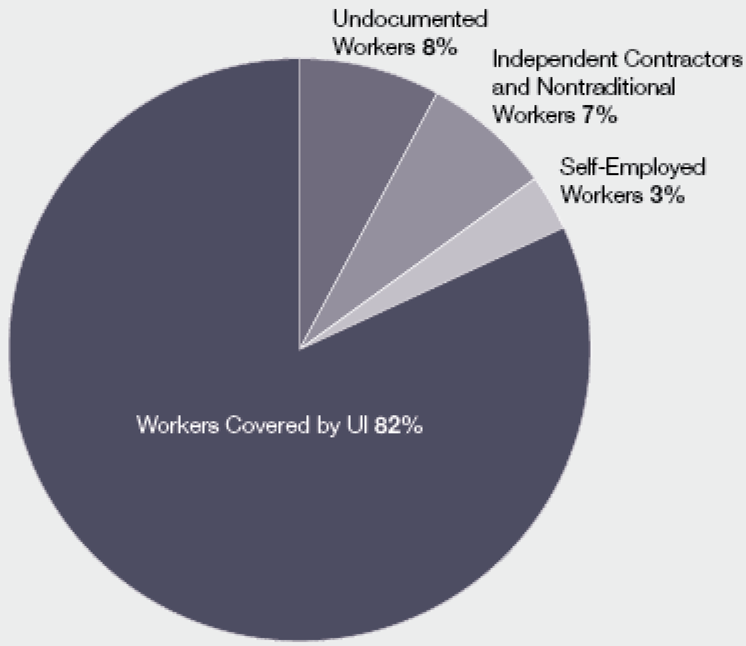
As the state transitions over from its legacy system for the UI program, parallel efforts are necessary to enhance existing benefit systems based on immediate needs. The pandemic particularly highlighted issues that continue to persist and impact users of these programs.

Most Workers Are Eligible to Receive UI Benefits… Most California workers are covered by UI and therefore eligible for benefits when they become unemployed. Under state law, all traditional *employees* are covered by UI. Traditional employees are workers who work for the same business day to day. Most workers in California fall under this category. As shown in Figure 1 from the LAO, the state's UI program covered more than 80 percent (or 17.4 million) of California workers in 2019.

Figure 1

Most, but Not All, Workers Are Covered by State's UI Program

2019



UI = Unemployment Insurance.

…But Some Workers Are Not Covered by State's UI Program. Nontraditional workers are not eligible for UI. As shown in Figure 1, between three million and four million workers are not covered. Ineligible workers include: undocumented workers (about eight percent of all workers), independent contractors and other nontraditional workers (about seven percent), and self-employed workers (about 3 percent).

State's UI Program Faltered During Recent Downturns. Despite its importance, the UI program faltered during the two most recent downturns— the Great Recession and the pandemic. During the pandemic, UI payments were delayed for roughly 5 million workers and improperly denied for as many as 1 million more. The department's phone lines were routinely overwhelmed by the number of frustrated callers. These failures caused hardship for unemployed workers, held back the economic recovery, and spurred frustration among Californians.

Why Was It Difficult for Unemployed Workers to Get Benefits? For unemployed workers, applying for and getting UI payments can be a difficult process for various reasons:

- Lengthy and complex application.
- Workers often required to submit additional documentation.
- Businesses frequently contest former workers' claims.
- Workers who appeal a denial must wait for an appeals hearing.

- Unemployed workers must regularly recertify their eligibility.

State Policies and Practices Have Evolved to Make Getting Benefits Difficult. The key factor behind why getting benefits has become difficult is the UI program's basic structure, which encourages EDD to disproportionately focus on stopping fraud and minimizing business costs.

Without safeguards to make sure eligible workers can get benefits easily, the state's policies and actions have tilted the UI program out of balance. The program's basic design has led to state policies and actions that make
getting benefits difficult:

- EDD operates UI program with orientation toward businesses, which have incentive to contain their costs.
- Federal pressure to avoid errors creates incentive to conduct lengthy reviews.
- To keep the UI Trust Fund solvent, state may look for ways to contain costs.

LAO Recommendations to Improve Unemployment Insurance (UI)

- Limit Improper Claim Denials

More than half of the UI claims the Employment Development Department (EDD) denies are overturned on appeal. Overturned denials cause lengthy delays for workers who appeal and raise concern that the state denies many eligible workers. Likely between $500 million and $1 billion annually in UI payments go unpaid each year due to improper denials.

- Audit claim denials to learn more about claim types that EDD regularly denies.
- For claims denied because an eligible worker did not follow EDD rules, reevaluate rules to make sure benefits outweigh costs.
- Give UI appeals board authority and staff to correct state practices that make it difficult to get UI benefits.

- Minimize Delays

More than half of UI claims were delayed during the peak of the pandemic, for many workers by several months. Between 15 percent and 20 percent of workers who apply for UI during normal economic times experience delays.

- Review usefulness of state's current identity proof requirements, which frequently delay eligible claims.
- To reduce unneeded investigations, reword employer notices so employers know they should only respond to the notice if they dispute the worker's claim.
- To reduce unneeded investigations, limit current practice of state-led investigations (which may be inconsistent with existing state law).
- To limit disputed claims, reassess practice of allowing all prior employers (not just the most recent employer) to dispute a UI claim.

- Assess surcharge to discourage unsubstantiated employer disputes and appeals that cause long claim delays.

- Simplify Application

The state's UI application and ongoing requirements are difficult to understand and unnecessarily lengthy.

- Stop asking workers to list detailed work history and salary information that EDD already maintains.
- Instead, make initial payment based on EDD's internal information and allow for recalculations.
- Require employers to report layoffs to speed-up UI application and increase take-up. (State law already requires employers to report new hires.)
- To shorten application and limit misunderstanding, reevaluate need for extra questions on UI application that only affects eligibility for a small number of applicants.
- Continue work to rebalance notification procedures so workers have sufficient time to respond to EDD requests, understand why EDD's decision was made, and know what to do if they disagree.

Suggested Questions

- Can you describe how EDD is currently smoothing processes in the UI program as the department transitions away from its legacy system?
- What are EDD's responses to the LAO's recommendations to improve its UI program? Has it contemplated or implemented any of the suggested recommendations?

Staff Recommendation. Hold Open

Issue 3C: Improving CA's Current SDI/PFL Programs During Transition to EDDNext

Panel

- Chas Alamo, Legislative Analyst's Office
- Katherine Wutchiett, Senior Staff Attorney, Legal Aid at Work
- Lizett Rodriguez Peña, Attorney, Watsonville Law Center
- Juliana Franco, Staff Attorney, Center for WorkLife Law at UC College of the Law, SF
- Nancy Farias, Director, Employment Development Department
- Melissa Stone, Disability Insurance Deputy Director, Employment Development Department

Available for additional questions and detail:
- Patrick Toppin and Andrew March, Department of Finance

Governor's Budget

The Governor's budget includes $4.2 million Unemployment Compensation Disability Fund in each of 2023-24 and 2024-25 to implement the changes required by SB 951 (Durazo), Chapter 878, Statutes of 2022. EDD indicates that the amounts include one-time costs for contract services and staffing.

Background

As previously highlighted in Issue 3A, EDD administers the State Disability Insurance (SDI) program, which includes the Disability Insurance (DI) and Paid Family Leave (PFL) programs. The DI program provides benefits to workers who experience a non-work related disability, including pregnancy. In contrast, the PFL program offers up to eight weeks of wage replacement benefits to workers who care for a seriously ill or injured family member, participate in a qualifying event because of a family member's military deployment to a foreign country, or bond with a new minor child.

Current SDI Wage Replacement Rates. The current SDI wage replacement rates of 60 percent (70 percent for low-income workers) were instituted in 2016 by Chapter 5, Statutes of 2016 (AB 908). Those changes became effective January 1, 2018 and were scheduled to sunset on January 1, 2022. In 2021, Chapter 78, Statutes of 2021 (AB 138) extended the current percent wage replacement rates through December 2022.

Upcoming Changes Due to SB 951. SB 951 extends the current 60 and 70 percent wage replacement rates for the SDI program, which includes the DI and PFL programs, until December 31, 2024. Effective January 1, 2025, the wage replacement rates for DI and PFL increases permanently to either 70 percent or 90 percent depending on an individual's earnings. It also lowers the minimum amount of wages needed to receive a $50 minimum weekly benefit payment. To help fund these increases, the bill removes the SDI program's taxable wage ceiling, effective January 1, 2024. However, it does not change the maximum weekly benefit amount calculation.

SB 951 extends the current 60 and 70 percent wage replacement rates until December 31, 2024. Beginning January 1, 2025, this bill would revise the formulas for determining the weekly benefit amounts for the DI and PFL programs indefinitely to the following:

- For individuals whose highest quarterly earnings are less than $722.50, the weekly benefit amount would be $50.
- For individuals whose highest quarterly earnings are more than 70 percent of the state average quarterly wage, the weekly benefit amount would be equal to the greater of the following:
    - 70 percent of wages paid during the individual's highest quarterly earnings, divided by 13.
    - 63 percent of the state average weekly wage.

For individuals whose highest quarterly earnings are 70 percent or less than the state average quarterly wage, the weekly benefit amount would be equal to 90 percent of the wages paid during the individual's highest quarterly earnings, divided by 13.

The bill maintains that no weekly benefit amount is to exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations (DIR) pursuant to Section 4453 of the Labor Code, which is current law.

Additionally, this bill repeals California Unemployment Insurance Code Section 985, removing the limitation on wages that are subject to SDI contributions. For calendar year 2022, the taxable wage ceiling is $145,600 for each employee, and the maximum SDI withholding for each employee is $1,601.60. Beginning in 2024, those wage earners who make more than the taxable wage ceiling would be taxed on their whole income.

EDD Proposed Implementation Activities. To adopt the new wage replacement rates, EDD will reprogram the department's automated systems, develop business requirements, and update appropriate resources, including manuals, handouts, forms, webinars, posters, and trainings. EDD will also offer educational outreach to businesses and employee communities to raise awareness. The overall implementation time is estimated at 26 months to complete the required changes in line with the following deadlines:

- January 1, 2024 deadline to repeal the taxable wage ceiling
- January 1, 2025 deadline to increase the wage replacement rates

EDD staff will begin the business requirements phase in January 2023. The costs during this period up to June 2023 is anticipated to be minimal and will be absorbed with existing resources. The procurement of vendors will also commence during this time with the goal of getting contractors on board by July 2023.

Staff Comments. ***Current Problems Exist As State Transitions to SB 951 and EDDNext.*** As the state transitions over from its legacy system for the SDI/PFL programs, as well as towards SB 951 implementation, parallel efforts are necessary to enhance existing benefit systems based on immediate needs. The pandemic particularly highlighted issues that continue to persist and impact users of these programs. These issues are likely to be compounded once SB 951 takes effect since the law makes PFL and SDI more affordable to lower income families and likely lead to an increase in applications to PFL and SDI in 2025. Concerns that staff and community based organizations received include:

- Inability to reach EDD staff for assistance with questions over the phone
- Long waits to reach a EDD staff over the phone
- Phone systems that disconnect calls after workers have been waiting for hours
- Long waits between initial EDD contact and conclusion of claim processing
- Inability to get updates on claim and payment statuses
- Confusing applications
- Language access
- Lack of accessible support for technical problems with login and online systems
- Follow up calls to claimants being placed from “blocked numbers”
- Undocumented workers are unable to apply online, which increases the burden on other access points
- Insufficient online resources to guide applicants and avoid the need for one-to-one support
- Use of ID.Me discouraging undocumented workers from applying

The Legislature may wish to understand how the EDD plans to address these issues through EDDNext and other actions in the short and long-term.

<u>Suggested Questions</u>

- How is EDD planning to prepare for and address a likely increase in applications in 2025 due to SB 951?
- Can you describe how improvements to EDDNext will reduce estimated wait time for SDI/PFL claims to be resolved? Are there improvements that will take effect in fiscal year 2023-24?
- How does EDD evaluate usability and the effectiveness of resources (both over the phone, in-office, and online) to improve its ability to provide applicants with the support that they need? Based on that evaluation, how does EDD, including through EDDNext, plan to change/modify its practices and resources? Are there modifications that will take effect in fiscal year 2023-24?
- What does EDD have planned to decrease the time between initial contact and determination of claims, especially for lower-wage workers? What support does the EDD need to improve these times?
- Does EDD have plans to better address inquiries into claim status and requests for technical assistance with the online system other than through the general phone lines?
- How does EDD plan to continue protecting workers’ immigration status data with EDDNext and online applications?

- Workers with limited English proficiency are disproportionately represented in lower paid work. How does EDD plan to improve language access, now, and through EDDNext, to ensure adequate access and improve applications rates?

Staff Recommendation. Hold Open

Issue 4: Addressing UI Debt

Panel

- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office

Governor's Budget

Unemployment Insurance (UI) Trust Fund Loan Interest. The Governor's budget includes $279 million one-time General Fund to pay the annual interest payment on the state's UI loan balance.

UI Small Business Relief Withdrawal. The Governor's budget proposes to remove the $500 million one-time General Fund commitment in 2024-25, made as part of the Budget Act of 2022, to offset the anticipated rising federal unemployment insurance tax rates resulting from the UI Trust Fund insolvency.

UI Debt Payment Withdrawal. The Budget Act of 2022 included $1 billion ($250 million federal funds in 2022-23 and $750 million General Fund in 2023-24) to pay down a portion of the state's approximately $18 billion UI Trust Fund debt. The Governor's budget proposes to withdraw the $750 million one-time General Fund payment in 2023-24.

Background

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.

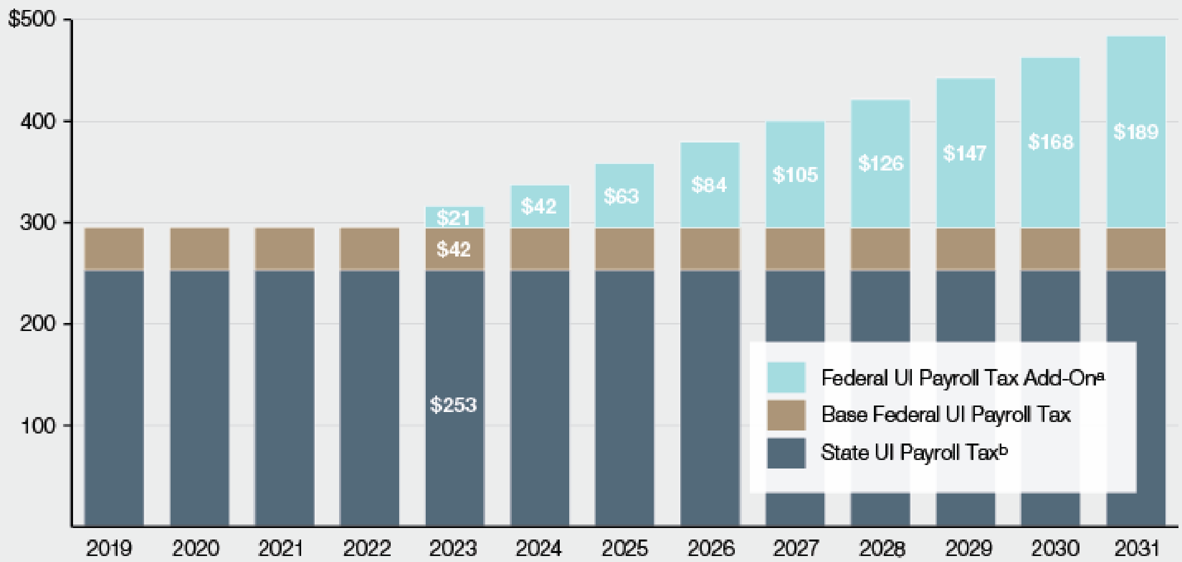
Since Pandemic Began, State Has Received $20 Billion in Federal UI Loans. Prior to the pandemic, at the start of 2020, the state's UI trust fund held $3.3 billion in reserves. Despite these reserves, the state's UI trust fund became insolvent during the summer of 2020, a few months following the start 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 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.

LAO

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

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.

2022 Budget Act Agreements. The 2022 Budget Act included the following investments to address UI debt and its impact on employers:

- **Unemployment Insurance (UI) Debt Paydown.** The 2022 Budget Act included $1 billion General Fund of which $250 million General Fund is in 2022-23 and $750 million is in 2023-24, to begin repaying the outstanding balance on the state's federal Unemployment Insurance (UI) loans.

- **Unemployment Insurance Cost Relief on Businesses.** The 2022 Budget Act included $500 million, to be appropriated in the 2024-25 Budget Act and as reflected in the state's multi-year financial forecast, to provide relief to small businesses because of the anticipated increases in federal unemployment insurance taxes.

Suggested Questions

- We would like to understand why these withdrawals part of the Governor's proposed budget and how this fits the state's long-term goals to re-pay the UI debt. What is the Administration's plan to provide relief to small businesses and paying down UI debt?
- Is there an advantage for California by only paying the annual interest payment on the state's UI loan balance instead of paying the principal amount? Does the LAO or Administration have feedback on whether this would be the most effective strategy for the state?
- What is the Administration's projected date for repaying the UI debt to the federal government?

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		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
6080	Self-Insurance Plans	26.1	26.1	30.6	$6,837	$7,032	$7,012
6090	Division of Workers' Compensation	1,147.0	1,158.0	1,294.3	270,499	290,769	298,512
6095	Commission on Health and Safety and Workers' Compensation	9.1	9.1	10.8	4,092	3,872	3,864
6100	Division of Occupational Safety and Health	928.9	963.9	1,146.7	230,037	241,593	255,821
6105	Division of Labor Standards Enforcement	753.4	838.9	1,101.4	157,837	170,781	186,216
6110	Division of Apprenticeship Standards	94.3	94.3	112.0	47,829	109,122	114,115
6120	Claims, Wages, and Contingencies	-	-	-	244,435	410,712	471,712
9900100	Administration	558.0	565.0	-	146,518	100,953	-
9900200	Administration - Distributed	-	-	-	-146,518	-100,953	-
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**3,516.8**	**3,655.3**	**3,695.8**	**$961,566**	**$1,233,881**	**$1,337,252**

FUNDING		**2021-22***	**2022-23***	**2023-24***
0001	General Fund	$24,100	$131,660	$128,650
0016	Subsequent Injuries Benefits Trust Fund	84,000	256,000	317,000
0023	Farmworker Remedial Account	897	291	291
0132	Workers Compensation Managed Care Fund	78	78	78
0223	Workers Compensation Administration Revolving Fund	382,981	398,134	405,859
0396	Self-Insurance Plans Fund	4,512	4,641	4,628
0452	Elevator Safety Account	36,838	43,517	43,089
0453	Pressure Vessel Account	5,800	6,031	6,026
0481	Garment Manufacturers Special Account	5,617	500	500
0514	Employment Training Fund	5,950	6,145	6,144
0571	Uninsured Employers Benefits Trust Fund	40,907	41,173	41,162
0890	Federal Trust Fund	54,289	36,852	36,862
0913	Industrial Relations Unpaid Wage Fund	500	500	500
0995	Reimbursements	19,804	15,340	15,340
3002	Electrician Certification Fund	3,069	3,147	3,139
3004	Garment Industry Regulations Fund	2,870	2,970	3,372
3022	Apprenticeship Training Contribution Fund	14,168	14,632	14,624
3030	Workers Occupational Safety and Health Education Fund	1,095	1,116	1,116
3071	Car Wash Worker Restitution Fund	421	421	421
3072	Car Wash Worker Fund	821	851	849
3078	Labor and Workforce Development Fund	38,466	8,697	13,281
3121	Occupational Safety and Health Fund	124,799	131,974	146,628
3150	State Public Works Enforcement Fund	13,631	14,030	22,671
3152	Labor Enforcement and Compliance Fund	95,953	115,181	125,022
TOTALS, EXPENDITURES, ALL FUNDS		**$961,566**	**$1,233,881**	**$1,337,252**

Issue 5: Wage Claim Adjudication Unit Resources

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Lilia García-Brower, California State Labor Commissioner, Department of Industrial Relations
- Josh Iverson, Chief Financial Officer, Department of Industrial Relations

Governor's Budget

The Governor's budget includes an additional $11.7 million special funds and 42 positions in 2023-24 and $6.5 million special funds ongoing for DIR to help address wage claim processing times by improving the efficiency of the claims intake and processing as well as automate portions of the claims processing activities within the Wage Claim Adjudication unit.

Background

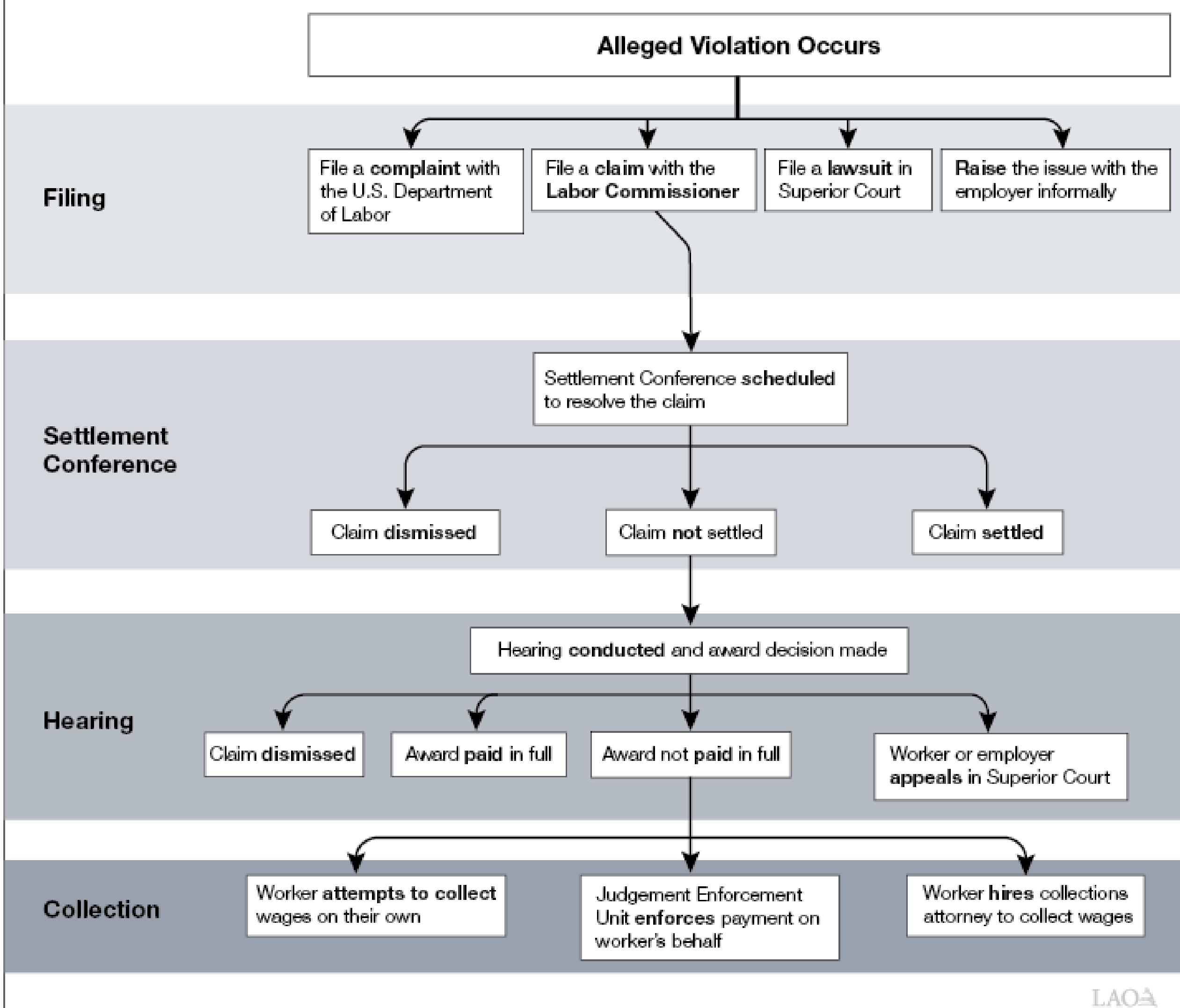
Employment Laws, Benefits, and Protections. State law requires that employers follow rules about employee wages, hours, and breaks. These rules set the state minimum hourly wage and when rest and meal breaks must be provided. Employers also must provide certain benefits, including having insurance to cover on-the-job injuries, reimbursing employees for job expenses, and contributing to unemployment insurance. Finally, employees have certain job protections—for example, taking time off due to illness, a short-term disability, or to bond with a new child. The Labor Commissioner's Office enforces these laws and adjudicates alleged violations.

The Labor Commissioner's Office Hears Workers' Wage Claims. The Labor Commissioner's Office, within the Department of Industrial Relations, hears unpaid wage claims. Workers file a claim when they believe their employer has not complied with the state's employment laws. When filing a claim, workers estimate the amount of wages their employer owes. Enacted in 1976, the wage claim process is designed to be a simple alternative to filing a lawsuit in court, in that wage claims do not require a lawyer and have lower standards of evidence than the courts.

Filing a Claim for Unpaid Wages. One option workers have to collect unpaid wages is to file a wage claim with the state. (Workers have other options that we do not address in this post, including filing a complaint with the federal Department of Labor for violations of federal employment law, filing a lawsuit in court, or addressing the issue informally.) Figure 1 shows how a typical wage claim proceeds. Under state law, wage claims are to be adjudicated within 120 days. At each stage, staff may dismiss the claim if (1) the worker does not show up, (2) the Labor Commissioner does not have jurisdiction to hear the issue, or (3) the parties settle privately. Below, the LAO describes each stage in a typical claim:

Figure 1

Filing a Wage Claim With the Labor Commissioner



- ***Filing a Claim.*** Workers file wage claims with their regional Labor Commissioner's Office by submitting forms and records related to their claim. Workers may submit forms in person or via e-mail, but not online. The claim includes information about the employer, the worker's hours and pay, and the worker's estimate of the wages their employer owes them.

- ***Settlement Conference.*** Once a worker has filed a claim, the Labor Commissioner schedules a settlement conference. During the settlement conference, a Deputy Labor Commissioner hears from the worker and the employer but does not collect evidence, such as pay stubs, that could prove or disprove the allegation. The Deputy Commissioner also reviews the worker's estimate of unpaid wages and may encourage the two sides to settle the claim. If the two sides settle, the claim ends when the employer pays the settlement amount. If the two sides do not settle, the claim proceeds to a hearing.

- ***Hearing and Decision.*** At the wage claim hearing, a hearing officer collects and reviews evidence and hears sworn testimony. Afterward, the hearing officer issues their decision about the claim and the amount of money, if any, the employer owes the worker. Either side may appeal the decision in Superior Court.
- ***Enforcement.*** If neither side appeals, the Labor Commissioner sends the decision to the local court, after which it becomes an enforceable judgment that the worker can collect. In certain cases, the Labor Commissioner's Judgment Enforcement Unit assists the worker in collecting unpaid wages. Often, though, the worker must try to collect the wages awarded in the judgment on their own, sometimes with the help of a private collections attorney or county sheriff.

Amount of Filed Wage Claims Averaged 30,000 Pre-Pandemic and Has Been Impacted due to Pandemic. Between 2014-2019, about 30,000 workers filed wage claims each year with the Labor Commissioner's Office. This represented about one in 600 workers statewide. This amount decreased due to the COVID-19 pandemic but according to DIR's Division of Labor Standards Enforcement, is anticipated to have reached a record number of 39,679 new wage claims in 2022. The department indicates that this amount will be surpassed in 2023, tracking 40,992 new wage claims. In 2017, 33,000 workers alleged a total of $320 million in unpaid wages—nearly $10,000 per worker. About one-third of these claims were dismissed, often because the worker did not attend the conference or the parties settled informally. Of the claims that were not dismissed, about half of them settled and about half of them proceeded to a hearing.

Workload Measure	2018	2019	2020*	2021*	2022**
Number of Claims Filed	32,310	29,404	25,583	18,691	38,711
Number of Settlement Conferences Held	20,549	19,648	15,037	10,421	16,345
Number of Hearings Held	7,537	7,111	4,219	4,080	7,089

** Number of Wage Claims Filed, Settlement Conferences Held and Hearings Held dropped significantly in 2020 and 2021 due to the COVID-19 pandemic.*
*** 2022 is based on data as of December 17, 2022.*

Wage Claims Subject to Major Delays. Under state law, wage claims are to be adjudicated within 120 days. As shown in Figure 3 from the LAO, however, the average claim took almost 400 days in 2018. The 2020 Budget Act included 63 positions over a four-year phase-in to reduce the total wait time of claim processing from over 400 days to under 200 days from docket to hearing completion. While the resources included in the 2020 Budget have assisted the division in processing wage claims, WCA is still not meeting the 120 day statutory timelines prescribed in the Labor Code and wait times increased to over 800 days in 2022. According to the administration, the delays reported in 2028 and 2022 is due to new laws that expanded the Labor Commissioner's authority to collect wages, which makes some cases more complex. Recent efforts to more thoroughly review claims also might have had the effect of delaying cases.

Wage Claim Delays Favor Employers. Long delays between the filing, settlement conference, and hearing favor employers for three reasons. First, the longer the claim process takes, the more likely a worker will move or otherwise drop the claim. When this occurs, staff dismiss and close the claim and no unpaid wages can be collected. Second, long delays may encourage workers to settle their claim for smaller amounts. Although workers may receive more if they continue to a hearing, some choose instead to settle because they cannot afford to wait for the hearing. Third, long delays favor noncompliant employers insofar as the long time line discourages workers from filing a claim in the first place.

Many Affected Workers Who Could File Claims Do Not. Although roughly 1 in 600 workers statewide filed wage claims each year pre-pandemic, the share of workers owed unpaid wages likely was, and still is, much greater than 1 in 600. A few of these other workers probably try to recover unpaid wages in other ways, such as through a lawsuit or a federal complaint, but most do not.

Common Claims and Industries Pre-Pandemic. Most wage claims allege several employment law violations. As shown in Figure 2, waiting time penalties, failure to pay regular or minimum wages, and rest and meal period violations were the most common claims in 2017. Among workers who reported the industry in which they work, the most common jobs were in restaurants, agriculture, construction, medical offices, and private security.

Figure 2-Most Common Claims and Industries
Claims Filed in 2017

Most Common Claims	**Share**		**Most Common Industries**	**Share**
Waiting time penalties	24%		Restaurants	11%
Failure to pay regular wages	17		Agriculture	7
Failure to pay minimum wage	14		Construction	7
Rest and meal period wages	12		Hospitals and medical offices	6
Overtime	9		Security guards and patrol services	5
Unreimbursed business expenses	3		Trucking	4
Liquidated damages	3		Landscaping services	4
Vacation wages	3		Staffing agencies	4
All other	15		Home health care services	2
Total	**100%**		Grocery and convenience stores	2
			Janitorial services	2
			Auto repair	2
			Hotels and motels	2
			All other	44
			Total	**100%**

Overall, Workers Report Collecting Less Than 20 Percent of Unpaid Wages Owed. Workers filed claims in 2017 to recover $230 million in unpaid wages and collected $40 million, less than 20 percent of the amount claimed. These figures do not include dismissed claims.

At Settlement, Workers Recover About Half of Wages Owed. Workers who settle at the settlement conference recoup, on average, about half of their alleged unpaid wages. Settlements vary and depend on various factors. These include: (1) the claim size (larger claims tend to settle for a smaller percentage), (2) personal finances (workers who can afford to may insist on a larger settlement or go to hearing), (3) the advice of the settlement officer, and (4) the employer's interest in a settlement. Overall, workers settled at the settlement conference for about $15 million in unpaid wages.

At Hearings, Most Workers Receive Award, but More Than Half Collect No Wages. Most workers who proceed to a hearing receive an award in their favor. However, in 2017, about 60 percent of workers who received an award ultimately recovered zero wages, despite being awarded about $60 million in unpaid wages. (This is because employers did not pay the amount awarded.) The remaining workers—those who were able to recover unpaid wages—collected about $15 million.

Large Awards More Likely to Go Uncollected. Workers are less likely to collect unpaid wages when their award is large than when their award is small. For workers who collected wages, the median amount was about $3,700. For workers who did not recoup wages, the median amount uncollected was $8,600, more than twice as large.

Staffing and Compliance Issues Historically Impacted DIR. The state has enacted many laws to improve conditions for workers but staffing for enforcement, education, and compliance has not kept pace with the growth of the state. As a result, the time to resolve worker claims regarding wage theft and retaliation have taken longer than intended—especially to the disadvantage of low-income California workers. A central focus of the delays has been staffing issues at DIR. As of January 2022, DIR reported a total of 852 vacancies. DIR has been conducting aggressive recruitment and hiring efforts, which resulted in 725 appointments in the prior calendar year. According to DIR, continuing focused efforts are underway for the current year with an emphasis on filling enforcement and leadership vacancies.

<u>Suggested Questions</u>

- Does the department have updated information for the median amounts of awards that go uncollected, the amount of unpaid wages due to filed claims, the amount of wages recovered, and the industries impacted by these claims?
- What are the department's perceived shortfalls and potential ways to address the current wage claim adjudication delay issues?
- Is there a current backlog in processes claims for wage theft? If so, please explain the backlog.
- What is DIR's recruitment and retention strategy for filling these positions? Is it confident that it will fill these positions on a reasonable timeline?
- How were 42 positions determined and by how much will the average processing time reduce due to these positions?
- Is this proposal a reflection of what DIR believes is its total resource need to address this

issue? If not, then what is the total resource need?

Staff Recommendation. Hold Open

Issue 6: Status Update on Previous Budget Act Investments (Oversight)

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Lilia García-Brower, California State Labor Commissioner, Department of Industrial Relations
- Eric Rood, Chief, Department of Industrial Relations' Division of Apprenticeship Standards
- Josh Iverson, Chief Financial Officer, Department of Industrial Relations

Background

The subcommittee has requested status updates for the following investments included in the Budget Act of 2022:

- **California Youth Apprenticeship Program.** The 2022 Budget Act included $20 million General Fund in 2022-23, $20 million in 2023-24 and $25 million in 2024-25 to establish the Youth Apprenticeship Grant Program. Trailer bill legislation in SB 191 did the following:
    - Required the Division of Apprenticeship Standards (DAS) to administer the program, which would provide grants for the purposes of providing funding for existing apprenticeship and preapprenticeship programs or to develop new apprenticeship and preapprenticeship programs to serve the target population and satisfy the goals and objectives of the grant program, as specified.
    - Defined "target population" as individuals from 16 to 24 years of age who are at risk of disconnection or are disconnected from the education system or employment, unhoused, in the child welfare, juvenile justice, or criminal legal systems, living in concentrated poverty, or are facing barriers to labor market participation. "Target population" includes youth who face chronic opportunity educational achievement gaps, attend schools in communities of concentrated poverty, or attend high schools with a negative school climate.
    - Authorized the grant funds for specific purposes.
    - Required grant proposals to include, among other things, the knowledge, experience, and capacity to provide services to the target population, as defined, and the industries and career pathways targeted. Requires the program to collect, analyze, and report specified program data on race, gender, income, rurality, ability, foster youth, homeless youth, English language learner, and other key characteristics.

  - Required the DAS to monitor and audit grant recipients to ensure compliance with policies, procedures, and requirements for use of the grant funds.
  - Required the Chief of the DAS to convene a committee to develop recommendations, of specified topics, to DAS on the expansion of youth apprenticeships in California.

- **Retaliation Complaint Investigation Unit.** The 2022 Budget Act included $3.9 million Labor Enforcement and Compliance Fund in 2022-23 and growing to $14 million Labor Enforcement and Compliance Fund ongoing augmentation in 2025-26 for this unit.

Suggested Questions

- For all mentioned above:

  - To date, what steps has DIR taken to implement these initiatives?
  - What data, if any, has DIR collected about it? Does DIR have any participation data for these initiatives?
  - What challenges, if any, has DIR encountered as it implements these initiatives? Are there statutory changes or funding challenges that the Legislature should consider that would help support these initiatives?

Staff Recommendation. This is an oversight item and no further action is necessary.

7501 California Department of Human Resources (CalHR)

Issue 7: Governor's Budget Proposals and Status Update

The Department of Human Resources (CalHR) is responsible for managing the state's personnel functions and represents the Governor as the "employer" in all matters concerning state employer-employee relations. CalHR is responsible for issues related to recruitment, selection, salaries, benefits, and position classification, as well as provides a variety of training and consultation services to state departments and local agencies. CalHR's main objectives are to:

- Manage examinations, salaries, benefits, position classification, training, and all other aspects of state employment other than those areas assigned to the State Personnel Board under the civil service provisions of Article VII of the California Constitution.
- Represent the Governor in collective bargaining with unions representing rank and file state employees.
- Set salaries and benefits for employees excluded from collective bargaining and employees exempted from civil service.
- Serve as the sole fiduciary and administrative body for the Savings Plus Program (defined contribution program for full-time and part-time state employees).
- Provide legal representation to state agencies for appeals of disciplinary actions and labor relations matters.
- Hold ex-officio membership to the 13-member Board of Administration of the California Public Employees' Retirement System.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
6200	Human Resources Management	229.4	258.4	261.4	$49,907	$65,689	$63,079
6205	Local Government Services	13.0	13.0	13.0	1,946	2,231	2,238
6210	Benefits Administration	62.5	74.0	74.0	29,759	34,667	35,424
6215	Benefit Payments	-	-	-	36,503	36,503	36,503
9900100	Administration	68.0	109.0	112.0	11,596	20,821	21,784
9900200	Administration - Distributed	-	-	-	-10,288	-19,449	-19,614
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**372.9**	**454.4**	**460.4**	**$119,423**	**$140,462**	**$139,414**

FUNDING		**2021-22***	**2022-23***	**2023-24***
0001	General Fund	$13,761	$33,550	$29,773
0367	Indian Gaming Special Distribution Fund	75	75	75
0821	Flexelect Benefit Fund	27,745	27,858	27,856
0915	Deferred Compensation Plan Fund	17,033	18,291	19,158
0995	Reimbursements	41,091	41,057	41,314
3085	Mental Health Services Fund	-	150	150
8008	State Employees Pretax Parking Fund	1,400	1,400	1,400
8049	Vision Care Program for State Annuitants Fund	8,784	8,784	8,784
9740	Central Service Cost Recovery Fund	9,534	9,297	10,904
TOTALS, EXPENDITURES, ALL FUNDS		**$119,423**	**$140,462**	**$139,414**

Panel

- Natalie Griswold, Department of Finance
- Aston Tennefoss, Department of Finance
- Nick Schroeder, Legislative Analyst's Office
- Mario Guerrero, Deputy Director of Legislative Affairs, CalHR

Background

The Governor's budget includes the following six proposals for CalHR:

1. **Tribal Consultation Training.** AB 923 (Ramos), Chapter 475, Statues of 2022, requires CalHR to develop training by June 1, 2024, regarding the required elements of government-to-government consultations with California Native American Tribes. It also requires designated state officials to complete the training by January 1, 2025, and for officials appointed after that date to do so within six months of their appointment. All designated officials are required to retake the training annually. The Governor's budget includes $100,000 General Fund in 2023-24 for consulting services for the design, development and delivery of the required training, and $10,000 General Fund for fiscal year 2024-25 and ongoing for all related annual update activities and ongoing administrative and maintenance functions.

2. **CalHR Privacy Officer.** The Governor's budget includes one permanent position and $172,000 ($65,000 General Fund) for fiscal year 2023-2024, and $165,000 ($63,000 General Fund) ongoing to allow CalHR to have a dedicated Privacy Officer to develop and manage the department's, policies, procedures, and compliance with California requirements on privacy laws and standards.

3. **Communications Office and Content Management System Replacement.** The Governor's budget includes two positions and $1,352,000 ($994,000 General Fund) in fiscal year 2023-2024 and $563,000 ($214,000 General Fund) in fiscal year 2024-2025 and ongoing to 1) research and plan for the replacement of the CalHR Web Content Management System and, 2) research, plan and develop an improved communication service to the public, state, and employees.

4. **Personnel Management Division Strategic Workload Support.** The Governor's budget includes two positions and $428,000 ($256,000 General Fund) in fiscal year 2023-2024, and $412,000 ($246,000 General Fund) in 2024-2025 and ongoing to provide the Personnel Management Division strategic workload support to enable CalHR capacity to provide better customer service in alignment with CalHR's Strategic Plan.

5. **Psychological Screening Program Administrative Support Adjustment.** The Governor's budget includes reimbursement authority of $116,000 and permanent position authority to transition one limited-term position within the Medical and Psychological Screening Division.

Staff Comments. The 2022 Budget Act approved staffing increases at CalHR for various initiatives. Most notably were the following approved requests:

1. **California Leads as an Employer.** The Budget Act of 2022 included 43.0 permanent positions and $7.6 million ($6.3 million General Fund, $1 million Reimbursement, and $250,000 other funds) for 2022-2023, and $6.8 million ($5.5 million General Fund, $986,000 Reimbursement, and $239,000 other funds) for 2023-2024 and ongoing. This amount is for CalHR to begin implementing the recommendations of the "California Leads as an Employer" taskforce.

2. **Departmental Workload.** The Budget Act of 2022 included 22.5 positions and $6.3 million General and special funds for 2022-23, and $4.8 million General and special funds in 2023-24 and ongoing. These resources were to address: 1) staffing issues in the Administrative Services and Information Technology Divisions; 2) realignment of the Legal Division funding; 3) obtain a single legal management system; 4) create a new Dependent Reverification Unit; and 5) increase funding for the Savings Plus Program.

3. **California State Payroll System Project.** The Budget Act of 2022 includes 15.0 permanent positions and $3.4 million General Fund in 2022-23, $3.3 million General Fund in 2023-24 and 2024-25, and $2.6 million General Fund in 2025-26 and ongoing to support the California State Payroll System through the continuation of the California Department of Technology Project Approval Lifecycle Stage 4 and into the execution phase System Development Lifecycle of the approved project.

Staff notes that a status update requested by the subcommittee for "California Leads as an Employer" raises broader questions about CalHR's ability to fill positions. Based on the responses, the entire $7.6 million scored to 2022-23 was appropriated in the Budget Act of 2022 and most of the request was for salaries, benefits, and expenses directly related to the 43.0 permanent positions. Expenditures of those dollars is dependent on filling the positions but CalHR indicated challenges in filling job vacancies. As of a January 10, 2023 supplemental report, CalHR indicated that "20 percent of the approved positions have been filled, 46 percent of the recruitments are in progress (screening applications, conducting interviews, completing reference checks) and 34 percent have either not started or are on hold." This is CalHR's biggest perceived challenge and they have mentioned the inability to receive enough applications or the inability to find candidates with the needed qualifications. Given the difficulty in filling job vacancies with funds provided in the 2022 Budget Act, the subcommittee may wish to ask CalHR about its staffing recruitment strategies for the Governor's proposals and level of confidence that the department has in filling vacancies going forward.

Suggested Questions

- Why has CalHR had difficulty recruiting for and filling job vacancies?
- In light of CalHR's recruitment challenges, why should the Legislature have confidence that CalHR can fill the positions it requests for 2023-24?

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Tuesday, April 18, 2023
1:30 p.m.
State Capitol - Room 112

Consultant: Christopher Francis, Ph.D.

Items for Discussion

Public Comment

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

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT
7350 DEPARTMENT OF INDUSTRIAL RELATIONS

Issue 1: Governor's Proposed Reductions and Shifts, Part 1

Panel

- Patrick Toppin, Department of Finance
- Kris Cook, Department of Finance
- Chas Alamo, Legislative Analyst's Office

Available for additional questions and detail:

- Javier Romero, Employment Development Department
- Adele Burnes, Department of Industrial Relations' Division of Apprenticeship Standards
- Jay Sturges, Labor and Workforce Development Agency

Background

The 2022 Budget Act leveraged a revenue surplus to make unprecedented investments for workforce and training initiatives across multiple policy areas. Two investments were in Emergency Medical Technician Training and a new Apprenticeship Innovation Funding Program.

Emergency Medical Technician Training. The 2022 Budget Act includes $20 million General Fund annually from 2022-23 through 2024-25 to launch a program that provides targeted emergency medical technician training. This Targeted EMT Training targets youth and those who may have barriers to employment for roles as Emergency Medical Technicians. These trainings are to 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.

In addition to the projects, the funding was provided to 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.

Apprenticeship Innovation Funding Program. The 2022 Budget Act included $170 million over three years ($55 million General Fund in 2022-23 and $60 million General Fund in each of 2023-

24 and 2024-25) for the Apprenticeship Innovation Funding Program, which expands non-traditional apprenticeship programs and supports additional apprentice activities. Trailer bill legislation in SB 191 (Committee on Budget and Fiscal Review), Chapter 67, Statutes of 2022 did the following:

- Established the program, which requires the Division of Apprenticeship Standards (DAS) at the Department of Industrial Relations to administer the program, which provides grants, reimbursements, or other funding for the support of an apprenticeship program or training of apprentices.
- Authorized an apprenticeship program or eligible entity, as specified, to submit an application to the DAS to request funds in a manner specified by the DAS. Identifies specified entities that have registered apprentices with the DAS as "eligible entities," including public educational institutions, labor organizations, and industry associations, among others.
- Authorized the DAS, upon application of an apprenticeship program or eligible entity, to provide support funds to organize, run, and sustain an apprenticeship program in an amount determined by the DAS and specifies factors to be considered by the DAS in determining the amount.
- Specified eligible activities for using support funds, including employer outreach, support, onboarding, and management, among others.
- Authorized DAS to provide training funds either directly to public educational institutions for the training of apprenticeships or to apprenticeship programs that meet specified criteria, and specifies eligible activities for using training funds, including development of courses and classroom instruction, among others.

State's Fiscal Condition Has Resulted in Proposed Delays, Reductions, and Pauses. In their November 2022 economic outlook for California, the Legislative Analyst's Office assessed that the Legislature would face a budget problem of $24 billion in 2023-24. The budget problem is mainly attributable to lower revenue estimates compared to budget act projections between 2021-22 through 2023-24. Typically, revenue losses are offset by lower spending in certain areas, which could be aided by pauses or delays in recent appropriations that have not yet been distributed.

Governor's Budget

Emergency Medical Technician Training Trigger Reduction. The budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment from $60 million to $40 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.

Apprenticeship Innovation Fund Trigger Reduction. The Governor's budget proposes to withdraw $40 million ($20 million in each 2023-24 and 2024-25), reducing the total three-year investment from $175 million to $135 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.

Staff Comments: Staff notes that in addition to the trigger reductions mentioned above, the Governor's budget also proposes trigger reductions, pauses, and reductions for the Women in

Construction Priority Unit, COVID-19 Worker Outreach Program and California Youth Leadership Program. These three programs will be covered in Part 2 at the May 4th, 2023 Subcommittee No. 5 hearing.

Suggested Questions

- For the programs described in this item, has funding in 2022-23 been appropriated? If so, how much? Will all 2022-23 funding be disbursed by June 30, 2023?
- To date, what steps have the departments taken to implement these agreements? What data, if any, have the departments collected about it? Do the departments have any participation data for these initiatives?
- Were there activities that did not start yet? What challenges, if any, have the departments/organizations encountered as it implements these initiatives?
- How do the proposed trigger reductions impact this program's planned activities going forward?

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		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
6040	California Workforce Development Board	76.0	107.0	107.0	$405,657	$281,683	$131,938
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**76.0**	**107.0**	**107.0**	**$405,657**	**$281,683**	**$131,938**

FUNDING		**2021-22***	**2022-23***	**2023-24***
0001	General Fund	$391,368	$266,846	$121,060
0890	Federal Trust Fund	6,576	8,030	8,030
0995	Reimbursements	804	4	4
3228	Greenhouse Gas Reduction Fund	1,909	6,803	2,844
3290	Road Maintenance and Rehabilitation Account, State Transportation Fund	5,000	-	-
TOTALS, EXPENDITURES, ALL FUNDS		**$405,657**	**$281,683**	**$131,938**

Issue 2: Status Update on Previous Budget Act Investments (Oversight)

Panel

- Patrick Toppin, Department of Finance
- Kris Cook, Department of Finance
- Curtis Notsinneh, Chief Deputy Director, California Workforce Development Board

Background

The subcommittee has requested status updates for the following investments included in the Budget Acts of 2022 and 2021:

- **Statewide Reentry Employment Grant Program.** The 2022 Budget Act included $50 million General Fund in 2022-23 for a Statewide Reentry Employment Grant Program at the CA Workforce Development Board. This new program awards competitive grants to eligible non-profit organizations and local partnerships to support activities including, but not limited to, reskilling, upskilling, training, and supportive services for the reentry population to ensure employment, employment opportunities, and job mobility.

- **Prison to Employment.** The 2021 Budget Act provided $20 million one-time for the Prison to Employment Initiative that are available for expenditure or encumbrance until June 30, 2024. The program, initially funded in the 2018 Budget Act with $37 million over three fiscal years, was designed to support regional planning efforts, fund regional plan implementation, and provide resources for direct services to the formerly incarcerated and other justice-involved individuals. It set aside specific resources for both supportive services and earn-and-learn activities which were identified as a major gap by current grantees and local service providers. The initiative sought to create a partnership between rehabilitative programs within California Department of Corrections and Rehabilitation (CDCR) and incorporating CDCR within the policy umbrella of the State Workforce Plan. The Budget Act of 2020 appropriated $1 million for an evaluation of the Prison to Employment program and to support departmental operational costs.

Suggested Questions

- For all mentioned above:
    - To date, what steps has CWDB taken to implement these initiatives?
    - What data, if any, has CWDB collected about it? Does CWDB have any participation data for these initiatives?
    - What challenges, if any, has CWDB encountered as it implements these initiatives? Are there statutory changes or funding challenges that the Legislature should consider that would help support these initiatives?

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

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		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
5900	Employment and Employment Related Services	1,332.6	1,382.4	1,342.7	$819,937	$309,365	$248,414
5915	California Unemployment Insurance Appeals Board	658.3	571.0	567.9	116,408	104,281	104,746
5920	Unemployment Insurance Program	5,765.3	3,559.4	3,264.6	34,368,669	6,925,533	7,283,181
5925	Disability Insurance Program	1,604.5	1,482.5	1,526.7	10,521,734	10,099,358	10,661,608
5930	Tax Program	1,643.5	1,586.3	1,588.3	383,527	368,764	362,521
5935	Employment Training Panel	159.8	111.0	85.1	162,712	142,402	122,471
5940	Workforce Innovation and Opportunity Act	202.2	202.2	202.2	420,389	466,871	408,502
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)		**12,068.7**	**9,597.3**	**9,280.0**	**$46,838,776**	**$18,461,974**	**$19,236,843**

FUNDING		2021-22*	2022-23*	2023-24*
0001	General Fund	$1,134,040	$808,217	$1,359,129
0184	Employment Development Department Benefit Audit Fund	22,054	22,439	22,544
0185	Employment Development Department Contingent Fund	164,348	233,538	235,725
0514	Employment Training Fund	84,650	110,255	125,325
0588	Unemployment Compensation Disability Fund	10,594,242	10,176,085	10,738,644
0869	Consolidated Work Program Fund	465,389	511,871	453,502
0870	Unemployment Administration Fund	1,393,956	1,211,025	1,149,922
0871	Unemployment Fund	32,712,742	4,996,377	5,018,729
0908	School Employees Fund	215,828	105,941	98,745
0995	Reimbursements	47,897	32,596	32,941
3288	Cannabis Control Fund	-	3,630	1,637
3345	Cannabis Tax Fund - Employment Development Department	3,630	-	-
8506	Coronavirus Fiscal Recovery Fund of 2021	-	250,000	-
TOTALS, EXPENDITURES, ALL FUNDS		**$46,838,776**	**$18,461,974**	**$19,236,843**

Issue 3A: EDDNext

Panel

- Patrick Toppin, Department of Finance
- Kris Cook, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Nancy Farias, Director, Employment Development Department

- Ron Hughes, Special Consultant on Technology, Employment Development Department

Available for additional questions and detail:
- Grecia Staton, Employment Development Department

Governor's Budget

The Governor's budget includes $198 million one-time in 2023-24 ($99 million General Fund) to continue the planning and development of EDDNext, for the second year of a five-year plan to modernize EDD. The effort includes enhancements to EDD's benefits system, improving call centers, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and training. As part of the Administration's April 1st proposals, the expenditure or encumbrance date for 2023 EDDNext appropriation would be June 30, 2025. As well, the Administration proposes to extend the encumbrance period for the 2022 Budget Act appropriation for EDDNext to June 30, 2024.

Background

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

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

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

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

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

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

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

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

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

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

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

EDDNext has five listed project objectives:

1) **Customer-Centered Service Design:** Ensure equity access via optimizing service channels (i.e. mobile social media, self-service website, chatbot, live chat) with multiple language access.

2) **Increase Self-Service Opportunities:** Simplify self-service functionality across all programs for claims intake and process.

3) **Mitigate Fraud:** Protect claimant identity, reduce fraudulent activities, and reduce the costly risk to the state by re-engineering claims processing and enhancing technology driven security.

4) **Improved, Consistent, Integrated Program Delivery:** Extend data analytics, improved dashboards, daily reporting on claim progress, fraud analysis, standardized user experience, and enhance EDD training to better serve claimants.

5) **Greater Adaptability for Faster Program Changes:** Integrated system that enables rapid program changes and enable scalability to meet he unusual spikes in workload demand and modifications required for compliance with the U.S. Department of Labor and California Rules and Regulations.

Suggested Questions

- High-level estimates for the project in May 2022 were $1.131 billion over a five-year period. Is your current projection the same as last year's? If not, what is the revised estimate and cause for this increased estimate?
- Are you on track with the first year of implementation's planned activities? If you are falling short, then why? What challenges, if any, have the departments encountered as it implements these initiatives?
- The April 1 proposal requests an extended encumbrance date for EDDNext's 2022 appropriation to June 30, 2024. Why is this being proposed now and how much funding is expected to be expended or encumbered by June 30, 2023? Are there activities that will be occurring but on a slower timelines?
- Can you elaborate on how phone systems and call center processes have been revamped so far under the first phase of EDDNext?
- What activities has the department funded with fraud prevention funding included in the 2022 Budget Act and what activities will the funds included in the Governor's budget for 2023-24 cover?

Staff Recommendation. Hold Open

Issue 3B: Improving CA's Current Unemployment Insurance (UI) Program During Transition to EDDNext

Panel

- Chas Alamo, Legislative Analyst's Office
- Jenna Gerry, Senior Staff Attorney at National Employment Law Project
- Nancy Farias, Director, Employment Development Department
- Grecia Staton, Unemployment Insurance Deputy Director, Employment Development Department

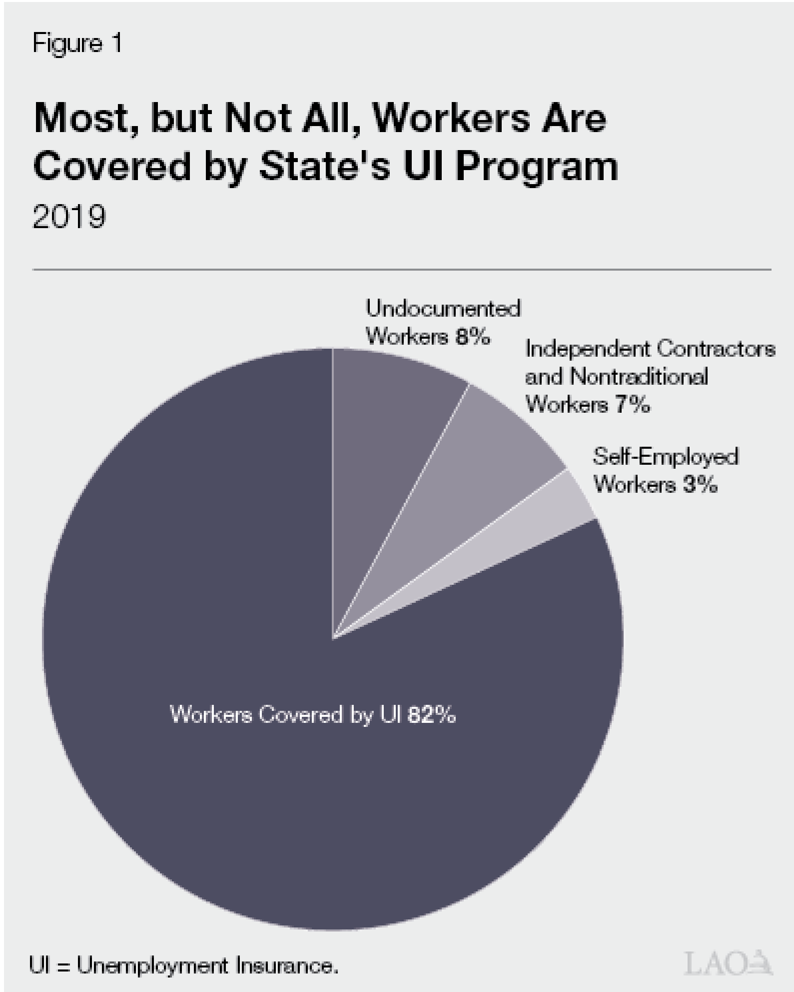
Available for additional questions and detail:

- Patrick Toppin and Kris Cook, Department of Finance

Background

As the state transitions over from its legacy system for the UI program, parallel efforts are necessary to enhance existing benefit systems based on immediate needs. The pandemic particularly highlighted issues that continue to persist and impact users of these programs.

Most Workers Are Eligible to Receive UI Benefits… Most California workers are covered by UI and therefore eligible for benefits when they become unemployed. Under state law, all traditional *employees* are covered by UI. Traditional employees are workers who work for the same business day to day. Most workers in California fall under this category. As shown in Figure 1 from the LAO, the state's UI program covered more than 80 percent (or 17.4 million) of California workers in 2019.



…But Some Workers Are Not Covered by State's UI Program. Nontraditional workers are not eligible for UI. As shown in Figure 1, between three million and four million workers are not covered. Ineligible workers include: undocumented workers (about eight percent of all workers), independent contractors and other nontraditional workers (about seven percent), and self-employed workers (about 3 percent).

State's UI Program Faltered During Recent Downturns. Despite its importance, the UI program faltered during the two most recent downturns— the Great Recession and the pandemic. During the pandemic, UI payments were delayed for roughly 5 million workers and improperly denied for as many as 1 million more. The department's phone lines were routinely overwhelmed by the number of frustrated callers. These failures caused hardship for unemployed workers, held back the economic recovery, and spurred frustration among Californians.

Why Was It Difficult for Unemployed Workers to Get Benefits? For unemployed workers, applying for and getting UI payments can be a difficult process for various reasons:

- Lengthy and complex application.
- Workers often required to submit additional documentation.
- Businesses frequently contest former workers' claims.
- Workers who appeal a denial must wait for an appeals hearing.

- Unemployed workers must regularly recertify their eligibility.

State Policies and Practices Have Evolved to Make Getting Benefits Difficult. The key factor behind why getting benefits has become difficult is the UI program's basic structure, which encourages EDD to disproportionately focus on stopping fraud and minimizing business costs.

Without safeguards to make sure eligible workers can get benefits easily, the state's policies and actions have tilted the UI program out of balance. The program's basic design has led to state policies and actions that make
getting benefits difficult:

- EDD operates UI program with orientation toward businesses, which have incentive to contain their costs.
- Federal pressure to avoid errors creates incentive to conduct lengthy reviews.
- To keep the UI Trust Fund solvent, state may look for ways to contain costs.

<u>LAO Recommendations to Improve Unemployment Insurance (UI)</u>

- Limit Improper Claim Denials

More than half of the UI claims the Employment Development Department (EDD) denies are overturned on appeal. Overturned denials cause lengthy delays for workers who appeal and raise concern that the state denies many eligible workers. Likely between $500 million and $1 billion annually in UI payments go unpaid each year due to improper denials.

- Audit claim denials to learn more about claim types that EDD regularly denies.
- For claims denied because an eligible worker did not follow EDD rules, reevaluate rules to make sure benefits outweigh costs.
- Give UI appeals board authority and staff to correct state practices that make it difficult to get UI benefits.

- Minimize Delays

More than half of UI claims were delayed during the peak of the pandemic, for many workers by several months. Between 15 percent and 20 percent of workers who apply for UI during normal economic times experience delays.

- Review usefulness of state's current identity proof requirements, which frequently delay eligible claims.
- To reduce unneeded investigations, reword employer notices so employers know they should only respond to the notice if they dispute the worker's claim.
- To reduce unneeded investigations, limit current practice of state-led investigations (which may be inconsistent with existing state law).
- To limit disputed claims, reassess practice of allowing all prior employers (not just the most recent employer) to dispute a UI claim.

- Assess surcharge to discourage unsubstantiated employer disputes and appeals that cause long claim delays.

- Simplify Application

The state's UI application and ongoing requirements are difficult to understand and unnecessarily lengthy.

- Stop asking workers to list detailed work history and salary information that EDD already maintains.
- Instead, make initial payment based on EDD's internal information and allow for recalculations.
- Require employers to report layoffs to speed-up UI application and increase take-up. (State law already requires employers to report new hires.)
- To shorten application and limit misunderstanding, reevaluate need for extra questions on UI application that only affects eligibility for a small number of applicants.
- Continue work to rebalance notification procedures so workers have sufficient time to respond to EDD requests, understand why EDD's decision was made, and know what to do if they disagree.

Suggested Questions

- Can you describe how EDD is currently smoothing processes in the UI program as the department transitions away from its legacy system?
- What are EDD's responses to the LAO's recommendations to improve its UI program? Has it contemplated or implemented any of the suggested recommendations?

Staff Recommendation. Hold Open

Issue 3C: Improving CA's Current SDI/PFL Programs During Transition to EDDNext

Panel

- Chas Alamo, Legislative Analyst's Office
- Katherine Wutchiett, Senior Staff Attorney, Legal Aid at Work
- Lizett Rodriguez Peña, Attorney, Watsonville Law Center
- Juliana Franco, Staff Attorney, Center for WorkLife Law at UC College of the Law, SF
- Nancy Farias, Director, Employment Development Department
- Melissa Stone, Disability Insurance Deputy Director, Employment Development Department

Available for additional questions and detail:

- Patrick Toppin and Kris Cook, Department of Finance

Governor's Budget

The Governor's budget includes $4.2 million Unemployment Compensation Disability Fund in each of 2023-24 and 2024-25 to implement the changes required by SB 951 (Durazo), Chapter 878, Statutes of 2022. EDD indicates that the amounts include one-time costs for contract services and staffing.

Background

As previously highlighted in Issue 3A, EDD administers the State Disability Insurance (SDI) program, which includes the Disability Insurance (DI) and Paid Family Leave (PFL) programs. The DI program provides benefits to workers who experience a non-work related disability, including pregnancy. In contrast, the PFL program offers up to eight weeks of wage replacement benefits to workers who care for a seriously ill or injured family member, participate in a qualifying event because of a family member's military deployment to a foreign country, or bond with a new minor child.

Current SDI Wage Replacement Rates. The current SDI wage replacement rates of 60 percent (70 percent for low-income workers) were instituted in 2016 by Chapter 5, Statutes of 2016 (AB 908). Those changes became effective January 1, 2018 and were scheduled to sunset on January 1, 2022. In 2021, Chapter 78, Statutes of 2021 (AB 138) extended the current percent wage replacement rates through December 2022.

Upcoming Changes Due to SB 951. SB 951 extends the current 60 and 70 percent wage replacement rates for the SDI program, which includes the DI and PFL programs, until December 31, 2024. Effective January 1, 2025, the wage replacement rates for DI and PFL increases permanently to either 70 percent or 90 percent depending on an individual's earnings. It also lowers the minimum amount of wages needed to receive a $50 minimum weekly benefit payment. To help fund these increases, the bill removes the SDI program's taxable wage ceiling, effective January 1, 2024. However, it does not change the maximum weekly benefit amount calculation.

SB 951 extends the current 60 and 70 percent wage replacement rates until December 31, 2024. Beginning January 1, 2025, this bill would revise the formulas for determining the weekly benefit amounts for the DI and PFL programs indefinitely to the following:

- For individuals whose highest quarterly earnings are less than $722.50, the weekly benefit amount would be $50.
- For individuals whose highest quarterly earnings are more than 70 percent of the state average quarterly wage, the weekly benefit amount would be equal to the greater of the following:
  - 70 percent of wages paid during the individual's highest quarterly earnings, divided by 13.
  - 63 percent of the state average weekly wage.

For individuals whose highest quarterly earnings are 70 percent or less than the state average quarterly wage, the weekly benefit amount would be equal to 90 percent of the wages paid during the individual's highest quarterly earnings, divided by 13.

The bill maintains that no weekly benefit amount is to exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations (DIR) pursuant to Section 4453 of the Labor Code, which is current law.

Additionally, this bill repeals California Unemployment Insurance Code Section 985, removing the limitation on wages that are subject to SDI contributions. For calendar year 2022, the taxable wage ceiling is $145,600 for each employee, and the maximum SDI withholding for each employee is $1,601.60. Beginning in 2024, those wage earners who make more than the taxable wage ceiling would be taxed on their whole income.

EDD Proposed Implementation Activities. To adopt the new wage replacement rates, EDD will reprogram the department's automated systems, develop business requirements, and update appropriate resources, including manuals, handouts, forms, webinars, posters, and trainings. EDD will also offer educational outreach to businesses and employee communities to raise awareness. The overall implementation time is estimated at 26 months to complete the required changes in line with the following deadlines:

- January 1, 2024 deadline to repeal the taxable wage ceiling
- January 1, 2025 deadline to increase the wage replacement rates

EDD staff will begin the business requirements phase in January 2023. The costs during this period up to June 2023 is anticipated to be minimal and will be absorbed with existing resources. The procurement of vendors will also commence during this time with the goal of getting contractors on board by July 2023.

Staff Comments. ***Current Problems Exist As State Transitions to SB 951 and EDDNext.*** As the state transitions over from its legacy system for the SDI/PFL programs, as well as towards SB 951 implementation, parallel efforts are necessary to enhance existing benefit systems based on immediate needs. The pandemic particularly highlighted issues that continue to persist and impact users of these programs. These issues are likely to be compounded once SB 951 takes effect since the law makes PFL and SDI more affordable to lower income families and likely lead to an increase in applications to PFL and SDI in 2025. Concerns that staff and community based organizations received include:

- Inability to reach EDD staff for assistance with questions over the phone
- Long waits to reach a EDD staff over the phone
- Phone systems that disconnect calls after workers have been waiting for hours
- Long waits between initial EDD contact and conclusion of claim processing
- Inability to get updates on claim and payment statuses
- Confusing applications
- Language access
- Lack of accessible support for technical problems with login and online systems
- Follow up calls to claimants being placed from "blocked numbers"
- Undocumented workers are unable to apply online, which increases the burden on other access points
- Insufficient online resources to guide applicants and avoid the need for one-to-one support
- Use of ID.Me discouraging undocumented workers from applying

The Legislature may wish to understand how the EDD plans to address these issues through EDDNext and other actions in the short and long-term.

<u>Suggested Questions</u>

- How is EDD planning to prepare for and address a likely increase in applications in 2025 due to SB 951?
- Can you describe how improvements to EDDNext will reduce estimated wait time for SDI/PFL claims to be resolved? Are there improvements that will take effect in fiscal year 2023-24?
- How does EDD evaluate usability and the effectiveness of resources (both over the phone, in-office, and online) to improve its ability to provide applicants with the support that they need? Based on that evaluation, how does EDD, including through EDDNext, plan to change/modify its practices and resources? Are there modifications that will take effect in fiscal year 2023-24?
- What does EDD have planned to decrease the time between initial contact and determination of claims, especially for lower-wage workers? What support does the EDD need to improve these times?
- Does EDD have plans to better address inquiries into claim status and requests for technical assistance with the online system other than through the general phone lines?
- How does EDD plan to continue protecting workers' immigration status data with EDDNext and online applications?

- Workers with limited English proficiency are disproportionately represented in lower paid work. How does EDD plan to improve language access, now, and through EDDNext, to ensure adequate access and improve applications rates?

Staff Recommendation. Hold Open

Issue 4: Addressing UI Debt

Panel

- Kris Cook, Department of Finance
- Chas Alamo, Legislative Analyst's Office

Governor's Budget

Unemployment Insurance (UI) Trust Fund Loan Interest. The Governor's budget includes $279 million one-time General Fund to pay the annual interest payment on the state's UI loan balance.

UI Small Business Relief Withdrawal. The Governor's budget proposes to remove the $500 million one-time General Fund commitment in 2024-25, made as part of the Budget Act of 2022, to offset the anticipated rising federal unemployment insurance tax rates resulting from the UI Trust Fund insolvency.

UI Debt Payment Withdrawal. The Budget Act of 2022 included $1 billion ($250 million federal funds in 2022-23 and $750 million General Fund in 2023-24) to pay down a portion of the state's approximately $18 billion UI Trust Fund debt. The Governor's budget proposes to withdraw the $750 million one-time General Fund payment in 2023-24.

Background

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.

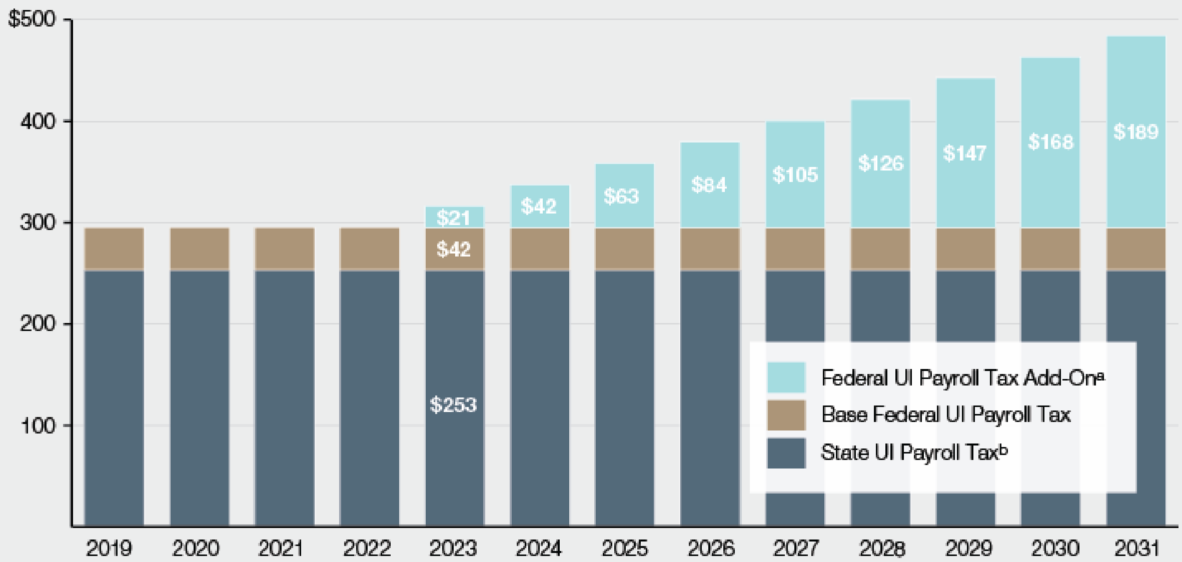
Since Pandemic Began, State Has Received $20 Billion in Federal UI Loans. Prior to the pandemic, at the start of 2020, the state's UI trust fund held $3.3 billion in reserves. Despite these reserves, the state's UI trust fund became insolvent during the summer of 2020, a few months following the start 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 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.

LAO

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

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.

2022 Budget Act Agreements. The 2022 Budget Act included the following investments to address UI debt and its impact on employers:

- **Unemployment Insurance (UI) Debt Paydown.** The 2022 Budget Act included $1 billion General Fund of which $250 million General Fund is in 2022-23 and $750 million is in 2023-24, to begin repaying the outstanding balance on the state's federal Unemployment Insurance (UI) loans.

- **Unemployment Insurance Cost Relief on Businesses.** The 2022 Budget Act included $500 million, to be appropriated in the 2024-25 Budget Act and as reflected in the state's multi-year financial forecast, to provide relief to small businesses because of the anticipated increases in federal unemployment insurance taxes.

Suggested Questions

- We would like to understand why these withdrawals part of the Governor's proposed budget and how this fits the state's long-term goals to re-pay the UI debt. What is the Administration's plan to provide relief to small businesses and paying down UI debt?
- Is there an advantage for California by only paying the annual interest payment on the state's UI loan balance instead of paying the principal amount? Does the LAO or Administration have feedback on whether this would be the most effective strategy for the state?
- What is the Administration's projected date for repaying the UI debt to the federal government?

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		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
6080	Self-Insurance Plans	26.1	26.1	30.6	$6,837	$7,032	$7,012
6090	Division of Workers' Compensation	1,147.0	1,158.0	1,294.3	270,499	290,769	298,512
6095	Commission on Health and Safety and Workers' Compensation	9.1	9.1	10.8	4,092	3,872	3,864
6100	Division of Occupational Safety and Health	928.9	963.9	1,146.7	230,037	241,593	255,821
6105	Division of Labor Standards Enforcement	753.4	838.9	1,101.4	157,837	170,781	186,216
6110	Division of Apprenticeship Standards	94.3	94.3	112.0	47,829	109,122	114,115
6120	Claims, Wages, and Contingencies	-	-	-	244,435	410,712	471,712
9900100	Administration	558.0	565.0	-	146,518	100,953	-
9900200	Administration - Distributed	-	-	-	-146,518	-100,953	-
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**3,516.8**	**3,655.3**	**3,695.8**	**$961,566**	**$1,233,881**	**$1,337,252**

FUNDING		**2021-22***	**2022-23***	**2023-24***
0001	General Fund	$24,100	$131,660	$128,650
0016	Subsequent Injuries Benefits Trust Fund	84,000	256,000	317,000
0023	Farmworker Remedial Account	897	291	291
0132	Workers Compensation Managed Care Fund	78	78	78
0223	Workers Compensation Administration Revolving Fund	382,981	398,134	405,859
0396	Self-Insurance Plans Fund	4,512	4,641	4,628
0452	Elevator Safety Account	36,838	43,517	43,089
0453	Pressure Vessel Account	5,800	6,031	6,026
0481	Garment Manufacturers Special Account	5,617	500	500
0514	Employment Training Fund	5,950	6,145	6,144
0571	Uninsured Employers Benefits Trust Fund	40,907	41,173	41,162
0890	Federal Trust Fund	54,289	36,852	36,862
0913	Industrial Relations Unpaid Wage Fund	500	500	500
0995	Reimbursements	19,804	15,340	15,340
3002	Electrician Certification Fund	3,069	3,147	3,139
3004	Garment Industry Regulations Fund	2,870	2,970	3,372
3022	Apprenticeship Training Contribution Fund	14,168	14,632	14,624
3030	Workers Occupational Safety and Health Education Fund	1,095	1,116	1,116
3071	Car Wash Worker Restitution Fund	421	421	421
3072	Car Wash Worker Fund	821	851	849
3078	Labor and Workforce Development Fund	38,466	8,697	13,281
3121	Occupational Safety and Health Fund	124,799	131,974	146,628
3150	State Public Works Enforcement Fund	13,631	14,030	22,671
3152	Labor Enforcement and Compliance Fund	95,953	115,181	125,022
TOTALS, EXPENDITURES, ALL FUNDS		**$961,566**	**$1,233,881**	**$1,337,252**

Issue 5: Wage Claim Adjudication Unit Resources

Panel

- Patrick Toppin, Department of Finance
- Kris Cook, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Lilia García-Brower, California State Labor Commissioner, Department of Industrial Relations
- Josh Iverson, Chief Financial Officer, Department of Industrial Relations

Governor's Budget

The Governor's budget includes an additional $11.7 million special funds and 42 positions in 2023-24 and $6.5 million special funds ongoing for DIR to help address wage claim processing times by improving the efficiency of the claims intake and processing as well as automate portions of the claims processing activities within the Wage Claim Adjudication unit.

Background

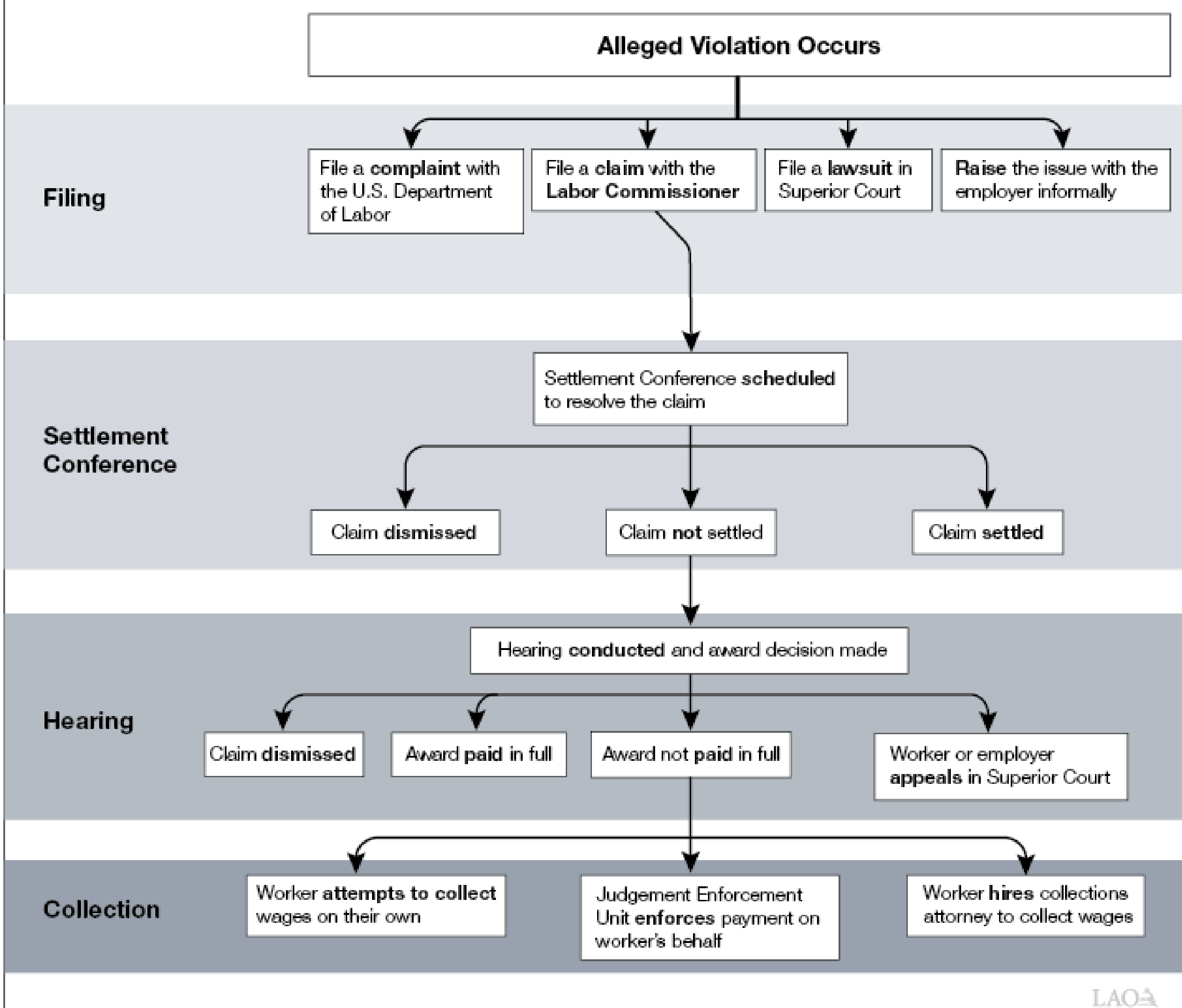
Employment Laws, Benefits, and Protections. State law requires that employers follow rules about employee wages, hours, and breaks. These rules set the state minimum hourly wage and when rest and meal breaks must be provided. Employers also must provide certain benefits, including having insurance to cover on-the-job injuries, reimbursing employees for job expenses, and contributing to unemployment insurance. Finally, employees have certain job protections—for example, taking time off due to illness, a short-term disability, or to bond with a new child. The Labor Commissioner's Office enforces these laws and adjudicates alleged violations.

The Labor Commissioner's Office Hears Workers' Wage Claims. The Labor Commissioner's Office, within the Department of Industrial Relations, hears unpaid wage claims. Workers file a claim when they believe their employer has not complied with the state's employment laws. When filing a claim, workers estimate the amount of wages their employer owes. Enacted in 1976, the wage claim process is designed to be a simple alternative to filing a lawsuit in court, in that wage claims do not require a lawyer and have lower standards of evidence than the courts.

Filing a Claim for Unpaid Wages. One option workers have to collect unpaid wages is to file a wage claim with the state. (Workers have other options that we do not address in this post, including filing a complaint with the federal Department of Labor for violations of federal employment law, filing a lawsuit in court, or addressing the issue informally.) Figure 1 shows how a typical wage claim proceeds. Under state law, wage claims are to be adjudicated within 120 days. At each stage, staff may dismiss the claim if (1) the worker does not show up, (2) the Labor Commissioner does not have jurisdiction to hear the issue, or (3) the parties settle privately. Below, the LAO describes each stage in a typical claim:

Figure 1

Filing a Wage Claim With the Labor Commissioner



- ***Filing a Claim.*** Workers file wage claims with their regional Labor Commissioner's Office by submitting forms and records related to their claim. Workers may submit forms in person or via e-mail, but not online. The claim includes information about the employer, the worker's hours and pay, and the worker's estimate of the wages their employer owes them.

- ***Settlement Conference.*** Once a worker has filed a claim, the Labor Commissioner schedules a settlement conference. During the settlement conference, a Deputy Labor Commissioner hears from the worker and the employer but does not collect evidence, such as pay stubs, that could prove or disprove the allegation. The Deputy Commissioner also reviews the worker's estimate of unpaid wages and may encourage the two sides to settle the claim. If the two sides settle, the claim ends when the employer pays the settlement amount. If the two sides do not settle, the claim proceeds to a hearing.

- ***Hearing and Decision.*** At the wage claim hearing, a hearing officer collects and reviews evidence and hears sworn testimony. Afterward, the hearing officer issues their decision about the claim and the amount of money, if any, the employer owes the worker. Either side may appeal the decision in Superior Court.
- ***Enforcement.*** If neither side appeals, the Labor Commissioner sends the decision to the local court, after which it becomes an enforceable judgment that the worker can collect. In certain cases, the Labor Commissioner's Judgment Enforcement Unit assists the worker in collecting unpaid wages. Often, though, the worker must try to collect the wages awarded in the judgment on their own, sometimes with the help of a private collections attorney or county sheriff.

Amount of Filed Wage Claims Averaged 30,000 Pre-Pandemic and Has Been Impacted due to Pandemic. Between 2014-2019, about 30,000 workers filed wage claims each year with the Labor Commissioner's Office. This represented about one in 600 workers statewide. This amount decreased due to the COVID-19 pandemic but according to DIR's Division of Labor Standards Enforcement, is anticipated to have reached a record number of 39,679 new wage claims in 2022. The department indicates that this amount will be surpassed in 2023, tracking 40,992 new wage claims. In 2017, 33,000 workers alleged a total of $320 million in unpaid wages—nearly $10,000 per worker. About one-third of these claims were dismissed, often because the worker did not attend the conference or the parties settled informally. Of the claims that were not dismissed, about half of them settled and about half of them proceeded to a hearing.

Workload Measure	2018	2019	2020*	2021*	2022**
Number of Claims Filed	32,310	29,404	25,583	18,691	38,711
Number of Settlement Conferences Held	20,549	19,648	15,037	10,421	16,345
Number of Hearings Held	7,537	7,111	4,219	4,080	7,089

** Number of Wage Claims Filed, Settlement Conferences Held and Hearings Held dropped significantly in 2020 and 2021 due to the COVID-19 pandemic.*
*** 2022 is based on data as of December 17, 2022.*

Wage Claims Subject to Major Delays. Under state law, wage claims are to be adjudicated within 120 days. As shown in Figure 3 from the LAO, however, the average claim took almost 400 days in 2018. The 2020 Budget Act included 63 positions over a four-year phase-in to reduce the total wait time of claim processing from over 400 days to under 200 days from docket to hearing completion. While the resources included in the 2020 Budget have assisted the division in processing wage claims, WCA is still not meeting the 120 day statutory timelines prescribed in the Labor Code and wait times increased to over 800 days in 2022. According to the administration, the delays reported in 2028 and 2022 is due to new laws that expanded the Labor Commissioner's authority to collect wages, which makes some cases more complex. Recent efforts to more thoroughly review claims also might have had the effect of delaying cases.

Wage Claim Delays Favor Employers. Long delays between the filing, settlement conference, and hearing favor employers for three reasons. First, the longer the claim process takes, the more likely a worker will move or otherwise drop the claim. When this occurs, staff dismiss and close the claim and no unpaid wages can be collected. Second, long delays may encourage workers to settle their claim for smaller amounts. Although workers may receive more if they continue to a hearing, some choose instead to settle because they cannot afford to wait for the hearing. Third, long delays favor noncompliant employers insofar as the long time line discourages workers from filing a claim in the first place.

Many Affected Workers Who Could File Claims Do Not. Although roughly 1 in 600 workers statewide filed wage claims each year pre-pandemic, the share of workers owed unpaid wages likely was, and still is, much greater than 1 in 600. A few of these other workers probably try to recover unpaid wages in other ways, such as through a lawsuit or a federal complaint, but most do not.

Common Claims and Industries Pre-Pandemic. Most wage claims allege several employment law violations. As shown in Figure 2, waiting time penalties, failure to pay regular or minimum wages, and rest and meal period violations were the most common claims in 2017. Among workers who reported the industry in which they work, the most common jobs were in restaurants, agriculture, construction, medical offices, and private security.

Figure 2-Most Common Claims and Industries
Claims Filed in 2017

Most Common Claims	**Share**		**Most Common Industries**	**Share**
Waiting time penalties	24%		Restaurants	11%
Failure to pay regular wages	17		Agriculture	7
Failure to pay minimum wage	14		Construction	7
Rest and meal period wages	12		Hospitals and medical offices	6
Overtime	9		Security guards and patrol services	5
Unreimbursed business expenses	3		Trucking	4
Liquidated damages	3		Landscaping services	4
Vacation wages	3		Staffing agencies	4
All other	15		Home health care services	2
Total	**100%**		Grocery and convenience stores	2
			Janitorial services	2
			Auto repair	2
			Hotels and motels	2
			All other	44
			Total	**100%**

Overall, Workers Report Collecting Less Than 20 Percent of Unpaid Wages Owed. Workers filed claims in 2017 to recover $230 million in unpaid wages and collected $40 million, less than 20 percent of the amount claimed. These figures do not include dismissed claims.

At Settlement, Workers Recover About Half of Wages Owed. Workers who settle at the settlement conference recoup, on average, about half of their alleged unpaid wages. Settlements vary and depend on various factors. These include: (1) the claim size (larger claims tend to settle for a smaller percentage), (2) personal finances (workers who can afford to may insist on a larger settlement or go to hearing), (3) the advice of the settlement officer, and (4) the employer's interest in a settlement. Overall, workers settled at the settlement conference for about $15 million in unpaid wages.

At Hearings, Most Workers Receive Award, but More Than Half Collect No Wages. Most workers who proceed to a hearing receive an award in their favor. However, in 2017, about 60 percent of workers who received an award ultimately recovered zero wages, despite being awarded about $60 million in unpaid wages. (This is because employers did not pay the amount awarded.) The remaining workers—those who were able to recover unpaid wages—collected about $15 million.

Large Awards More Likely to Go Uncollected. Workers are less likely to collect unpaid wages when their award is large than when their award is small. For workers who collected wages, the median amount was about $3,700. For workers who did not recoup wages, the median amount uncollected was $8,600, more than twice as large.

Staffing and Compliance Issues Historically Impacted DIR. The state has enacted many laws to improve conditions for workers but staffing for enforcement, education, and compliance has not kept pace with the growth of the state. As a result, the time to resolve worker claims regarding wage theft and retaliation have taken longer than intended—especially to the disadvantage of low-income California workers. A central focus of the delays has been staffing issues at DIR. As of January 2022, DIR reported a total of 852 vacancies. DIR has been conducting aggressive recruitment and hiring efforts, which resulted in 725 appointments in the prior calendar year. According to DIR, continuing focused efforts are underway for the current year with an emphasis on filling enforcement and leadership vacancies.

<u>Suggested Questions</u>

- Does the department have updated information for the median amounts of awards that go uncollected, the amount of unpaid wages due to filed claims, the amount of wages recovered, and the industries impacted by these claims?
- What are the department's perceived shortfalls and potential ways to address the current wage claim adjudication delay issues?
- Is there a current backlog in processes claims for wage theft? If so, please explain the backlog.
- What is DIR's recruitment and retention strategy for filling these positions? Is it confident that it will fill these positions on a reasonable timeline?
- How were 42 positions determined and by how much will the average processing time reduce due to these positions?
- Is this proposal a reflection of what DIR believes is its total resource need to address this

issue? If not, then what is the total resource need?

Staff Recommendation. Hold Open

Issue 6: Status Update on Previous Budget Act Investments (Oversight)

Panel

- Patrick Toppin, Department of Finance
- Kris Cook, Department of Finance
- Lilia García-Brower, California State Labor Commissioner, Department of Industrial Relations
- Adele Burnes, Deputy Chief, Department of Industrial Relations' Division of Apprenticeship Standards
- Josh Iverson, Chief Financial Officer, Department of Industrial Relations

Background

The subcommittee has requested status updates for the following investments included in the Budget Act of 2022:

- **California Youth Apprenticeship Program.** The 2022 Budget Act included $20 million General Fund in 2022-23, $20 million in 2023-24 and $25 million in 2024-25 to establish the Youth Apprenticeship Grant Program. Trailer bill legislation in SB 191 did the following:
  - Required the Division of Apprenticeship Standards (DAS) to administer the program, which would provide grants for the purposes of providing funding for existing apprenticeship and preapprenticeship programs or to develop new apprenticeship and preapprenticeship programs to serve the target population and satisfy the goals and objectives of the grant program, as specified.
  - Defined "target population" as individuals from 16 to 24 years of age who are at risk of disconnection or are disconnected from the education system or employment, unhoused, in the child welfare, juvenile justice, or criminal legal systems, living in concentrated poverty, or are facing barriers to labor market participation. "Target population" includes youth who face chronic opportunity educational achievement gaps, attend schools in communities of concentrated poverty, or attend high schools with a negative school climate.
  - Authorized the grant funds for specific purposes.
  - Required grant proposals to include, among other things, the knowledge, experience, and capacity to provide services to the target population, as defined, and the industries and career pathways targeted. Requires the program to collect, analyze, and report specified program data on race, gender, income, rurality, ability, foster youth, homeless youth, English language learner, and other key characteristics.

  - Required the DAS to monitor and audit grant recipients to ensure compliance with policies, procedures, and requirements for use of the grant funds.
  - Required the Chief of the DAS to convene a committee to develop recommendations, of specified topics, to DAS on the expansion of youth apprenticeships in California.

- **Retaliation Complaint Investigation Unit.** The 2022 Budget Act included $3.9 million Labor Enforcement and Compliance Fund in 2022-23 and growing to $14 million Labor Enforcement and Compliance Fund ongoing augmentation in 2025-26 for this unit.

Suggested Questions

- For all mentioned above:

  - To date, what steps has DIR taken to implement these initiatives?
  - What data, if any, has DIR collected about it? Does DIR have any participation data for these initiatives?
  - What challenges, if any, has DIR encountered as it implements these initiatives? Are there statutory changes or funding challenges that the Legislature should consider that would help support these initiatives?

Staff Recommendation. This is an oversight item and no further action is necessary.

7501 California Department of Human Resources (CalHR)

Issue 7: Governor's Budget Proposals and Status Update

The Department of Human Resources (CalHR) is responsible for managing the state's personnel functions and represents the Governor as the "employer" in all matters concerning state employer-employee relations. CalHR is responsible for issues related to recruitment, selection, salaries, benefits, and position classification, as well as provides a variety of training and consultation services to state departments and local agencies. CalHR's main objectives are to:

- Manage examinations, salaries, benefits, position classification, training, and all other aspects of state employment other than those areas assigned to the State Personnel Board under the civil service provisions of Article VII of the California Constitution.
- Represent the Governor in collective bargaining with unions representing rank and file state employees.
- Set salaries and benefits for employees excluded from collective bargaining and employees exempted from civil service.
- Serve as the sole fiduciary and administrative body for the Savings Plus Program (defined contribution program for full-time and part-time state employees).
- Provide legal representation to state agencies for appeals of disciplinary actions and labor relations matters.
- Hold ex-officio membership to the 13-member Board of Administration of the California Public Employees' Retirement System.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
6200	Human Resources Management	229.4	258.4	261.4	$49,907	$65,689	$63,079
6205	Local Government Services	13.0	13.0	13.0	1,946	2,231	2,238
6210	Benefits Administration	62.5	74.0	74.0	29,759	34,667	35,424
6215	Benefit Payments	-	-	-	36,503	36,503	36,503
9900100	Administration	68.0	109.0	112.0	11,596	20,821	21,784
9900200	Administration - Distributed	-	-	-	-10,288	-19,449	-19,614
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**372.9**	**454.4**	**460.4**	**$119,423**	**$140,462**	**$139,414**

FUNDING		2021-22*	2022-23*	2023-24*
0001	General Fund	$13,761	$33,550	$29,773
0367	Indian Gaming Special Distribution Fund	75	75	75
0821	Flexelect Benefit Fund	27,745	27,858	27,856
0915	Deferred Compensation Plan Fund	17,033	18,291	19,158
0995	Reimbursements	41,091	41,057	41,314
3085	Mental Health Services Fund	-	150	150
8008	State Employees Pretax Parking Fund	1,400	1,400	1,400
8049	Vision Care Program for State Annuitants Fund	8,784	8,784	8,784
9740	Central Service Cost Recovery Fund	9,534	9,297	10,904
TOTALS, EXPENDITURES, ALL FUNDS		**$119,423**	**$140,462**	**$139,414**

Panel

- Natalie Griswold, Department of Finance
- Aston Tennefoss, Department of Finance
- Nick Schroeder, Legislative Analyst's Office
- Mario Guerrero, Deputy Director of Legislative Affairs, CalHR

Background

The Governor's budget includes the following six proposals for CalHR:

1. **Tribal Consultation Training.** AB 923 (Ramos), Chapter 475, Statues of 2022, requires CalHR to develop training by June 1, 2024, regarding the required elements of government-to-government consultations with California Native American Tribes. It also requires designated state officials to complete the training by January 1, 2025, and for officials appointed after that date to do so within six months of their appointment. All designated officials are required to retake the training annually. The Governor's budget includes $100,000 General Fund in 2023-24 for consulting services for the design, development and delivery of the required training, and $10,000 General Fund for fiscal year 2024-25 and ongoing for all related annual update activities and ongoing administrative and maintenance functions.

2. **CalHR Privacy Officer.** The Governor's budget includes one permanent position and $172,000 ($65,000 General Fund) for fiscal year 2023-2024, and $165,000 ($63,000 General Fund) ongoing to allow CalHR to have a dedicated Privacy Officer to develop and manage the department's, policies, procedures, and compliance with California requirements on privacy laws and standards.

3. **Communications Office and Content Management System Replacement.** The Governor's budget includes two positions and $1,352,000 ($994,000 General Fund) in fiscal year 2023-2024 and $563,000 ($214,000 General Fund) in fiscal year 2024-2025 and ongoing to 1) research and plan for the replacement of the CalHR Web Content Management System and, 2) research, plan and develop an improved communication service to the public, state, and employees.

4. **Personnel Management Division Strategic Workload Support.** The Governor's budget includes two positions and $428,000 ($256,000 General Fund) in fiscal year 2023-2024, and $412,000 ($246,000 General Fund) in 2024-2025 and ongoing to provide the Personnel Management Division strategic workload support to enable CalHR capacity to provide better customer service in alignment with CalHR's Strategic Plan.

5. **Psychological Screening Program Administrative Support Adjustment.** The Governor's budget includes reimbursement authority of $116,000 and permanent position authority to transition one limited-term position within the Medical and Psychological Screening Division.

Staff Comments. The 2022 Budget Act approved staffing increases at CalHR for various initiatives. Most notably were the following approved requests:

1. **California Leads as an Employer.** The Budget Act of 2022 included 43.0 permanent positions and $7.6 million ($6.3 million General Fund, $1 million Reimbursement, and $250,000 other funds) for 2022-2023, and $6.8 million ($5.5 million General Fund, $986,000 Reimbursement, and $239,000 other funds) for 2023-2024 and ongoing. This amount is for CalHR to begin implementing the recommendations of the "California Leads as an Employer" taskforce.

2. **Departmental Workload.** The Budget Act of 2022 included 22.5 positions and $6.3 million General and special funds for 2022-23, and $4.8 million General and special funds in 2023-24 and ongoing. These resources were to address: 1) staffing issues in the Administrative Services and Information Technology Divisions; 2) realignment of the Legal Division funding; 3) obtain a single legal management system; 4) create a new Dependent Reverification Unit; and 5) increase funding for the Savings Plus Program.

3. **California State Payroll System Project.** The Budget Act of 2022 includes 15.0 permanent positions and $3.4 million General Fund in 2022-23, $3.3 million General Fund in 2023-24 and 2024-25, and $2.6 million General Fund in 2025-26 and ongoing to support the California State Payroll System through the continuation of the California Department of Technology Project Approval Lifecycle Stage 4 and into the execution phase System Development Lifecycle of the approved project.

Staff notes that a status update requested by the subcommittee for "California Leads as an Employer" raises broader questions about CalHR's ability to fill positions. Based on the responses, the entire $7.6 million scored to 2022-23 was appropriated in the Budget Act of 2022 and most of the request was for salaries, benefits, and expenses directly related to the 43.0 permanent positions. Expenditures of those dollars is dependent on filling the positions but CalHR indicated challenges in filling job vacancies. As of a January 10, 2023 supplemental report, CalHR indicated that "20 percent of the approved positions have been filled, 46 percent of the recruitments are in progress (screening applications, conducting interviews, completing reference checks) and 34 percent have either not started or are on hold." This is CalHR's biggest perceived challenge and they have mentioned the inability to receive enough applications or the inability to find candidates with the needed qualifications. Given the difficulty in filling job vacancies with funds provided in the 2022 Budget Act, the subcommittee may wish to ask CalHR about its staffing recruitment strategies for the Governor's proposals and level of confidence that the department has in filling vacancies going forward.

<u>Suggested Questions</u>

- Why has CalHR had difficulty recruiting for and filling job vacancies?
- In light of CalHR's recruitment challenges, why should the Legislature have confidence that CalHR can fill the positions it requests for 2023-24?

<u>Staff Recommendation.</u> Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

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

Thursday, April 20, 2023
9:30 a.m. or upon adjournment of Session
1021 O Street, Room 1100

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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

ITEMS FOR DISCUSSION

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION
5420 PRISON INDUSTRY AUTHORITY

Issue 1: Wages and Employment

Panelists.

- Tracy Johnson, Acting Warden, Folsom State Prison, CDCR
- Michele Kane, Assistant General Manager, External Affairs, CalPIA
- Rusty Bechtold, Assistant General Manager, CalPIA Workforce Development Branch

Background.

By law, incarcerated individuals are required to work the job assigned to them (although they may indicate preferences), for as many hours as directed by the California Department of Corrections and Rehabilitation (CDCR; Penal Code Section 2700). In addition, work assignments take precedence over education and rehabilitative programming. Refusal to work or failure to show up to a work assignment may result in rules violations reports and reduced privileges.

On average, incarcerated staff work 6.5 hours a day (32 hours per week) in jobs ranging from maintenance and custodial work to food services. For most workers, the following applies:

General Pay Scale

Skill Level	Hourly (Min/Max)	Monthly (Min/Max)
Level 1 (Lead Person)	$0.32-$0.37	$48-$56
Level 2 (Special Skill)	$0.19-$0.32	$29-$48
Level 3 (Technician)	$0.15-$0.24	$23-$36
Level 4 (Semi-Skilled)	$0.11-$0.18	$17-$27
Level 5 (Laborer)	$0.08-$0.13	$12-$20

Individuals working in conservation camps as firefighters or working for the Prison Industry Authority (CalPIA) qualify for higher wages. The tables on the following page show the number of individuals working at each pay level as of April 12, 2023. Roughly 70 percent of jobs pay 24 cents an hour or less, and roughly 40 percent of jobs are at the lowest pay grade.

CDCR Pay Scale and Position Count

Number Of Paid Positions For Jobs

Pay Scale for Jobs	Count
Job Level 1-Lead Person $0.32-$0.37 per hour	973
Job Level 2-Special Skill $0.19-$0.32 per hour	938
Job Level 3-Technician $0.15-$0.24 per hour	8,626
Job Level 4-Semi-Skilled $0.11-$0.18 per hour	8,419
Job Level 5-Laborer $0.08-$0.13 per hour	23,980
Camp FireFighter Pay Grade 1-$4.90-$5.12 per day	154
Camp FireFighter Pay Grade 2-$3.56-$3.90 per day	199
Camp FireFighter Pay Grade 3-$2.95-$3.34 per day	345
Camp FireFighter Pay Grade 4-$2.67-$2.90 per day	815
Camp FireFighter Pay Grade 5-$2.45 per day	166
Total	44,615

CalPIA Pay Scale and Position Count
*Includes both CalPIA and industry jobs

Number Paid Positions Working Industry Positions

Pay Scale for Industry Positions	Count
PIA Level 1 -Leadperson (AA) $0.80-$1.00 per hour	3,076
PIA Level 2-Special Skills (A) $0.70-$0.80 per hour	2,732
PIA Level 3-Technician (B) $0.60-$.070 per hour	1,307
PIA Level 4-Semi-Skill (C) $0.50-$0.60 per hour	1,848
PIA Level 5-Laborer/Entry Trainee (D) $0.35-$0.45 per hour	4,223
Total	13,186

Source: CDCR

CalPIA. The Prison Industry Authority (CalPIA) is a semi-independent agency that operates enterprises employing incarcerated individuals. CalPIA is required to be self-supporting, and does not rely on General Fund. CalPIA enterprises include office furniture, custodial services, the production of license plates, and optical services (eye wear), among others. CalPIA's biggest customer is CDCR ($157.0 million, representing 63.7 percent of sales in fiscal year 2021-22).

As noted above, CalPIA wages are typically higher than general jobs. CalPIA operates in every prison, although not all incarcerated individuals are eligible to participate. Generally, individuals with life sentences without the possibility of parole, people convicted of certain crimes, and people with certain security concerns are not eligible. Typically, around 6,500 people are employed by CalPIA. The list of programs available at each institution is included on the next page[1].

CalPIA can also contract with public businesses through the Joint Venture Program (JVP), which requires the incarcerated individuals to be paid wages comparable to non-incarcerated individuals. These wages are split equally five ways and distributed for: (1) room and board to CDCR, (2) restitution, (3) family support obligations, (4) the employee's trust account for prison expenses, and (5) a savings account provided to the person upon release. As of March 2022, there were five JVPs at adult prisons employing 23 individuals.

A 2021 study on the effect of CalPIA programs on recidivism showed that CalPIA participants had lower rates of arrests, convictions, and incarcerations during a three-year follow up than the control group (individuals accepted into CalPIA but without time to participate before they were released)[2]. Only 15 percent of CalPIA participants returned to custody within three years.

CalPIA also helps individuals get placed with employment upon release through apprenticeship programs, Career Technical Education (CTE), the Industry Employment Program (IEP), and pre-release civil service workshops and hiring events. CalPIA offers pre-apprenticeship programs in carpentry, construction labor, roofing, and iron working. CalPIA also offers CTE programs in Commercial Diving, Computer-Aided Design (AutoCAD), Computer Coding, and Culinary Arts Management. During fiscal year 2021–22, there were 1,684 incarcerated individuals registered into the state apprenticeship program with 358 incarcerated individuals completing an apprenticeship program[3]. There were also 5,493 participants who successfully completed an accredited certificate program.

Wage Garnishment. Wages earned through work assignments are used to pay restitution and child support (50 percent), and then are deposited into the employee's trust account to pay for expenses (50 percent), including canteen, telephone and video calls, etc. Deposits made by family members into the trust fund are also split equally between restitution and the individual's expenses.

Employment and Reduced Recidivism. In-prison employment contributes to post-release success in two ways: reducing debt obligations upon release (including restitution payments) and providing training and experience to assist the individual in securing employment post-release. Reduced debt and secure employment are significant factors in reducing recidivism and enabling successful reentry into the community. However, to enable this, in-prison work must pay high enough wages, and must provide meaningful training that would prepare an individual for a good job upon release. An in-depth overview of incarceration and employment was included in a previous report from this committee[4].

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

[1] https://www.calpia.ca.gov/wp-content/uploads/calpia/news/Reports_and_Publications/FY2021-22LegislatureReport-PIA.pdf
[2] https://www.calpia.ca.gov/wp-content/uploads/calpia/news/Reports_and_Publications/CALPIARecidivism.pdf
[3] https://www.calpia.ca.gov/wp-content/uploads/calpia/news/Reports_and_Publications/FY2021-22LegislatureReport-PIA.pdf
[4] https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/Final_Overview_of_the_2019-20_Budget_Bill_Report.pdf

CALPIA Enterprise, Career Technical Education (CTE), Joint Venture (JV) and Free Venture (FV) Locations

1 Pelican Bay State Prison (PBSP)
- Construction Services & Facilities Maintenance
- Laundry
- Support Services

CTE Programs
- Computer-Aided Design
- Computer Coding

2 High Desert State Prison (HDSP)
- Construction Services & Facilities Maintenance
- Support Services

3 California Correctional Center (CCC)
- Construction Services & Facilities Maintenance

JV Program
- Barnum Farming

4 Folsom State Prison (FSP)
- Construction Services & Facilities Maintenance
- Digital Services
- License Plates
- Metal Products
- Metal Signs
- Modular Building
- Printing
- Support Services

CTE Programs
- Computer-Aided Design
- Pre-Apprentice Carpentry
- Pre-Apprentice Construction Labor
- Pre-Apprentice Iron Worker
- Pre-Apprentice Roofing

Folsom Women's Facility (FWF)
- Construction Services & Facilities Maintenance

CTE Programs
- Computer-Aided Design
- Computer Coding
- Culinary Arts Management
- Pre-Apprentice Carpentry
- Pre-Apprentice Construction Labor

5 CSP Sacramento (SAC)
- Construction Services & Facilities Maintenance
- Laundry

6 California Medical Facility (CMF)
- Construction Services & Facilities Maintenance

7 CSP Solano (SOL)
- Bindery
- Construction Services & Facilities Maintenance
- Laundry
- Metal Products
- Optical
- Support Services

JV Program
- Customer Model Laundry

8 Mule Creek State Prison (MCSP)
- Coffee Roasting
- Construction Services & Facilities Maintenance
- Fabric Products
- Food & Beverage Packaging
- Laundry
- Meat Cutting
- Support Services

9 California Health Care Facility (CHCF)
- Construction Services & Facilities Maintenance

10 CSP San Quentin (SQ)
- Construction Services & Facilities Maintenance
- Furniture
- Mattress
- Support Services

CTE Programs
- Computer Coding
- Pre-Apprentice Construction Labor

11 Sierra Conservation Center (SCC)
- Construction Services & Facilities Maintenance
- Fabric Products

12 Valley State Prison (VSP)
- Construction Services & Facilities Maintenance
- Laundry
- Optical

13 Central California Women's Facility (CCWF)
- Construction Services & Facilities Maintenance
- Crops
- Dental Lab
- Fabric Products
- Optical
- Support Services

CTE Programs
- Pre-Apprentice Carpentry
- Pre-Apprentice Construction Labor

JV Program
- Allwire

14 Correctional Training Facility (CTF)
- Construction Services & Facilities Maintenance
- Fabric Products
- Furniture
- Support Services

JV Program
- Merit Partners

15 Salinas Valley State Prison (SVSP)
- Construction Services & Facilities Maintenance

16 Pleasant Valley State Prison (PVSP)
- Construction Services & Facilities Maintenance

17 CSP Corcoran (COR)
- Construction Services & Facilities Maintenance
- Crops
- Dairy
- Food & Beverage Packaging
- Laundry
- Support Services

18 Substance Abuse Treatment Facility (SATF)
- Construction Services & Facilities Maintenance
- Food & Beverage Packaging

19 Avenal State Prison (ASP)
- Construction Services & Facilities Maintenance
- Egg Production
- Furniture
- General Fabrication
- Laundry
- Poultry
- Support Services

20 North Kern State Prison (NKSP)
- Construction Services & Facilities Maintenance

21 Kern Valley State Prison (KVSP)
- Construction Services & Facilities Maintenance
- Support Services

22 Wasco State Prison (WSP)
- Construction Services & Facilities Maintenance
- Laundry

23 California Men's Colony (CMC)
- Construction Services & Facilities Maintenance
- Fabric Products
- Knitting Mill
- Laundry
- Printing
- Shoes
- Support Services

24 California Correctional Institution (CCI)
- Construction Services & Facilities Maintenance
- Fabric Products
- Support Services

25 CSP Los Angeles County (LAC)
- Cleaning Products
- Construction Services & Facilities Maintenance
- Laundry
- Support Services

JV Program
- Goldpoint Homes

26 California Institution for Men (CIM)
- Construction Services & Facilities Maintenance
- Food & Beverage Packaging
- Laundry
- Support Services

CTE Programs
- Commercial Diving
- Pre-Apprentice Construction Labor

27 California Rehabilitation Center (CRC)
- Construction Services & Facilities Maintenance

28 California Institution for Women (CIW)
- Construction Services & Facilities Maintenance
- Fabric Products

CTE Programs
- Computer Coding
- Pre-Apprentice Carpentry
- Pre-Apprentice Construction Labor

29 Chuckawalla Valley State Prison (CVSP)
- Construction Services & Facilities Maintenance
- Laundry

30 Ironwood State Prison (ISP)
- Construction Services & Facilities Maintenance

31 Calipatria State Prison (CAL)
- Construction Services & Facilities Maintenance

32 R.J. Donovan Correctional Facility (RJD)
- Bakery
- Construction Services & Facilities Maintenance
- Laundry
- Shoes
- Support Services

33 Centinela State Prison (CEN)
- Construction Services & Facilities Maintenance
- Fabric Products
- Support Services

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

Issue 2: Inmate Welfare Fund

Proposal. The Governor's Budget includes $26.8 million Inmate Welfare Fund (IWF) in 2023-24 and ongoing to support increasing annual purchases for the incarcerated population. CDCR also requests approval to submit an annual Baseline Budget Adjustment to review and adjust IWF authority and include Budget Bill Language to allow the Department to increase spending authority up to five percent above the budget to provide flexibility. CDCR will also provide an overview of the Inmate Welfare Fund and canteen pricing.

Panelists.

- Madelynn McClain, Deputy Director, Fiscal Services, CDCR
- Caitlin O'Neil, Legislative Analyst's Office
- Cynthia Mendonza, Department of Finance

Background. Section 5006 of the California Penal Code created the Inmate Welfare Fund (IWF) as a trust held by the Secretary of CDCR for the benefit and welfare of incarcerated individuals under the jurisdiction of CDCR. The primary revenue for the IWF comes from canteen sales, and is used to support the stocking and operation of the canteen. Any excess funds provide benefits for incarcerated individuals, such as purchasing publications, renting movies, supporting family visiting, recreational programs, photo program activities and work opportunities.

Canteens. Penal Code Section 5005 authorizes CDCR to establish and maintain prison canteens for sale of toiletries, candy, canned goods, notions, and other sundries. Canteens operate in all correctional institutions and provide the IWF's primary source of revenue. Incarcerated individuals rely on canteen purchases to supplement the often inadequate food and products supplied to them[5].

Penal Code Section 5005 states, "prices of the articles offered for sale shall be fixed by the Director at the amounts that will, as far as possible, render each canteen self-supporting." Items in the canteen are currently sold at a 65 percent markup on the wholesale value of the item. The revenues from this markup are used to staff and operate the canteen. There are currently 274 staff positions dedicated to canteen sales, including 22 headquarters positions and 252 institution-level positions.

As shown in the table on the next page, CDCR spent $67 million wholesale on items for the canteen, generating $110 million in revenue. Of the profit from the markup, $23 million was used for staffing the canteens and roughly $5 million was used for benefits for incarcerated individuals. CDCR only had expenditure authority of $95 million, so the remaining $15 million in revenues went into the fund balance, which totaled $48 million at the end of fiscal year 2021-22.

Related Legislation. SB 474 (Becker) would prohibit the sale prices of the articles offered for sale from exceeding the price of the articles paid to the vendors.

Staff Recommendation. Hold Open.

[5] https://impactjustice.org/innovation/food-in-prison/; https://www.prisonpolicy.org/reports/commissary.html; https://impactjustice.org/wp-content/uploads/IJ-Eating-Behind-Bars.pdf

FUND CONDITION STATEMENT As of 7/31/22		AUDITED 2015-16		AUDITED 2016-17		AUDITED 2017-18		AUDITED 2018-19		AUDITED 2019-20		UNAUDITED 2020-21		UNAUDITED 2021-22
BEGINNING RESERVES (Budgetary/Legal Basis)	$	12,057	$	17,194	$	22,919	$	26,714	$	28,183	$	28,147	$	33,509
REVENUES AND TRANSFERS														
Canteen Sales	$	60,933	$	64,235	$	68,468	$	72,889	$	81,065	$	89,466	$	108,151
Miscellaneous Revenue	$	3,063	$	2,180	$	3,706	$	2,621	$	3,193	$	1,378	$	1,380
Total Revenues	$	63,996	$	66,415	$	72,174	$	75,510	$	84,258	$	90,844	$	109,531
Totals Resources	$	76,053	$	83,609	$	95,093	$	102,224	$	112,441	$	118,991	$	143,040
EXPENDITURES														
Canteen Expenses		(37,436)		(37,921)		(44,099)		(45,358)		(52,222)		(57,415)		(66,787)
Personal Services		(17,015)		(19,642)		(20,676)		(20,931)		(22,689)		(21,718)		(23,458)
Friends Outside Visitor Center Contract		(2,520)		(1,978)		(2,287)		(2,043)		(1,935)		(1,882)		(2,307)
Inmate Benefits		(897)		(1,149)		(1,317)		(1,343)		(1,324)		(1,391)		(1,178)
DRP Innovative Programming Grants/OVSRS Grants		(994)		-		-		(4,000)		(5,647)		(2,599)		(481)
Pension Liability Expense		-		-		-		(366)		(477)		(477)		(477)
Total Expenditures/Expenditure Authority (Budgetary/Legal Basis)	$	(58,862)	$	(60,690)	$	(68,379)	$	(74,041)	$	(84,294)	$	(85,482)	$	(94,688)
ENDING RESERVES (Budgetary/Legal Basis)	$	17,194	$	22,919	$	26,714	$	28,183	$	28,147	$	33,509	$	48,352
RESERVES- Per GAAP Audited Financial Statements issued by DOF	$	1,936	$	3,222	$	11,007	$	3,507	$	2,053	$	2,053	$	2,053
BUDGET ACT AUTHORITY		53,620		60,909		68,185		73,490		85,546		91,524		94,383

Issue 3: Communication and Visitation

Proposal. The Governor's Budget includes $5.6 million General Fund in 2022-23 and $30.7 million General Fund and two positions in 2023-24 and ongoing to provide free voice calling to all incarcerated persons and their families pursuant to Senate Bill 1008.

CDCR will also provide an update on in-person and video visitation, and the program to provide tablets to all incarcerated individuals. The Senate is also considering a stakeholder request to allocate $3 million to CDCR for a communication pilot.

Panelists.

- Madelynn McClain, Deputy Director, Fiscal Services, CDCR
- Ron Davis, Acting Deputy Director, Facility Operations, Division of Adult Institutions, CDCR
- Caitlin O'Neil, Legislative Analyst's Office
- Sarah Tomlinson, Department of Finance
- Allison Hewitt, Department of Finance
- Nick Galvin, Public Policy and Advocacy Manager, Ameelio
- April Feng, Chief Operating Officer, Ameelio
- Abigail Salim, Empowering Women II
- Karen McDaniel, MA, Founder and Executive Director, The Place4Grace

Background. Numerous studies have demonstrated the benefits of contact between incarcerated people and their loved ones[6]. 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. Before an individual may visit someone in one of CDCR's institutions, they must apply for approval, including providing personal information including arrest history. Upon arrival, visitors must show identification, and birth certificates and parental consent forms for minors.

[6] https://www.prisonpolicy.org/blog/2021/12/21/family_contact/

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 at various points due to case increases. The suspension of in-person visitation for over a year led to high demand for visits when the institutions reopened. The state also expanded remote communications by increasing the number of free phone calls, offering one-hour video visits (beginning December 2020), and expanding a tablet program that allows for messaging and email.

Third Day of Visitation. 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. Currently, most institutions are offering two days of in-person and one day of video visitation. Only Corcoran and Pelican Bay State Prisons are offering three days of in-person visitation, due to low demand for visits at those institutions. CDCR indicated that they do not have the resources to do video and in-person visitation on the same days, and that both video and in-person visitation days require the same amount of space and staff. Video calls on the tablets (discussed below), which are outside of the video visitation program, are not free, and cost 20 cents a minute ($12 an hour).

Visiting Scheduling Application (VSA). CDCR contracts with a company called ViaPath to operate the application through which people sign up for in-person and video visits (ViaPath also provides voice and video calling and other electronic services, including the tablet program, described below). This process was migrated from a different application called Vpass, and significant issues with VSA were initially 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 led to considerable frustration, as family members wake up early (many appointments are released at 6 am) and spend significant time getting through the system, only to find that all the appointments are already booked. ViaPath and CDCR have taken steps to improve this process, including staggering the time appointments are released and improving the technical capacity. However, it can still be a difficult process for individuals who are not technically savvy, particularly at institutions with high demand for visits.

Remote Communication. In addition to the scheduling application described above, most communication services provided to the incarcerated population are provided by ViaPath Technology (formerly known as Global Tel Link or GTL)[7]. ViaPath now operates the tablet program, which was originally piloted by JPay[8]. CDCR has indicated that every individual will receive a tablet by June 2023. Through this program, ViaPath will provide tablets to the entire incarcerated population, which they can use for voice and video calling, text messaging, and other functions. Incarcerated persons receive some free services, including phone calls and limited messaging, and access to certain books and reading materials. They can also pay for additional services, including music, videos, audiobooks, and additional communications. ViaPath has been the subject of and has settled numerous lawsuits, including cases related to recording privileged

[7] https://www.cdcr.ca.gov/family-resources/gtl-tablets/
[8] https://prisonjournalismproject.org/2021/03/26/when-california-prisons-switch-tablet-vendors/

attorney-client conversations, illegal robocalling, overcharging, improper seizure of funds from accounts, and racketeering and bribery[9].

Additional Free Calling Minutes. 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. Of the $12 million appropriated, only $2.2 million was expended in fiscal year 2021-22. The remaining funding was reappropriated in 2022-23, and the department spent an estimated $1.5 million in the first half of the fiscal year.

Related Legislation.

SB 1008 (Becker), Chapter 827, Statutes of 2022 requires CDCR to provide free voice communication services, subject to operational discretion of the institution, beginning January 1, 2023. The bill also requires the Public Utility Commission to establish quality standards for incarcerated persons calling services.

SB 799 (Durazo), also known as the Family Dignity Act, would require CDCR to scan visiting documents into the Strategic Offender Management Systems upon request. The Family Dignity Act would also require CDCR to allow a visitor for an in-person visit or an approved family visit to bring certain items for the visit, including basic and necessary items for infants and toddlers.

Federal Legislation. On January 5, 2023, President Biden signed the Martha Wright-Reed Just and Reasonable Communications Act of 2022. This legislation amends the Communications Act of 1934 to require the FCC to ensure just and reasonable charges for "any audio or video communications service used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used." In addition, these services are now defined as "advanced communications services"— which existing law requires to be accessible to and usable by individuals with disabilities, unless that is not achievable. These changes clarify the FCC's authority to regulate in-state calls placed from correctional facilities and the agency's authority to regulate video calls.

Contract Rates. In March 2021, CDCR renegotiated the phone contract with ViaPath to reduce rates to 2.5 cents per minute for domestic calls, 7 cents per minute for international calls, and 5 cents per item or 2,000 characters of electronic correspondence. That contract is valid for six years, but CDCR was able to amend the contract with ViaPath after the passage of SB 1008. CDCR will now pay ViaPath directly via a tiered pricing structure, and the rates will be the same for both domestic and international calls (see table below).

[9] https://www.prisonpolicy.org/blog/2022/09/07/gtlsettlement/;
https://www.prisonlegalnews.org/news/2016/aug/2/new-jersey-prison-phone-class-action-suit-against-global-tellink-continues/;
https://www.prisonlegalnews.org/news/2018/apr/2/global-tellink-settles-mississippi-prison-bribery-case-25-million/;
https://www.prisonlegalnews.org/news/2017/jun/9/global-tellink-agrees-pay-88-million-class-action-settlement/;
https://www.themainemonitor.org/breach-of-attorney-client-privilege-in-somerset-county-sparks-outrage-in-maine-legal-community/;
https://www.ocregister.com/2018/08/23/phone-carrier-that-improperly-recorded-orange-county-jail-calls-did-the-same-thing-in-florida/

The new pricing structure is as follows:

Number of Minutes	Price	Price with taxes
0 – 45 million	2.5 cents/minute	2.9 cents/min
45 million to 75 million	2.2 cents/minute	2.5 cents/min
Over 75 million	1.9 cents/minute	2.2 cents/min
Plus monthly $75,000 credit for 30 min of free calling per month		

Requested Resources. CDCR is requesting $5.6 million General Fund in 2022-23 and $30.7 million General Fund and 2 positions in 2023-24 and ongoing to implement SB 1008. CDCR is also requesting provisional language to augment or reduce the annual funding, as actual data is available, as well as authority to update funding levels through an annual technical adjustment.

CDCR estimates that 69.3 million minutes will be used monthly, requiring $30.4 million annually. The low rates of expenditure indicate that many individuals were not using their full allotment of free minutes, and that going from 75 free minutes to unlimited free minutes may not actually result in an increase in minutes used for many individuals. However, CDCR indicated that the number of minutes used roughly doubles when an institution receives tablets (from roughly 32 million minutes per month systemwide to an estimated 69 million minutes systemwide at full tablet deployment), and the tablet rollout is in progress.

The Administration has indicated that it may update the proposal at the May Revision based on actual usage data since SB 1008 went into effect. The requested resources would not cover the free electronic messaging that was included in the previous appropriation.

Stakeholder Proposal. The Senate is considering a proposal from Ameelio, a nonprofit company that provides communication and education technology to incarcerated individuals. Ameelio currently operates in five state prison systems (albeit at a smaller scale than the California system), and is requesting that the state allocate $3 million to CDCR for a communication pilot that would provide an alternative to the current system. The funding could support a one-year pilot where Ameelio would provide services including free and unlimited voice and video calls and messaging for 10 percent of California's incarcerated population, as well as education services to those at facilities with particularly high enrollment rates. Ameelio's proposed per minute rates for voice and video calls are less than 1 cent per minute.

LAO Comments.

Proposed Funding Appears Reasonable, but Is Based on Limited Data Currently Available. Based on calling usage data through September 2022 and analysis provided by CDCR, the funding amounts proposed to pay for calling charges in 2022-23 and 2023-24 appear reasonable. The LAO also thinks that the proposed two IT positions appear reasonable, given the growing communications-related workload. However, by the May Revision, the department will have additional months of calling usage data. Most notably, it will have calling usage data from after January 1, 2023 when Chapter 827 went into effect. Accordingly, it is possible that the estimated funding levels could change by the May Revision.

Provisional Language Is Unnecessary and Limits Oversight. The LAO agrees that the annual funding amount needed for calling charges is subject to uncertainty, particularly in the near term given that Chapter 827 only recently went into effect and tablets are still being distributed. However, the annual budget act already includes the ability to augment funding for departments for unexpected costs. Specifically, Item 9840-001-0001 includes $40 million to augment departments' General Fund budgets upon approval of the Director of DOF no sooner than 30 days after notification to the Joint Legislative Budget Committee (JLBC). This budget item is maintained in the Governor's proposed budget for 2023-24. In the event that this $40 million is used for other contingencies and is unavailable to support higher than anticipated calling charges, the LAO notes that Item 9840-001-0001 outlines a process through which the administration can request a supplemental appropriation. Accordingly, the LAO finds that the proposed provisional language is unnecessary.

The LAO also notes that the proposed provisional language would severely limit legislative oversight, as it does not require legislative notification or approval. In contrast, augmentations through Item 9840-001-0001 require notification to JLBC and supplemental appropriations require approval by the Legislature.

Annual Technical Adjustment Process Lacks Transparency. The LAO agrees that the level of funding budgeted for calling charges may warrant adjustment from year to year to reflect more current usage estimates. However, the LAO finds that the proposed technical adjustment process lacks transparency. This is because, under the typical technical adjustment process, the administration does not submit documentation supporting the proposed budget adjustment. Accordingly, it would be difficult—without seeking additional information from the department—for the Legislature to identify what discretionary decisions were made, whether the funding adjustment is justified, and to conduct oversight of prison voice communications more broadly.

Going forward, it would be important for the Legislature to ensure that the level of funding provided annually is aligned to actual costs, which could be impacted by various factors, including changes in (1) the size of the prison population, (2) CDCR policies concerning when calls can be made, and (3) per-minute costs as well as taxes and surcharges. Moreover, these factors could be affected by discretionary decisions made by the department, such as a decision to renegotiate the communications services contract. As such, the Legislature will want to ensure it has the opportunity to review the above changes and decisions.

Population Budget Adjustments Provide an Alternative Approach. In contrast to the technical adjustment process, CDCR currently uses a population budget adjustment process to propose annual adjustments to various aspects of CDCR's budget that are tied to the size of the prison population or its subpopulations. Through this process, the administration submits documentation showing the methodology and data sources used to support the proposed adjustments, which creates transparency on the proposed adjustments.

LAO Recommendations.

Withhold Action on Proposed Funding and Require Updated Data. While the proposed funding levels appear reasonable given currently available data, the department indicates it might adjust the proposed funding levels at the May Revision based on updated data. Accordingly, the LAO recommends the Legislature withhold action on the proposal until that time. In addition, to ensure that the Legislature is well-positioned to base its decision on recent data that was gathered after Chapter 827 went into effect, the LAO also recommends directing the department to submit updated calling usage data at the May Revision.

Reject Proposed Provisional Language. Given that the proposed provisional language is unnecessary and limits legislative oversight, the LAO recommends that the Legislature reject it. As noted above, the budget already includes Item 9840-001-0001 to account for unanticipated funding needs.

Direct CDCR to Annually Adjust Funding Level Through Population Budget Adjustment Process. The LAO recommends that the Legislature direct the department to adjust the level of funding for calling charges through the department's annual population budget adjustment process. Through this process, the department would submit to the Legislature its proposed budget adjustment along with the methodology used to calculate it. For example, the department could develop a methodology that uses actual calling data from the prior year, the current per-minute costs as well as taxes and surcharges, and projections of the size of the prison population for the coming year to estimate the amount of funding needed for the budget year. This transparency would enable the Legislature to better assess if the proposed adjustments are warranted and to provide ongoing oversight of prison voice communication more broadly.

Staff Recommendation. Hold Open.

Issue 4: Programming and Reentry

Proposal. The Governor's Budget includes $20 million General Fund in 2023-24 to repurpose parts of San Quentin State Prison into a rehabilitative and reentry center. The Administration has not submitted an official proposal for this funding. The Governor's Budget also included a net-zero realignment of budget authority within CDCR programs and to transfer $8 million General Fund in 2023-24 and ongoing from CDCR to the California Arts Council to support the Arts in Corrections program. CDCR will also provide an update on the implementation of $40 million per year for three years included in the 2022-23 Budget Act for pre-release community reentry centers.

In addition, the Senate is considering a proposal for $25 million to expand the Rehabilitative Investment Grants for Healing and Transformation (RIGHT) Grant, established in the 2022-23 Budget to support community-based organizations (CBOs) providing in-prison, rehabilitative programming.

Panelists.

- Madelynn McClain, Deputy Director, Fiscal Services, CDCR
- Dave Lewis, Director, Facility Planning, Construction and Management, CDCR
- Kevin Hoffman, Deputy Director, Program Operations, Division of Rehabilitative Programs, CDCR
- Caitlin O'Neil, Legislative Analyst's Office
- Cynthia Mendonza, Department of Finance
- Patrick Plant, Department of Finance
- Sheridan O'Neal, Department of Finance
- Koreen van Ravenhorst, Department of Finance
- Ken Hartman, Transformative In-Prison Workgroup
- Fateen Jackson, GRIP Training Institute
- Mannie Thomas, Success Stories

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.

Programming.

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.

Proposition 57 phased in throughout 2017. Preliminary data shows that half of the people released from prison during the 2017-18 fiscal year earned some type of enhanced credit. The three-year conviction rate for people who earned credit (43.8 percent) was lower than the rate for those with no enhanced credit earnings (45.4 percent). Notably, those who earned Educational Merit Credit or Rehabilitative Achievement Credit had notably lower conviction rates (28.9 percent and 22.5 percent, respectively) than those without enhanced credit earning (45.4 percent) [10].

Rehabilitative Achievement Credit (RAC). Incarcerated people can earn RAC for participation in approved rehabilitative programs. 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).

Programming Offered by CDCR. Currently, CDCR and the California Correctional Health Care Services (CCHCS) run approximately 5,000 activity groups and therapeutic groups. These include programs such as Narcotics Anonymous, Guiding Rage Into Power, Moving Beyond Violence, Mental Health and Wellness, Substance Abuse Treatment, Life Skills, and Victim Awareness. These programs that provide rehabilitative programming and skills to incarcerated individuals to reduce their likelihood of reoffending and standardizes education on disease processes, positive health behaviors, and improves inmate patient health and wellness. The 2018 Budget included $2.5 million and 13 positions ongoing and the 2022 Budget included an additional $4.6 million and 72.5 positions ongoing for rehabilitative programming.

The effectiveness of the programming offered by CDCR has been questioned, particularly by the State Auditor in a 2019 report that found no difference in recidivism rates between participants who participated or did not participate in in-prison cognitive behavioral therapy[11]. In addition, the Auditor found that CDCR failed "to meet any of the rehabilitative needs for 62 percent of the inmates released in fiscal year 2017–18 who had been assessed as at risk to recidivate." The Auditor also noted a lack of performance measures.

Programming Offered by Community-Based Organizations. In addition to programming offered by CDCR and CCHCS, much programming is offered by community-based organizations and volunteers. These programs providing the incarcerated population with reentry support, skills and workforce development as well as trauma healing and restorative justice programs. They include arts, mindfulness, social and emotional learning, life skills and accountability, victim awareness, reentry planning, gardening, education, animal care and training, and many others.

These organizations have reported significant challenges in delivering programming, including difficulties getting approval to enter the institutions, a lack of responsiveness from some of CDCR's Community Resource Managers, a patchwork of different processes at each institution, interruptions from COVID-19 and from work assignments (which take precedence over programming), and difficulties conducting program evaluations.

[10] https://www.cdcr.ca.gov/news/2023/04/14/cdcr-issues-recidivism-reports-for-persons-released-from-prison-in-fiscal-years-2016-2017-and-2017-2018/
[11] https://www.auditor.ca.gov/reports/2018-113/index.html

The state has provided the following resources to CBOs providing in-prison programming:

- *California Reentry and Enrichment (CARE) Grant*. $5 million per year for three years (2022 – 2025) to fund programs provide insight-oriented, transformative justice programs focused on increasing empathy and accountability among participants.

- *Innovative Programming Grants (IPG)*. $4 million per year for three years (2022-2025) to fund CBOS that provide programs have demonstrated success and focus on incarcerated individuals' responsibility and restorative justice principles.

- *Victim Impact Grant.* $1 million per year for two years (2022-2024) to deliver victim-focused restorative justice programs.

- *Restorative Justice Grant*. $10 million over three years for community-based organizations currently engaged in restorative, victim-focused work.

- *RIGHT Grant*. $20 million one time for capacity-building for CBOs that have already been providing programming in CDCR institutions.

COVID-19 Impact on Programming. 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 implemented limited in-cell programming options.

Community Reentry Centers. 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 CCRTP. 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.

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 prisons[12]. 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)[13], 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 Code[14] 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.

- 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.

Resources for Community Reentry Centers. CDCR is authorized to spend $36 million on MCRP, and can make adjustments through the population process. The 2022-23 Budget included $40 million per year for three years for CDCR to expand the community reentry center program.

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

CDCR contracts with outside entities to operate the facilities, with per-day rates roughly $100 to $150 or higher (the rate also depends on whether CDCR or the entity owns the property). However, the rates proposed for many existing locations have not increased to account for inflation and labor conditions, and are lower than the rates bring proposed for new locations and other, less intensive programs. This led to at least two existing providers refusing to rebid for new contracts, which could result in a reduction in the number of MCRP participants despite the budget action last year. It could also lead to lower quality programs offered. By comparison, CDCR spends $291 per individual incarcerated per day[15].

San Quentin Rehabilitation Center Proposal. The Governor's Budget included $20 million for "San Quentin". The Administration has not submitted an official budget proposal associated with this funding. However, on March 17, 2023, Governor Gavin Newsom outlined a vision to overhaul the facility with a rehabilitation center[16]. A workgroup will advise on the transition, which the Governor hopes to complete by 2025. It is unclear what the total cost of the project would be.

San Quentin already has higher rates of programming than other institutions, given its proximity to the Bay Area and the volume of volunteers available. San Quentin has a newspaper (the San Quentin News[17]), a podcast (Ear Hustle[18]), an accredited junior college, and almost as many volunteers as incarcerated individuals (3000 and 3700, respectively[19]). However, it is limited by the amount of programming space available.

The Administration cited the Norway model as inspiration for this overhaul, referencing their focus on rehabilitation and preparation for reentry, maintaining relatively normal living conditions, and improved interactions between correctional staff and incarcerated individuals.

The 2022-23 Budget included $500,000 for a consulting contract to being reimagining the condemned housing area at San Quentin. The Administration will provide an update on that funding and on the status of the rehabilitation project.

RIGHT Grant Funding. The 2022-23 Budget included $20 million one-time for the Rehabilitative Investment Grants for Healing and Transformation (RIGHT) Grant to enhance the capacity of community based, nonprofit organizations to provide in-prison programming in Department of Corrections and Rehabilitation prisons. The grants went to organizations with a preexisting record of providing programming within at least three of the five years preceding the application. The Transformative In-Prison Workgroup (TPW) is requesting an additional $25 million one-time in 2023-24 to enable additional rounds of RIGHT Grant funding.

Related Legislation. AB 292 (Stone), Chapter 579, Statutes of 2022 places certain requirements on programming, including prioritizing a person who has transferred between facilities to resume rehabilitative programming, if the transfer was for nonadverse reasons, minimizing program wait times, and offering a variety of program opportunities to inmates regardless of security level or sentence length.

---

[15] https://lao.ca.gov/policyareas/cj/6_cj_inmatecost
[16] https://www.latimes.com/world-nation/story/2023-03-17/california-will-remake-san-quentin-prison-emphasizing-rehab
[17] https://sanquentinnews.com/
[18] https://www.earhustlesq.com/
[19] https://www.nytimes.com/2023/03/30/opinion/governor-newsom-new-plan-san-quentin-prison-rehabilitation.html

Staff Comment.

Facility investments. The Governor's proposed budget includes funding for in-prison infrastructure, rather than community-based reentry centers or organizations that deliver in-prison programming. In addition, the Administration recently released a Request for Information to create an MCRP in part of an unused, former prison. Overhauling former prisons to create healing and rehabilitative spaces is a major challenge that will be extremely resource intensive. The Legislature may want to consider whether that is a worthwhile investment, or whether to prioritize investments in community facilities and in the delivery of services.

Staff Recommendation. Hold Open.

Issue 5: Promoting Equity in the Parole Hearing Process

Panelists.

- Caitlin O'Neil, Legislative Analyst's Office
- Jennifer Shaffer, Executive Director, Board of Parole Hearings

Background.

On January 5, 2023, the LAO published a report entitled *Promoting Equity in the Parole Hearing Process*.[20] The LAO found that access to private attorneys and the broad discretion afforded to Board of Parole Hearing (BPH) commissioners could result in biased parole decisions. The LAO will present an overview of this report.

Recent Budget Action. The 2021 Budget included $3.1 million in 2021-22 and ongoing General Fund to increase the number of Board of Parole Hearings commissioners from 17 to 21 to address a backlog in hearings. The proposal also included statutory changes to permit the Board of Parole Hearings to conduct video conference hearings and included provisions related to diversity and experience.

The 2021 Budget also included $1.75 million General Fund for a one-year Board of Parole Hearings pilot to require state-appointed attorneys to provide an additional hour of counsel to incarcerated persons before they are interviewed for their comprehensive risk assessment and to represent them before the full board if their case is referred to the full board for review at a monthly executive meeting. This funding supported at least one hour of counsel, education, and advice on the importance of the comprehensive risk assessment and its role in the parole decision making process.

Related Legislation. SB 81 (Skinner and Becker) would prohibit BPH from considering any discriminatory factors and requires BPH to report specified data, among other changes.

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

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

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Thursday, April 27, 2023
9:30 a.m. or upon adjournment of session
1021 O Street - Room 2200

PART A

Consultant: Eunice Roh

Item **Department** **Page**

VOTE-ONLY ITEMS

DISCUSSION

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

VOTE-ONLY

0521 California State Transportation Agency

Issue 1: CalSTA Information Security and Privacy

Governor's Proposal. The Budget includes $1.3 million from various transportation funds ($780,000 from the State Highway Account, $260,000 from the Motor Vehicle Account, and $260,000 from the Public Transportation Account) ongoing to establish an information security team, procure cybersecurity software, and provide ongoing training. The information security team is proposed to be made up of a Privacy Officer, risk Officer, and a Security Compliance Officer. This team would be responsible for agency-wide cybersecurity oversight, and ensure compliance with all applicable federal and state security and privacy laws, regulations, standards, and policies. Currently, CalSTA has the Chief Information Security Officer (CEA B) from Caltrans serving as the part-time Agency Information Security Officer and also serving as the Agency Risk, Compliance, and Privacy Officer. Given the sensitive nature of the personal information CalSTA has within its purview, the agency requests additional resources for a standalone information security team.

Staff Recommendation: Approve as budgeted.

2600 California Transportation Commission

Issue 2: Advisory Committee Compensation

Governor's Proposal. The Budget includes $200,000 from various transportation funds ($75,000 from the State Highway Account and $125,000 from the Public Transportation Account) and associated statutory changes to authorize a per diem for serving on an advisory committee of the Commission. Unlike other state boards and commissions, the California Transportation Commission (CTC) does not have the statutory authority to provide a per diem to members of the advisory committees. Under this proposal, CTC would like to offer a $100 per diem to members of two committees: Road Usage Charge Technical Advisory Committee and Interagency Equity Advisory Committee. Providing per diems allows CTC to be able to attract and retain advisory committee members with the appropriate expertise, and also mitigate financial constraints that may affect an individual's ability to serve on a committee. The Commission requests a statutory $100 per diem for advisory committee members, modeled after Health and Safety Code Section 39603(a)(2)), which provides for members of advisory groups serving the California Air Resources Board to receive $100 per day.

Staff Recommendation: Approve as budgeted.

Issue 3: Implementation of SB 1121 (Chapter 508, Statutes of 2022) – State and local transportation system: needs assessment

Governor's Proposal. The Budget provides $524,000 from various transportation accounts to develop the state and local transportation system needs assessment, as required by Chapter 508, Statutes of 2022 (SB 1121, Gonzalez). Of the total amount, $224,000 is proposed to fund one limited-term position for three years and $300,000 for a one-time consultant contract. Pursuant to the provisions of

SB 1121, the assessment must identify the cost to operate, maintain, and provide for the necessary future growth of the state and local transportation system for the next 10 years. The CTC must submit an interim assessment to the Legislature by January 1, 2024, and a completed Assessment by January 1, 2025, and every five years thereafter. The requested resources would allow CTC to hire staff and consultant support with the necessary expertise to ensure the timely completion of the 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 4: Administration Program Support

Governor's Proposal. The Budget includes $4.4 million from the State Highway Account and 23.5 positions for administration support to address increased workload requirements commensurate with departmental program growth. Over the last five years, the California Department of Transportation's (Caltrans') total budget has grown approximately 72 percent, mainly due to increased state and federal funding for transportation infrastructure. In addition, Caltrans' administrative workload demand has increased due to issues, such as COVID-19 requirements, energy and sustainability mandates, and new technology. However, despite the recent budget growth and increase in administrative workload, funding for administration support has not grown commensurately. Adequate funding of administration support is necessary for Caltrans to recruit, test, and hire, meet mandates, provide necessary training to staff; manage and operate facilities, and make payments to employees, vendors, and contractors within legally mandated timeframes.

Staff Recommendation: Approve as budgeted.

Issue 5: Central Valley Legal Office

Governor's Proposal. The Budget includes $3.4 million from the State Highway Account and 17 positions on an ongoing basis to support increased legal workload and establish a legal office in the Central Valley. The Legal Division has experienced an increase in workload in recent years—according to Caltrans, the division's workload increased about 48 percent within the last five years. The increase is due to many factors, including increased funding for transportation projects and initiatives, such as increasing broadband and addressing homelessness. An additional legal office in the Central Valley is proposed to address this increase in workload as well as reduce the amount of time traveling by attorneys (since currently, attorneys from the Sacramento Legal Office covers the largest geographic area).

Staff Recommendation: Approve as budgeted.

Issue 6: Enterprise Data Technology Solution Stage 4

Governor's Proposal. The Budget includes $422,000 from the State Highway Account to complete Project Approval Lifecycle (PAL) Stage 4 for the Enterprise Data Governance Technology Solution project. 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. The 2022-23 Budget included funding for PAL Stage 3 for this project. This proposal would fund the fourth and final stage of the PAL process. This stage provides a basis for Caltrans to evaluate and reconfirm that the business objectives will be achieved, ensure the alternative solution selected continues to yield the highest probability of success, and baseline the project's timeframes, projected schedule, and costs, and start project implementation. Another request will be submitted to fund the implementation, maintenance, and operation of the selected solution.

Staff Recommendation: Approve as budgeted.

Issue 7: Project Initiation Documents

Governor's Proposal. The Budget includes a biennial zero-based-budget (ZBB) for Project Initiation Documents (PIDs) that requests a total of 420 positions and $81 million ($77.3 million in personal services and $3.8 million in operating expenses) for each fiscal year to develop, review, and approve PIDs. A PID must be developed and approved by Caltrans before a capital project can be programmed and constructed on the State Highway System. This request represents a net increase of 50 positions, equating to a total increase of $8.9 million, compared to the funding provided in the 2021-22 Budget. This total increase is in part due to the influx of federal dollars for transportation infrastructure projects from the Infrastructure Investment and Jobs Act (IIJA). Caltrans estimates that additional PIDs will be needed to successfully deliver the increased funding.

Staff Recommendation: Approve as budgeted.

Issue 8: Public Affairs and Legislative Affairs Support

Governor's Proposal. The Budget provides $1.3 million and 9 permanent positions (3 for Public Affairs and 6 for Legislative Affairs) to process and respond to state-mandated California Public Record Act (CPRA) requests and legislative bill analysis workload. There has been an increase in workload due to SB 1, the COVID-19 pandemic, and Clean California, and it is anticipated that additional requests will come through for telework, and the installation of broadband on state transportation right of way. For example, the number of CPRA requests processed by Caltrans increased from 4,191 in 2020-21 to 5,896 in 2021-22. For legislative affairs, Caltrans' inquiry volume has increased from an average of 320 inquires per year over three years, to more than 430 inquiries last year, a 35 percent increase. According to Caltrans, the requested positions and resources would allow them to more quickly respond to CPRA requests as well as provide bill analyses, respond to legislative inquiries, and conduct legislative outreach in a more timely manner.

Staff Recommendation: Approve as budgeted.

Issue 9: Transportation System Network Replacement

Governor's Proposal. The Budget includes $5.8 million from the State Highway Account and 11 positions to continue developing and implementing the California Transportation System Network (TSN) safety data system. 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. This request is for the third year of system development, and Caltrans plans to return with another budget request in future budget years to complete the project and for ongoing maintenance and operation costs.

Staff Recommendation: Approve as budgeted.

Issue 10: Wildlife Connectivity AB 2344

Governor's Budget. The Budget includes $1.3 million for 8 permanent full-time positions to implement the new Transportation Wildlife Connectivity Remediation Program pursuant to Chapter 964, Statutes of 2022 (AB 2344, Friedman). Currently, Caltrans conducts wildlife connectivity assessments on a project-by-project basis. However, AB 2344 significantly expands the scope of Caltrans' work on wildlife connectivity by establishing the Transportation Wildlife Connectivity Remediation Program, which requires Caltrans to develop a comprehensive statewide inventory of connectivity needs in addition to other related requirements. According to Caltrans, this funding would allow the department to meet the various implementation deadlines included in AB 2344, including publishing the inventory by July 1, 2024, assessing all projects entering Project Initiation Phase on or after July 1, 2025 for potential wildlife connectivity barriers, and reporting to the Legislature by July 1, 2028.

Staff Recommendation: Approve as budgeted.

2670 BOARD OF PILOT COMMISSIONERS

Issue 11: Board of Pilot Commissioners' Business Modernization

Governor's Proposal. The Governor's Budget requests $1,139,000 in 2023-24 and $316,000 in 2024-25 from the Board of Pilot Commissioners Special Fund to begin planning efforts for an information technology project to digitize existing business processes and records. Tasks such as pilot licensing, pilot training, pilot boat programs, maritime incident investigation reports, and the administration of the pilot retirement program all rely on manual processes. In addition, many of their historical records are paper-based. An IT solution would help these processes become more efficient, transparent, and less prone to disruptions due to manual errors or staff turnover. In addition, the Board of Pilot Commissioners requests 1.0 new permanent position and $139,000 in FY 2023-24 and ongoing to support business modernization efforts, address new workloads created by recent legislation, and to perform ongoing administrative workloads.

Staff Recommendation. Approve as budgeted.

2720 CALIFORNIA HIGHWAY PATROL

Issue 12: Permanent Funding for Privacy and Risk Management Program Positions

Governor's Proposal. The Budget includes $402,000 ongoing from the Motor Vehicle Account to make permanent two existing positions to support the Privacy and Risk Management Program, which is tasked with protecting personally identifiable information stored within the CHP IT infrastructure. In the 2017-18 Budget, these positions were approved on a two-year limited-term basis. After funding for these positions ended, CHP has absorbed the cost of the two positions as it attempts to mature its IT security program. According to the department, permanent funding of these positions are necessary for proactive IT security and to meet recurring security audits and assessments.

Staff Recommendation: Approve as budgeted.

Issue 13: Staff Augmentation – Office of Legal Affairs

Governor's Proposal. The Budget includes $1.1 million in 2023-24 and $1 million in 2024-25 and ongoing from the Motor Vehicle Account for five positions in the Office of Legal Affairs to address increased workload. In particular, the department identifies four primary factors leading to increased workload: increase in lawsuits and discovery, decreasing likelihood to be granted a pre-trial motion to dismiss a case, currently active class action lawsuits, and new laws affecting civil litigation (such as extended time for plaintiffs to file a civil suit). According to CHP, additional legal staff would help limit the financial liability of the department, provide greater availability to other state partners on civil litigation matters, and improve availability to attend court ordered mediations and settlement conferences.

Staff Recommendation: Approve as budgeted.

Issue 14: Fleet Telematics System – Ongoing Support

Governor's Proposal. The Budget includes 1 position and $1.1 million ongoing from the Motor Vehicle Account for the ongoing operation costs of the Fleet Telematics System. The Fleet Telematics System allows the sending, receiving, and storing of telemetry data, which can include vehicle location, speed, fuel consumption, and other vehicle information. In 2021, the Department of General Services issued a requirement for state agencies to install and operate telematics services in their fleet. As a result, the 2021-22 and 2022-23 Budgets included provisional language allowing budget augmentation to fund one AGPA position and the costs related to the installation and operation of the telematics system. This proposal requests position authority for the AGPA and to make the budget augmentation permanent to cover ongoing costs.

Staff Recommendation: Approve as budgeted.

2740 California Department of Motor Vehicles

Issue 15: Banning Field Office Relocation

Governor's Proposal. The Budget includes $50,000 in 2023-24, $2.3 million in 2024-25, $515,000 in 2025-26, $540,000 in 2026-27, and $566,000 in 2027-28 and ongoing for a new leased Banning Field

Office. The existing Banning Field Office has a space deficiency of nearly 9,000 square feet and needs 26 additional parking spaces to meet a ten-year need. This is mainly due to the growing population of the communities served by the Banning Field Office. In addition, the existing Banning Field Office has a long history of neglected routine building maintenance, ongoing requests for repairs and maintenance, and the contracting of substandard vendors to complete work is resulting in poor quality repairs that must be redone on a regular basis, often at DMV's expense. This funding would relocate the Banning Field Office into a new leased facility that meets program standards by May 2025.

Staff Recommendation: Approve as budgeted.

Issue 16: Bay Area DSO/OL/INV Consolidation

Governor's Proposal. The Budget includes $4.4 million in 2023-24, $1.1 million in 2024-25, $1.1 million in 2025-26, $1.2 million in 2026-27, and $1.2 million in 2027-28 and ongoing to relocate the DMV San Francisco Driver Safety/Occupational Licensing (DS/OL) Office and consolidate with the Brisbane Investigations Office. Both offices need to move from their existing facilities. The San Francisco DS/OL office is being displaced from its location in the San Francisco Field Office due to an ongoing project to replace that facility. The Brisbane Investigations Office needs a new facility because the location's lessor is unwilling to renew the lease. This funding would relocate both offices into a new leased facility that meets program standards by November 2023.

Staff Recommendation: Approve as budgeted.

Issue 17: DMV San Francisco Swing Space

Governor's Proposal. The Budget includes $6.9 million in 2023-24, $2.3 million in 2024-25, $2.4 million in 2025-26, and $837,443 in 2026-27 for a temporary field office swing space facility near San Francisco. DMV is currently in the process of an onsite replacement of the San Francisco Field Office. This funding will allow DMV to continue serving the public while the office is closed during construction. DMV expects to occupy the lease facility by November 2023.

Staff Recommendation: Approve as budgeted.

Issue 18: Enterprise Content Management (ECM) Project

Governor's Proposal. The Governor's Budget requests $3.4 million from the Motor Vehicle Account in 2023-24 and a reappropriation of $395,000 to continue establishing a department-wide Enterprise Content Management (ECM) System. This project will allow the DMV to consolidate document resources by maintaining a centralized repository that integrates with existing systems. The ECM solution will also streamline business processes while increasing data security. In the prior year budget, the DMV received $802,000 to support the ECM project planning. Due to project delays, the department requests a reappropriation of $395,000 of the prior year appropriation. Currently, the DMV expects the Project Approval Lifecycle (PAL) Stage 4 approval by June 2023.

Staff Recommendation: Approve as budgeted.

Issue 19: Headquarters: Elevator Modernization - Reappropriation

Governor's Proposal. The Budget includes a reappropriation of $513,000 from the General Fund (originally appropriated in the 2022 Budget Act) for the working drawing phase of the Elevator Modernization project for the DMV Headquarters Campus in Sacramento. The reappropriation is necessary as budget bill language intended to provide an additional year to encumber working drawings was overlooked. This reappropriation will ensure project continuity should the working drawings phase not commence in the current fiscal year. In addition, the project scope will change from 11 elevator replacements to 8. The department determined that the three elevators in Headquarters Building West were in such disrepair that replacement needed to be accelerated.

Staff Recommendation: Approve as budgeted.

DISCUSSION

0521 California State Transportation Agency

Issue 20: Transit Operations

Background. Transit agencies across the state are reporting an impending fiscal crisis—based on current ridership, service levels, and cost trends, transit agencies expect to face budget shortfalls in the tens of millions of dollars in 2023-24, growing to hundreds of millions of dollars in 2024-25 and thereafter. For example, BART projects annual deficits of $140 million by 2026-27; Caltrain anticipates a budget shortfall of $25 million in 2024 and $49 million in 2025; and LA Metro expects a budget gap of $400 million in 2025 and $1 billion in 2026.

These budget shortfalls are in large part due to the COVID pandemic, which decimated transit ridership. Transit ridership was already on the decline prior to the pandemic, but the pandemic accelerated these trends—transit ridership plunged 50 percent to as much as 94 percent in California at the onset of the pandemic in 2020. Though ridership has increased in recent months, it still remains lower than prior to the pandemic: in the Pacific region of the United States, ridership is about 67 percent of pre-pandemic levels. Transit ridership levels continue to be lag due to several factors, including changes in work patterns, rise in safety and security concerns, and service level changes due to a workforce shortage.

These lagging ridership levels have affected different transit agencies differently. For example, some smaller transit agencies that mainly operate bus routes have been able to respond to such changes in demand, by changing or eliminating bus routes to better serve the riders and lower service costs. Other transit agencies have not been able to change service levels as easily, particularly fixed rail systems that cannot change routes and have high fixed operating costs.

Transit agencies have been able to continue operating despite lower ridership levels for the last several years due to federal funding. In March 2020, Congress passed and the President signed into law the Coronavirus Aid, Relief and Economic Security (CARES) Act, which provided $25 billion in direct operational relief to transit agencies. The Coronavirus Response and Relief Supplemental Appropriations Act of 2021 provided an additional $14 billion in transit relief and the American Rescue Plan in March of 2021 provided $30.5 billion more. However, transit agencies are now facing budget problems as they run out of these funds.

Transit is integral to the state's climate goals, specifically in reducing vehicle miles traveled and emissions from a carbon-intensive transportation system. In addition, transit is important to ensure mobility for all, particularly to those who do not have other transportation options. The state currently provides funding for transit through several programs, including the State Transit Assistance, Transit Intercity Rail and Capital Program, and the Low Carbon Transit Operations Program. As the Legislature considers options to support transit agencies in their fiscal crises, it will be important to assesses these existing state funding programs for transit, and whether they can be amenable to support operations; the extent of the budget shortfalls, specifically how much is needed, and for how long; as well as what type of reforms agencies will implement to improve ridership and ensure the viability of transit services in the long-term.

Staff Recommendation. Hold Open.

2660 California Department of Transportation

Issue 21: Indirect Cost Recovery

Background. The Self-Help Counties are 25 local county transportation agencies that have passed a countywide sales tax measure to fund transportation projects.

California Department of Transportation (Caltrans) does work on behalf of Self-Help Counties who develop projects on the state highway system, in addition to cities, regional transit and transportation agencies, certain state agencies, and private entities. Caltrans recovers the cost of these services and charges these entities a rate that covers the cost of both administrative and program functional rates.

The 2021-22 Budget included trailer bill language that added to the State Highway Code Section 114.5 that limits Caltrans from charging any self-help counties with countywide sales tax measures dedicated to transportation improvements more than 10 percent for administration indirect cost recovery. According to Caltrans, these self-help counties saved $1,598,522 in 2021 and $2,487,005 in 2022 by paying the 10 percent rate compared to the full ICRP rate, which for 2022-23, is 27.4 percent. Below is a breakout of the amounts paid by each self-help county in 2021 and 2022:

	2021				2022			
Contributor Name	Reimbursement Without ICRP	10% Admin ICRP	Full Admin ICRP	Admin ICRP Savings	Reimbursement Without ICRP	10% Admin ICRP	Full Admin ICRP	Admin ICRP Savings
Alameda County Transportation Commission	$ 310,054	$ 30,559	$ 75,328	$ 44,769	$ 1,602,002	$ 64,324	$ 173,867	$ 109,543
Contra Costa Transportation Authority	$ 245,517	$ 22,914	$ 56,483	$ 33,569	$ 78,324	$ 7,301	$ 19,736	$ 12,434
Council of San Benito County Governments	$ 57,600	$ 1,608	$ 3,965	$ 2,356	$ 7,306	$ 731	$ 1,975	$ 1,244
Fresno County Transportation Authority	$ 437,477	$ 27,823	$ 68,584	$ 40,761	$ 975,810	$ 93,876	$ 253,748	$ 159,871
Imperial County Transportation Commission	$ -	$ -	$ -	$ -	$ 64,709	$ 6,471	$ 17,491	$ 11,020
Los Angeles County Metropolitan Transportation Authority	$ 2,928,076	$ 236,025	$ 581,802	$ 345,777	$ 6,161,995	$ 493,642	$ 1,334,316	$ 840,673
Madera County Transportation Commission	$ 66	$ 7	$ 16	$ 10	$ -	$ -	$ -	$ -
Napa Valley Transportation Authority	$ 951,245	$ -	$ -	$ -	$ 303,183	$ 505	$ 1,364	$ 860
Orange County Transportation Authority	$ 3,256,000	$ 142,146	$ 350,390	$ 208,244	$ 4,945,011	$ 160,176	$ 432,957	$ 272,780
Riverside County Transportation Commission	$ 1,204,917	$ 53,856	$ 132,755	$ 78,899	$ 1,624,684	$ 68,417	$ 184,931	$ 116,514
Sacramento Transportation Authority	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
San Bernardino County Transportation Authority	$ 35,987	$ 3,599	$ 8,871	$ 5,272	$ 36,234	$ 3,623	$ 9,794	$ 6,171
San Diego Association of Governments	$ 8,134,302	$ 635,268	$ 1,565,936	$ 930,668	$ 5,495,836	$ 445,838	$ 1,205,099	$ 759,261
San Francisco County Transportation Authority	$ 423,909	$ -	$ -	$ -	$ (57,223)	$ -	$ -	$ -
San Joaquin Council of Governments	$ 19,383	$ 1,938	$ 4,778	$ 2,840	$ 5,153	$ 515	$ 1,393	$ 877
San Mateo County Transportation Authority	$ 93,070	$ (157,028)	$ (387,075)	$ (230,047)	$ 149,561	$ 14,956	$ 40,426	$ 25,470
Santa Barbara County Association of Governments	$ 825,162	$ 14,448	$ 35,614	$ 21,166	$ 1,756,123	$ 11,800	$ 31,896	$ 20,096
Santa Cruz County Regional Transportation Commission	$ 39,122	$ 3,040	$ 7,494	$ 4,454	$ 166,150	$ 989	$ 2,674	$ 1,685
Sonoma County Transportation Authority	$ 236,724	$ 21,912	$ 54,013	$ 32,101	$ 109,287	$ 10,929	$ 29,540	$ 18,612
Transportation Authority of Marin	$ 561,108	$ 53,026	$ 130,709	$ 77,683	$ 1,171,595	$ 76,273	$ 206,166	$ 129,893
Tulare County Association of Governments	$ 403	$ -	$ -	$ -	$ 842	$ -	$ -	$ -
Grand Total	**$19,760,121**	**$1,091,141**	**$2,689,663**	**$ 1,598,522**	**$24,596,578**	**$1,460,367**	**$3,947,372**	**$2,487,005**

This section expired on January 1, 2023.

Staff Recommendation. Hold Open.

Issue 22: Best Value Procurement

Background. The 2022 Budget Act included trailer bill language which allows the Department of General Services (DGS) to utilize the Best Value procurement method to purchase and equip heavy mobile fleet vehicles and special equipment for use by Caltrans. DGS and Caltrans previously held this authority, but it expired January 1, 2022. Consistent with past practice, this bill defines “best value” as a contract award determined by objective criteria related to price, features, functions, and lifecycle costs, rather than simply lowest-cost. This bill also defines requirements for bid evaluation and protest procedures. This bill requires the department to develop and publish a report on its use of best value procurement by March 1, 2024, which includes, to the extent feasible, information on the labor and economic impacts of the program. This bill sunsets the department’s ability to use best value procurement on June 30, 2025.

Staff Recommendation. Hold Open.

Issue 23: Implementation of SB 674

Background. SB 674 established the High Road Jobs in Transportation-Related Public Contracts and Grants Pilot Program to support the creation of equitable high-quality transportation and related manufacturing and infrastructure jobs. The bill requires a covered public contract, defined as a public contract awarded by the Department of General Services or the Department of Transportation for the acquisition of zero-emission transit vehicles or electric vehicle supply equipment valued at $10,000,000 or more to incorporate high road job standards. The bill would require the Department of General Services, in consultation with the Labor and Workforce Development Agency and the Department of Transportation, to develop and publish policies, procedures, and requirements applicable to covered public contracts in the State Contracting Manual for the purpose of implementing these provisions. This bill would repeal its provisions on January 1, 2028.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

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

Thursday, April 27, 2023
9:30 a.m. or upon adjournment of Session
1021 O Street – Room 2200

PART B

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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

ITEMS FOR DISCUSSION

0250 Judicial Branch
0820 Department of Justice

Issue 1: Eviction Filings and Access to Legal Services

Panelists.
- Leah Rose-Goodwin, Chief Data and Analytics Officer, Judicial Council of California
- Zlatko Theodorovic, Director, Budget Services, Judicial Council of California
- Anita Lee, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Julie Aguilar Rogado, Deputy Director, Legal Services of Northern California
- Adam Murray, Chief Executive Officer, Inner City Law Center
- Nicklas Ackers, Senior Assistant Attorney General, Public Rights Division, Department of Justice

Background. According to the National Equity Atlas, 587,000 households in California (representing 11 percent of renter households in the state) are behind on an estimated $2.1 billion in rent[1]. Of the households behind on rent, 76 percent are low-income, 75 percent are people of color, and 52 percent are families with children. These numbers include 246,000 households in the Los Angeles Metro area that owe a combined $700 million in rent debt, and 89,000 households in the Bay Area that owe a combined $500 million.

In California, evictions are processed as civil cases are called unlawful detainers. These include both commercial and residential evictions. Depending on the amount of debt, these can be either limited civil cases (for debts under $25,000, which would include mostly residential evictions) and unlimited civil cases (for debts over $25,000, which would include mostly commercial evictions). Thus, limited civil cases can be used as a rough proxy for residential evictions, with the knowledge that some commercial evictions may be included as well.

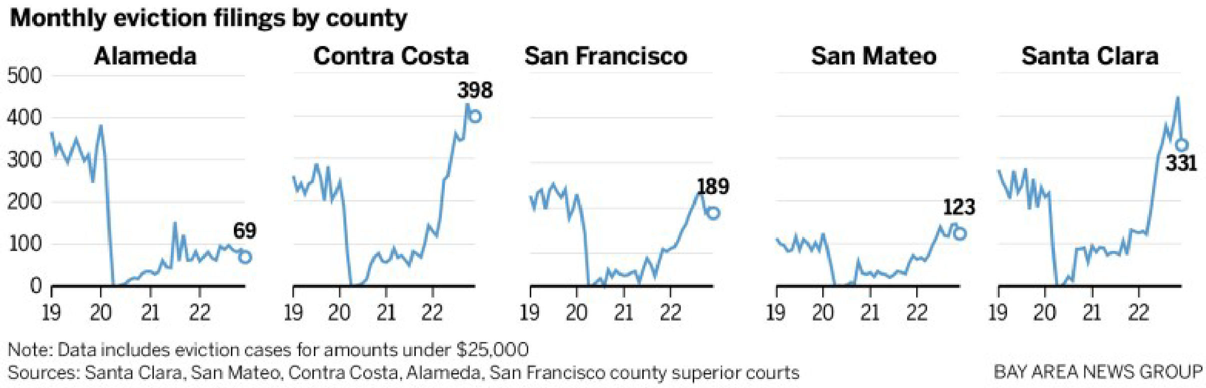
Pandemic-era Protections Expiring. Tenant protections were expanded at the federal, state, and local level at the onset of the COVID-19 pandemic, as many individuals were unable to pay rent, services were limited, shelters had the potential to spread the virus, and emergency healthcare services were overwhelmed, among other pandemic impacts. The federal eviction moratorium was in place until August 2021, and the state's eviction protections ended in June 2022. Some local moratoria remained, but many of those have expired or are expiring soon. Los Angeles County's protections expired on March 31, 2023, and Alameda County's are set to expire at the end of April[2]. Most of the enacted protections were not complete moratoria, but provided relief for individuals who were financially harmed by the pandemic. This patchwork of protections has led to some confusion among renters defending themselves from unlawful detainer suits[3].

---

[1] https://nationalequityatlas.org/rent-debt
[2] https://oaklandside.org/2023/03/01/eviction-moratorium-ending-alameda-county-oakland-landlord-protest/
[3] https://www.latimes.com/california/story/2023-03-08/los-angeles-county-eviction-court-homelessness

Evictions have risen as these protections have ended, but it is not clear if they are rising above pre-pandemic levels. In the Bay Area, as compared to pre-pandemic levels, eviction filings in Contra Costa, Santa Clara, and San Mateo were 43 percent higher, San Francisco was roughly the same, and Alameda County was lower (see chart below). Alameda is the only one of these counties that still has expanded tenant protections. Contra Costa has the highest rate of evictions per household, and only 7 percent of tenants had legal representation, compared to 86 percent of landlords[4].

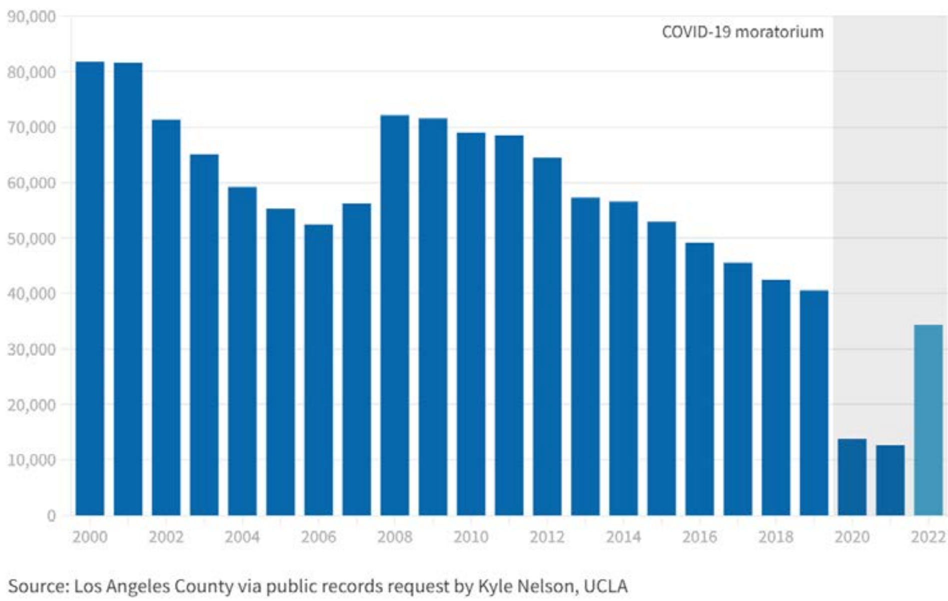
Bay Area Eviction Filings



Source: Bay Area News Group[5]

In Los Angeles County, eviction filings appear to be returning to pre-pandemic levels (see chart below)[6]. In 2020 and 2021, there were 13,796 and 12,646 unlawful detainer filings, respectively, compared to 34,398 in 2022 and 40,572 in 2019.[7]

Los Angeles County Eviction Filings



Source: CalMatters[8]

[4] https://workingeastbay.org/wp-content/uploads/2023/01/EBASE-Eviction-Court-Watch-Report.pdf
[5] mercurynews.com/2023/02/12/evictions-eclipsed-pre-pandemic-levels-in-these-bay-area-counties-as-tenant-protections-expired/
[6] https://www.latimes.com/california/story/2023-04-10/la-countys-eviction-moratorium-over-whats-next-for-tenants
[7] https://calmatters.org/california-divide/2023/03/eviction-protection-la/
[8] https://calmatters.org/california-divide/2023/03/eviction-protection-la/

Counsel in Civil Cases. As currently interpreted, the United States constitution does not provide a right to counsel in civil cases. "Right to counsel" is a term of art that, broadly defined, means that a person facing a legal issue is entitled to be represented by a lawyer, even if the person cannot afford to pay that lawyer. In eviction cases in Los Angles, 96 percent of tenants are unrepresented, while 88 percent of landlords who seek evictions are represented[9]. A report on eviction in Fresno County found that 73% of landlords were represented, versus only 1 percent of tenants[10].

The Sargent Shriver Civil Counsel Act (AB 590 (Feuer), Chapter 457, Statutes of 2009) dedicated significant new resources to the representation of low-income civil litigants, including tenants and landlords, via pilot projects focused on housing in six counties, mandating data collection for those projects. The projects were completed between fiscal year 2015 and 2019. The Judicial Council's *Report to the Legislature of the State of California for the Shriver Civil Counsel Act Evaluation* highlighted the impact counsel can have in eviction cases, including the results listed in the following table. In total, the pilot projects supported by this act served 19,640 tenants. The tenants were 73 percent people of color, 62 percent female, and 37 percent had a disability or chronic health condition. 52 percent of the households impacted had minors living there.

A Few Highlights

From FY2015 to FY2019:

- 19,460 low-income tenants received Shriver services. More than half received full representation by a Shriver attorney.
- More than 55,000 household members were impacted by these services.

Among tenants who received Shriver full representation:

- Two thirds settled their cases. Very few (4%) went to trial.
- Three quarters of tenants moved out of their homes. Nearly all of these were via a settlement agreement. Very few (3%) tenants were subject to a lockout.
- Shriver attorneys helped negotiate settlements that supported tenants' longer-term housing stability. For example, settlement terms often included a reduction in back-owed rent, saving tenants notable amounts of money; credit protection, such as sealing the eviction case and not reporting it to credit agencies; and more time to move.
- One year later, Shriver clients were more likely than self-represented tenants to have moved into a new rental unit.
- Shriver clients expressed strong appreciation for the Shriver services they received, despite the trauma of the eviction case. Compared to self-represented litigants, Shriver full representation clients reported higher satisfaction with their case outcomes, even when they had to move.

Source: Judicial Council[11]

[9] http://civilrighttocounsel.org/uploaded_files/280/Landlord_and_tenant_eviction_rep_stats__NCCRC_.pdf ; https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report_12-10-19.pdf
[10] Nkosi, J., Crowell, A. R., Milrod, P., Garibay, V., & Werner, A. (2019). Evicted in Fresno: Facts for housing advocates. Report prepared on behalf of Faith in the Valley.
[11] https://www.courts.ca.gov/documents/lr-2020-sargent-shriver-gov68085_c.pdf

The Access to Justice Coalition also highlights the following results:

- *Prevention of defaults*. One major result of the Shriver projects was the prevention of defaults by tenants, which means that they were able to seek enforcement of their rights and participate in the court system: No full representation cases resulted in default during service provision, while 26 percent of litigants without counsel defaulted. Moreover, represented litigants filed an answer 91 percent of the time, compared to 73 percent of unrepresented litigants.

- *More affirmative defenses raised*. 84 percent of tenants with representation raised a defense (such as defective notice, rent control violation, or habitability), compared to 60 percent of comparison cases.

- *Settlements*. Most cases where the tenant was represented were settled (67 percent versus 34 percent), which facilitated better case outcomes for both short- and long-term housing stability. In addition, while most tenants had to move at the end of their case, represented tenants most frequently moved out under a negotiated agreement, with just 3 percent of those tenants facing a forcible eviction or lockout. Eighty-three percent of represented tenants moved out as part of a settlement agreement, while just 44 percent of unrepresented tenants had such an agreement. Represented tenants also received more move-out time (almost 2 weeks more) than unrepresented tenants.

- *Increased housing stability results*. Settlement agreements supported the housing stability of tenants, including outcomes like the sealing of eviction records (91 percent), the eviction not being reported to credit agencies (81 percent), and neutral references from the landlord (71 percent). In terms of financial benefits, the median amount saved by represented tenants was nearly $2,000, and 66 percent created back-rent payment plans. Represented tenants were more likely to reach compromises on monetary claims such as back rent (38 percent of represented tenants paid the full claimed amount vs. 43 percent of unrepresented), all holdover damages (9 percent vs. 17 percent), or landlord’s attorney’s fees (19 percent vs. 34 percent. In addition, landlords more frequently agreed to address habitability (16 percent) and reasonable accommodations (14 percent) concerns in settlements with represented tenants. Finally, one year after the end of litigation, 71 percent of represented tenants had obtained a new rental unit, compared to 43 percent of unrepresented tenants.

Similar results have been reported in programs in New York City, San Francisco, Cleveland, Boulder, Minnesota, and Massachusetts. For example, in San Francisco, over two-thirds of households with an attorney were able to stay in their homes, compared to 38 percent of households without representation[12].

Given these results, the Work Group on Homelessness established by California Supreme Court Chief Justice Tani G. Cantil-Sakauye recommended in its 2021 report that the Judicial Council “Encourage and support legislative efforts to create and fund a statewide program that provides full-scope legal representation in residential unlawful detainer proceedings for all litigants who are

[12] http://civilrighttocounsel.org/uploaded_files/282/San_Francisco_RTC_6_month_data.pdf

unable to afford counsel."[13] The report also recommended expanding diversion, mediation, and settlement efforts to encourage landlords and tenants to reach agreements without an eviction judgement, and to increase resources for tenants including expanded self-help centers and more user-friendly court forms. Some cities have established a right to counsel in eviction cases, including New York City and San Francisco, and advocates in Los Angeles are calling for a similar right[14].

Cost savings of providing counsel. Evaluations have estimated that providing counsel could lead to long-term savings by keeping people housed and reducing the costs of other systems that support individuals post-eviction, including shelters, transitional housing, foster care, and emergency medical care. An evaluation by Stout[15] estimated that in Los Angeles, with "an annual investment of approximately $47.3 million by the County and $34.6 million by the City separately, the County and the City may avoid costs of approximately $226.9 million and $120.3 million, respectively."

State Resources. The 2022-23 Budget included $30 million to legal aid to provide eviction defense services. The 2021-22 Budget included $80 million in American Rescue Plan funding over three years to provide legal aid services for renters and homeowners. The 2020-21 Budget included $31 million from the National Mortgage Settlement Trust Fund for tenant legal aid (of a total $331 settlement, the rest went to housing counseling and mortgage relief). In addition, the state provides general funding to legal aid services, which may be used to support housing-related work. The state also provided roughly $5 billion in direct rental assistance to individuals, before the program expired in March 2022. For additional detail, see the attached handout from the LAO entitled, "Overview of State Funding Provided to Support Legal Assistance for Housing and Evictions."

Department of Justice (DOJ) Enforcement of Tenant Rights. The Consumer Protection Section at the DOJ engages in tenant protection work. The section works with the legal aid and advocacy community across the state to gather tips and leads, and is handling several ongoing law enforcement investigations related to tenants' rights issues. Examples include enforcement of the Tenant Protection Act and other state tenant protection laws. The Consumer Protection Section has also taken public actions including providing guidance to police and sheriffs regarding how to aid victims of illegal self-help evictions, issuing warning letters to eviction lawyers regarding compliance with COVID tenant protections, and entering into a prior settlement with property acquisition company Wedgewood regarding its eviction practices. These activities are supported by the Unfair Competition Law Fund, through civil penalty recoveries transferred from the Litigation Deposit Fund.

Federal Action. The Biden Administration recently announced actions to protect renters[16], including additional oversight by the Federal Trade Commission and the Consumer Financial Protection Bureau and directions for the Federal Housing Finance Agency and the U.S. Department of Housing and Urban Development to explore additional renter protection options.

[13] https://www.courts.ca.gov/documents/hwg_work-group-report.pdf
[14] https://www.latimes.com/local/lanow/la-me-ln-tenant-counsel-20190411-story.html
[15] https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report_12-10-19.pdf
[16] https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/25/fact-sheet-biden-harris-administration-announces-new-actions-to-protect-renters-and-promote-rental-affordability/

In addition, the Biden Administration, through a white paper prepared by the White House Domestic Policy Council and the National Economic Council, proposed five key protections that ever renter deserves[17]. One of these is “Eviction Prevention, Diversion, and Relief: Renters should be able to access resources that help them avoid eviction, ensure the legal process during an eviction proceeding is fair, and avoid future housing instability.” The white paper emphasizes adequate notice, expanded diversion and mediation options, clear and fair court proceedings, and the automatic sealing of eviction records until a judge decides against the tenant.

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

[17] https://www.whitehouse.gov/wp-content/uploads/2023/01/White-House-Blueprint-for-a-Renters-Bill-of-Rights-1.pdf

0250 JUDICIAL BRANCH

Issue 2: Legal Aid Capacity Building

Proposal. The Senate is considering a proposal to provide $250,000 to the Access to Justice Commission to create a voluntary loan repayment assistance program (LRAP), which legal aid nonprofits could choose to participate in as a tool to recruit and retain legal aid attorneys. In addition, the Commission will provide an update on the Infrastructure and Innovation grants.

Panelists.
- Catherine Blakemore, Vice-Chair, California Access to Justice Commission
- Judge Lucy Armendariz, Member, California Access to Justice Commission

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 programs[18]. 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.

State Resources. California provides 104 nonprofit legal aid organizations with funding through the IOLTA (Interest on Lawyers' Trust Accounts) program and the Equal Access Fund (EAF)[19]. 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. The 2022-23 budget included the $40 million base allocation for the EAF, as well as funding for specific uses, including $30 million for eviction protection and $15 million for consumer debt cases. The budget also included $250,000 for legal aid organizations to prepare for implementation of the CARE Act.

Demand for Legal Aid Services. The state relies on legal aid to provide assistance in a wide variety of critical civil cases, ranging from housing and eviction defense to potentially providing counsel in CARE Act proceedings. However, according to the California Access to Justice Commission, there is only one legal aid attorney for every 7,000 Californians who are eligible for legal help.

Loan Repayment Assistance Programs (LRAPs). 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. In the legal profession, loan repayment assistance programs (LRAPs), which provide assitance with law school loan payments, are the standard

[18] https://justicegap.lsc.gov/resource/executive-summary/
[19] https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Legal-Aid-Grant-Recipients.pdf

recruiting tool, and are tax-exempt up to $5,250 per year. These programs can help individuals bridge the gap until they are eligible for Public Service Loan Forgiveness at ten years or service.

The Access to Justice Commission (ATJ) requests $250,000 to create a voluntary LRAP program. ATJ would administer the program, enabling organizations to provide an LRAP benefit without having to set up their own programs, and the actual loan assistance funding would be provided by the organizations through existing funding streams.

Infrastructure and Innovation Grants. In both 2021 and 2022, the state provided $5 million from the Equal Access Fund for Infrastructure and Innovation grants to legal services organizations, administered by the Access to Justice Commission. The legislation prioritizes services to rural and immigrant populations and organizations that work with community partners. 95 programs have been funded through the two years of this program.

Staff Recommendation. Hold Open.

Issue 3: County Law Libraries

Proposal. The Senate is considering a request to provide $16.5 million one-time General Fund to the County Law Libraries.

Panelists.

- Janice Schmidt, President of the Council of California County Law Librarians and Director of the Stanislaus County Law Library
- Michael Corbett, Lobbyist, the Council of California County Law Librarians

Background.

In 1891, the State of California, recognizing the need for free public access to legal information, authorized the formation of county law libraries in all 58 counties and provided for their funding via civil filing fees. These libraries provide tools, materials, and individual support to any Californian navigating the legal system, on any legal issue, including those who are self-represented.

Until 2005, the Legislature periodically authorized County Boards of Supervisors to increase filing fees to fund law libraries. From 1994 to 2005, 75 percent of all counties used this authority to raise the local law library portion of the civil filing fee to maintain funding and public access. However, the Uniform Civil Fee and Standard Fees Schedule Act of 2005 (UCF) established a schedule for trial courts across the state and provided a sunset to the authority of counties to adjust filing fees. Over 90 percent of County Law Library funding comes from a small portion of civil filing fees (ranging from $2 to $50 per case, depending on the county and type of case). The civil filing fee revenue that County Law Libraries depend on has decreased since 2009.

The state has provided General Fund backfill to the County Law Libraries in recent years to offset the revenue decrease, including $16.5 million in fiscal year 2018-19, $7 million in fiscal year 2020-21, and $16.5 million in fiscal years 2021-22 and 2022-23.

Staff Recommendation. Hold Open.

Issue 4: Criminal Fees

Proposal. The Senate is considering a request to eliminate the remaining criminal administrative fees, which would require a General Fund backfill of up to $37.9 million annually.

Panelists.

- Stephanie Campos-Bui, Assistant Clinical Professor of Law, Policy Advocacy Clinic, University of California, Berkeley School of Law (appearing remotely)

Background.

As outlined by the Debt Free Justice Coalition, at nearly every point in the criminal legal process, California state law authorizes local jurisdictions to charge administrative fees. Fee types and amounts vary widely by county, judge, and courtroom. Once imposed, depending on the fee type, the court can order payment or set up payment plans. While a court cannot hold a person in contempt for non-payment of fees, it can convert an order into a civil judgment. As a result, if an individual fails to pay their fees in full or make payments on time, the debt can be referred to third-party collection agencies or the state Franchise Tax Board for tax refund intercept, wage garnishment, and bank levy, with fewer protections than provided for consumer debt collection.

The remaining 42 administrative fees range from court-ordered programs such as counseling or drug diversion programs to risk assessment evaluations. There are also fees related to postconviction remedies, including for record sealing or changing a plea. These fees are on top of other monetary sanctions like fines. Counties spend significant resources collecting these fees, as they have low collection rates, likely because many individuals cannot afford to pay them.

Over the past several budgets, the state has taken significant steps to reduce the fines and fees imposed through the criminal process. Assembly Bill 1869 (Committee on Budget), Chapter 92, Statutes of 2020 and Assembly Bill 177 (Committee on Budget), Chapter 257, Statutes of 2021 eliminated many criminal fees and made the unpaid balances uncollectible. The 2022 budget included statutory changes and backfill to reduce the civil assessment and provide one-time amnesty of outstanding civil assessment debt.

Staff Recommendation. Hold Open.

0820 DEPARTMENT OF JUSTICE

Issue 5: Ammunition Authorization Program Fee Increase

Governor's Budget. The proposed budget includes the following two changes to address the insolvency of the Ammunition Authorization Program:

- *Provides DOJ With Authority to Adjust Ammunition Purchase Fee Through Regulation*. The administration proposes trailer bill language to authorize the Department of Justice (DOJ) to adjust the ammunition purchase fee beyond inflation through the regulatory process to ensure that sufficient revenues are collected to (1) support the program on an ongoing basis, (2) maintain a six-month fund balance, and (3) repay the General Fund loan supporting the program.

- *Authorizes Additional General Fund Loan*. To provide DOJ with sufficient time to implement a fee increase through the regulatory process, the administration proposes an additional General Fund loan of $8.6 million—$4.3 million in 2023-24 and $4.3 million 2024-25—to support the program. This proposed loan would increase the total amount that would need to be repaid to the General Fund to $33.6 million.

Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Anita Lee, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance
- Mark Jimenez, Principal Program Budget Analyst, Department of Finance

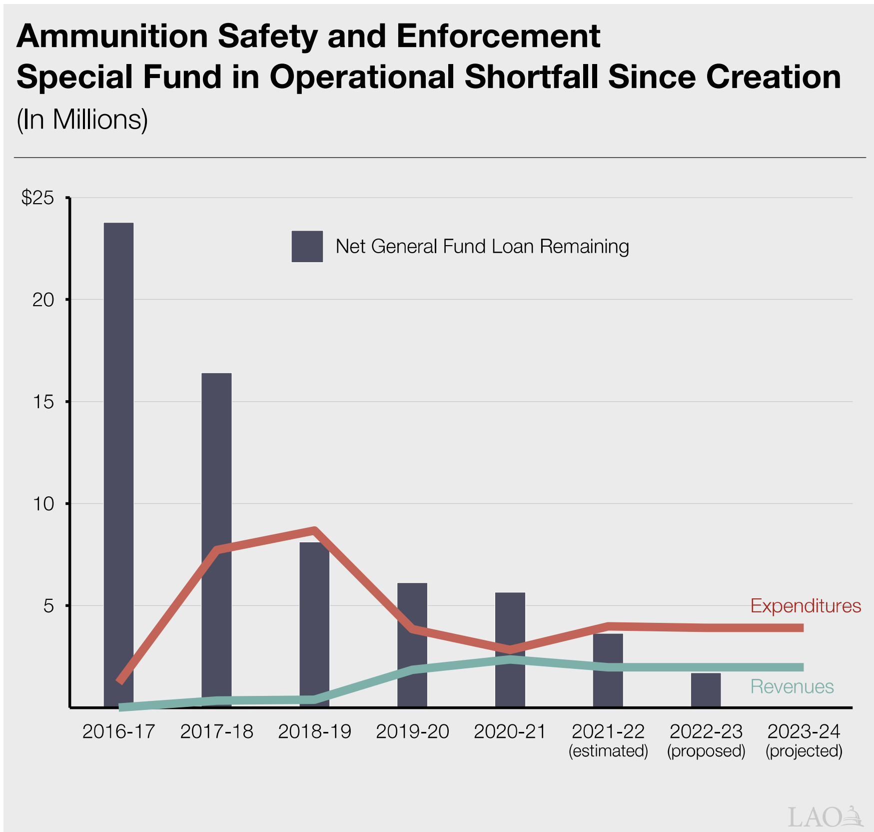
Background.

Ammunition Authorization Program Created by Proposition 63. Proposition 63 (2016)—subsequently amended by Chapter 55 of 2016 (SB 1235, De León)—required DOJ-licensed ammunition vendors check with DOJ at the time of sale to ensure that the purchaser is not legally prohibited from purchasing ammunition. Proposition 63 specifies that its provisions can be modified with a bill approved by 55 percent of the members of each house of the Legislature and signed by the Governor, as long as the changes are consistent with and further its intent.

Program Supported by Fee Revenues and General Fund Loan. The Ammunition Authorization Program is supported by fee revenue—most notably an ammunition purchase fee. Chapter 55's amendment to Proposition 63 authorized a fee of up to $1 per transaction, which is the amount being charged currently. This fee can be adjusted by DOJ to account for inflation but cannot be set higher than necessary to cover DOJ's reasonable program costs. This fee is deposited into the continuously appropriated Ammunition Safety and Enforcement Special Fund. To support the start-up costs of the program, $25 million one-time General Fund was appropriated as a loan to the fund to support the program.

Fee Revenues Insufficient to Fully Support Program. The current fees have not generated sufficient revenue to fully support the Ammunition Authorization Program. Specifically, the

Ammunition Safety and Enforcement Special Fund has consistently faced operational shortfalls—where expenditures exceed revenues—since it has been created (see chart below). Accordingly, the fund is facing insolvency and has not been able to pay back any of the $25 million General Fund loan to date.



Source: LAO[20]

LAO Comments.

Fee Increase and Loan Likely Needed. Given the inability of existing fee revenues to fully support the Ammunition Authorization Program, a fee increase appears necessary to maintain program operations as well as to repay the outstanding General Fund loan. In addition, a loan could be temporarily necessary while the fee is being increased given the fund's immediate need for resources and the time it could take to increase the fee and/or for fee revenue to be generated.

Proposal Reduces Legislative Oversight. The proposed trailer bill language to authorize DOJ to adjust the ammunition purchase fee through the regulatory process would reduce legislative oversight of the Ammunition Authorization Program as legislative approval would no longer be needed for fee increases. Instead, DOJ would have the authority to determine what fee level would be appropriate. This is particularly concerning as the fund is continuously appropriated—which means that DOJ does not need to seek legislative approval for any expenditures as long as revenue is available. Additionally, removing legislative authority to set the appropriate fee level would

[20] https://lao.ca.gov/reports/2022/4527/DOJ-proposals-021122.pdf

make it difficult for the Legislature to ensure that any increases are consistent with the original intent and requirements of Proposition 63.

LAO Recommendation.

Reject Proposed Authority Allowing DOJ to Adjust Ammunition Purchase Fee. The LAO recommends the Legislature reject the proposed trailer bill language authorizing DOJ to adjust the ammunition purchase fee through the regulatory process as it would reduce legislative oversight over the Ammunition Authorization Program.

Increase Ammunition Purchase Fee in Statute. Given the need for a fee increase, the LAO recommends the Legislature instead change state law to increase the ammunition purchase fee. This approach would ensure the Legislature retains oversight of the program and its operation. It would also allow the Legislature to determine specifically what fee level would be appropriate and ensure that the change is consistent with the original intent of Proposition 63.

Consider Various Factors When Increasing Fee. As noted in a prior analysis of this issue in The 2022-23 Budget: Department of Justice Proposals[21], the Legislature has various options on what fee level to charge. When weighing these options, there are various factors for consideration. Such factors include: (1) the maximum per transaction fee desired, (2) how quickly the General Fund loans should be repaid, and (3) when the desired fee increase should take effect. For example, using updated data and assumptions included in the administration’s proposal (including the additional General Fund loans proposed), the LAO estimates that increasing the ammunition fee by $4 (for a total $5 fee) could generate sufficient revenues to support DOJ program costs and potentially repay the General Fund loans within 15 years, while an increase of $5 (for a total $6 fee) could potentially repay the General Fund loans within 10 years.

Provide General Fund Loan As Needed Based on Fee Increase Approved. The administration’s proposal for an additional General Fund loan is reasonable to prevent decreased service levels pending a fee increase. However, if the Legislature adopts a fee increase as part of the 2023-24 budget as the LAO recommends and it goes into effect immediately, a loan may only be needed in 2023-24. As such, the Legislature will want to ensure that the amount ultimately loaned is consistent with legislative actions related to the fee increase.

Staff Recommendation. Hold Open.

[21] https://lao.ca.gov/reports/2022/4527/DOJ-proposals-021122.pdf

Issue 6: *New York State Rifle & Pistol Association v. Bruen*: Carry Concealed Weapon Licenses

Governor's Budget. The administration requests $5 million in 2023-24 ($2.9 million General Fund and $2 million Fingerprint Fees Account [FFA]) and $3.2 million in 2024-25 ($2.7 million General Fund and $519,000 FFA) to address an anticipated increase in workload to process Carry Concealed Weapon (CCW) licenses resulting from the elimination of the requirement to show good cause. DOJ states that workload will be monitored during this period to determine what resources will be needed in subsequent years. The administration also proposes budget bill language limiting use of these additional resources to addressing CCW permit workload.

Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Anita Lee, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance
- Mark Jimenez, Principal Program Budget Analyst, Department of Finance

Background. Under California Penal Code section 25850, it is unlawful for a person to carry a loaded firearm in a public place, whether the firearm is exposed or concealed, unless the person meets certain exemptions under Sections 26000-26060 or has been issued a license to carry a concealed weapon (CCW license). In California, local law enforcement agencies are responsible for issuing such licenses, including determining whether an applicant meets a number of criteria, and what proof the applicant must provide to demonstrate their eligibility. One of those criteria was that a good cause exists for the issuance of the license.

However, a June 2022 US Supreme Court decision in the *New York State Rifle & Pistol Association v. Bruen* case that found laws requiring individuals provide "good cause" to carry a concealed weapon to be unconstitutional. Since California has one of the lowest issuance rates among adult populations within the nation at 0.39 percent, the DOJ anticipates a significant uptick in the issuance of licenses as local authorities adopt "shall-issue" guidelines concordant with the ruling and the Attorney General's guidance, which will make it less restrictive for residents to acquire a CCW in California. The DOJ expects active licenses to increase from 187,582 to 655,232 over the next 5 years, based on current license rates, county trends, and results in other states.

Projected Workload Pre & Post Bruen Decision	Pre Bruen	Post Bruen				
	FY 22-23 *	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
New CCW LiveScans	50,304	459,276	42,667	46,630	50,962	55,697
New (Initial) CCW Licenses	37,778	413,348	38,400	41,967	45,866	50,127
Renewal (Subsequent) CCW Applications & Backgrounds	60,538	55,556	68,821	328,233	86,575	259,140

*Projection based on workload received from July 2022-November 2022. The total workload was divided over 5 months and multiplied by 12.

The DOJ has a number of duties related to CCW licensing. Primarily, DOJ operates the CCW Notification Team, a legislatively mandated program acquiring its regulatory authority under Penal Code sections 26150-26225. The CCW Notification Team's primary responsibility is to review the criminal offender record information of persons applying for licenses to carry a concealed weapon in California and provide the results of the background checks to the licensing authorities of the county or city in which that person resides. The CCW Notification Team also carries out peripheral duties contingent on the approval or denial of the applicant, requiring the monitoring of subsequent arrest notifications to ensure applicants remain firearms eligible and the receipt and repository of licensing information filed by licensing authorities under Section 26225(b).

LAO Recommendation.

Fund General Fund Portion of Request from DROS Special Account. The LAO recommends the Legislature fund the General Fund portion of this request ($2.9 million in 2023-24 and $2.7 million in 2024-45) from the DROS Special Account instead. State law authorizes DOJ to charge fees to cover the costs of processing carry concealed weapon licenses—such as by conducting background checks. According to DOJ, such fee revenues are deposited into the FFA as well as the DROS Special Account. While this proposal requests additional resources from the FFA, it does not request additional resources from the DROS Special Account. As noted in the LAO's February brief (The 2023-24 Budget: Department of Justice Proposals[22]), DROS revenues have exceeded expenditures in recent years—allowing for the steady increase in the DROS fund balance. There appears to be sufficient DROS Special Account fund balance to support the workload proposed to be supported from the General Fund. Given the state's budget situation, the LAO's recommendation would "free up" additional General Fund for other legislative priorities. The LAO also notes that a fee increase could be appropriate to ensure that sufficient revenues are collected to cover DOJ workload costs, as permitted by state law, given that DOJ indicates that the current CCW fees were set in 2004.

Staff Recommendation. Hold Open.

[22] https://lao.ca.gov/reports/2023/4701/DOJ-Proposals-022323.pdf

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

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

Thursday, April 27, 2023
9:30 a.m. or upon adjournment of Session
1021 O Street – Room 2200

PART B

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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

ITEMS FOR DISCUSSION

0250 JUDICIAL BRANCH
0820 DEPARTMENT OF JUSTICE

Issue 1: Eviction Filings and Access to Legal Services

Panelists.

- Leah Rose-Goodwin, Chief Data and Analytics Officer, Judicial Council of California
- Zlatko Theodorovic, Director, Budget Services, Judicial Council of California
- Anita Lee, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Julie Aguilar Rogado, Deputy Director, Legal Services of Northern California
- Adam Murray, Chief Executive Officer, Inner City Law Center
- Nicklas Ackers, Senior Assistant Attorney General, Public Rights Division, Department of Justice

Background. According to the National Equity Atlas, 587,000 households in California (representing 11 percent of renter households in the state) are behind on an estimated $2.1 billion in rent[1]. Of the households behind on rent, 76 percent are low-income, 75 percent are people of color, and 52 percent are families with children. These numbers include 246,000 households in the Los Angeles Metro area that owe a combined $700 million in rent debt, and 89,000 households in the Bay Area that owe a combined $500 million.

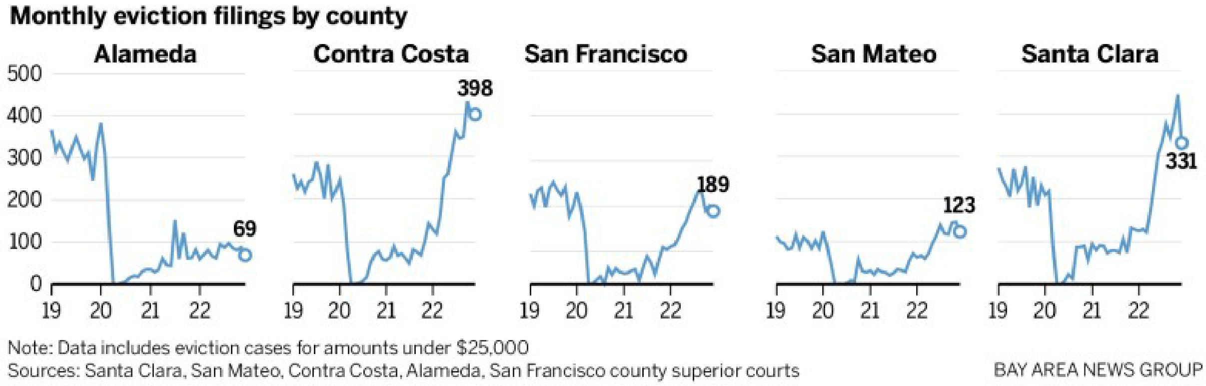
In California, evictions are processed as civil cases are called unlawful detainers. These include both commercial and residential evictions. Depending on the amount of debt, these can be either limited civil cases (for debts under $25,000, which would include mostly residential evictions) and unlimited civil cases (for debts over $25,000, which would include mostly commercial evictions). Thus, limited civil cases can be used as a rough proxy for residential evictions, with the knowledge that some commercial evictions may be included as well.

Pandemic-era Protections Expiring. Tenant protections were expanded at the federal, state, and local level at the onset of the COVID-19 pandemic, as many individuals were unable to pay rent, services were limited, shelters had the potential to spread the virus, and emergency healthcare services were overwhelmed, among other pandemic impacts. The federal eviction moratorium was in place until August 2021, and the state's eviction protections ended in June 2022. Some local moratoria remained, but many of those have expired or are expiring soon. Los Angeles County's protections expired on March 31, 2023, and Alameda County's are set to expire at the end of April[2]. Most of the enacted protections were not complete moratoria, but provided relief for individuals who were financially harmed by the pandemic. This patchwork of protections has led to some confusion among renters defending themselves from unlawful detainer suits[3].

[1] https://nationalequityatlas.org/rent-debt
[2] https://oaklandside.org/2023/03/01/eviction-moratorium-ending-alameda-county-oakland-landlord-protest/
[3] https://www.latimes.com/california/story/2023-03-08/los-angeles-county-eviction-court-homelessness

Evictions have risen as these protections have ended, but it is not clear if they are rising above pre-pandemic levels. In the Bay Area, as compared to pre-pandemic levels, eviction filings in Contra Costa, Santa Clara, and San Mateo were 43 percent higher, San Francisco was roughly the same, and Alameda County was lower (see chart below). Alameda is the only one of these counties that still has expanded tenant protections. Contra Costa has the highest rate of evictions per household, and only 7 percent of tenants had legal representation, compared to 86 percent of landlords[4].

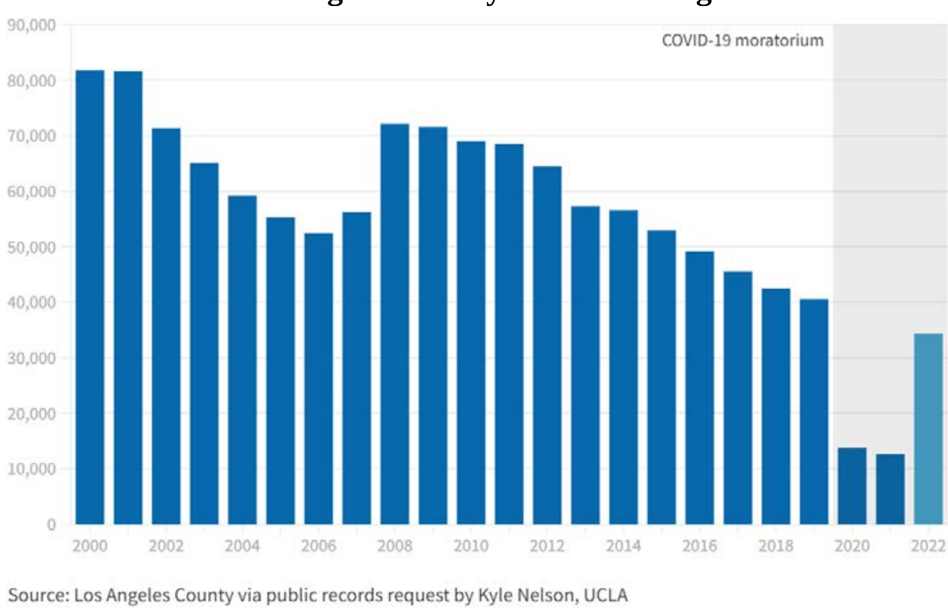
Bay Area Eviction Filings



Source: Bay Area News Group[5]

In Los Angeles County, eviction filings appear to be returning to pre-pandemic levels (see chart below)[6]. In 2020 and 2021, there were 13,796 and 12,646 unlawful detainer filings, respectively, compared to 34,398 in 2022 and 40,572 in 2019.[7]

Los Angeles County Eviction Filings



Source: CalMatters[8]

[4] https://workingeastbay.org/wp-content/uploads/2023/01/EBASE-Eviction-Court-Watch-Report.pdf
[5] mercurynews.com/2023/02/12/evictions-eclipsed-pre-pandemic-levels-in-these-bay-area-counties-as-tenant-protections-expired/
[6] https://www.latimes.com/california/story/2023-04-10/la-countys-eviction-moratorium-over-whats-next-for-tenants
[7] https://calmatters.org/california-divide/2023/03/eviction-protection-la/
[8] https://calmatters.org/california-divide/2023/03/eviction-protection-la/

Counsel in Civil Cases. As currently interpreted, the United States constitution does not provide a right to counsel in civil cases. "Right to counsel" is a term of art that, broadly defined, means that a person facing a legal issue is entitled to be represented by a lawyer, even if the person cannot afford to pay that lawyer. In eviction cases in Los Angles, 96 percent of tenants are unrepresented, while 88 percent of landlords who seek evictions are represented[9]. A report on eviction in Fresno County found that 73% of landlords were represented, versus only 1 percent of tenants[10].

The Sargent Shriver Civil Counsel Act (AB 590 (Feuer), Chapter 457, Statutes of 2009) dedicated significant new resources to the representation of low-income civil litigants, including tenants and landlords, via pilot projects focused on housing in six counties, mandating data collection for those projects. The projects were completed between fiscal year 2015 and 2019. The Judicial Council's *Report to the Legislature of the State of California for the Shriver Civil Counsel Act Evaluation* highlighted the impact counsel can have in eviction cases, including the results listed in the following table. In total, the pilot projects supported by this act served 19,640 tenants. The tenants were 73 percent people of color, 62 percent female, and 37 percent had a disability or chronic health condition. 52 percent of the households impacted had minors living there.

A Few Highlights

From FY2015 to FY2019:

- 19,460 low-income tenants received Shriver services. More than half received full representation by a Shriver attorney.
- More than 55,000 household members were impacted by these services.

Among tenants who received Shriver full representation:

- Two thirds settled their cases. Very few (4%) went to trial.
- Three quarters of tenants moved out of their homes. Nearly all of these were via a settlement agreement. Very few (3%) tenants were subject to a lockout.
- Shriver attorneys helped negotiate settlements that supported tenants' longer-term housing stability. For example, settlement terms often included a reduction in back-owed rent, saving tenants notable amounts of money; credit protection, such as sealing the eviction case and not reporting it to credit agencies; and more time to move.
- One year later, Shriver clients were more likely than self-represented tenants to have moved into a new rental unit.
- Shriver clients expressed strong appreciation for the Shriver services they received, despite the trauma of the eviction case. Compared to self-represented litigants, Shriver full representation clients reported higher satisfaction with their case outcomes, even when they had to move.

Source: Judicial Council[11]

[9] http://civilrighttocounsel.org/uploaded_files/280/Landlord_and_tenant_eviction_rep_stats__NCCRC_.pdf ; https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report_12-10-19.pdf
[10] Nkosi, J., Crowell, A. R., Milrod, P., Garibay, V., & Werner, A. (2019). Evicted in Fresno: Facts for housing advocates. Report prepared on behalf of Faith in the Valley.
[11] https://www.courts.ca.gov/documents/lr-2020-sargent-shriver-gov68085_c.pdf

The Access to Justice Coalition also highlights the following results:

- *Prevention of defaults*. One major result of the Shriver projects was the prevention of defaults by tenants, which means that they were able to seek enforcement of their rights and participate in the court system: No full representation cases resulted in default during service provision, while 26 percent of litigants without counsel defaulted. Moreover, represented litigants filed an answer 91 percent of the time, compared to 73 percent of unrepresented litigants.

- *More affirmative defenses raised*. 84 percent of tenants with representation raised a defense (such as defective notice, rent control violation, or habitability), compared to 60 percent of comparison cases.

- *Settlements*. Most cases where the tenant was represented were settled (67 percent versus 34 percent), which facilitated better case outcomes for both short- and long-term housing stability. In addition, while most tenants had to move at the end of their case, represented tenants most frequently moved out under a negotiated agreement, with just 3 percent of those tenants facing a forcible eviction or lockout. Eighty-three percent of represented tenants moved out as part of a settlement agreement, while just 44 percent of unrepresented tenants had such an agreement. Represented tenants also received more move-out time (almost 2 weeks more) than unrepresented tenants.

- *Increased housing stability results*. Settlement agreements supported the housing stability of tenants, including outcomes like the sealing of eviction records (91 percent), the eviction not being reported to credit agencies (81 percent), and neutral references from the landlord (71 percent). In terms of financial benefits, the median amount saved by represented tenants was nearly $2,000, and 66 percent created back-rent payment plans. Represented tenants were more likely to reach compromises on monetary claims such as back rent (38 percent of represented tenants paid the full claimed amount vs. 43 percent of unrepresented), all holdover damages (9 percent vs. 17 percent), or landlord's attorney's fees (19 percent vs. 34 percent. In addition, landlords more frequently agreed to address habitability (16 percent) and reasonable accommodations (14 percent) concerns in settlements with represented tenants. Finally, one year after the end of litigation, 71 percent of represented tenants had obtained a new rental unit, compared to 43 percent of unrepresented tenants.

Similar results have been reported in programs in New York City, San Francisco, Cleveland, Boulder, Minnesota, and Massachusetts. For example, in San Francisco, over two-thirds of households with an attorney were able to stay in their homes, compared to 38 percent of households without representation[12].

Given these results, the Work Group on Homelessness established by California Supreme Court Chief Justice Tani G. Cantil-Sakauye recommended in its 2021 report that the Judicial Council "Encourage and support legislative efforts to create and fund a statewide program that provides full-scope legal representation in residential unlawful detainer proceedings for all litigants who are

[12] http://civilrighttocounsel.org/uploaded_files/282/San_Francisco_RTC_6_month_data.pdf

unable to afford counsel."[13] The report also recommended expanding diversion, mediation, and settlement efforts to encourage landlords and tenants to reach agreements without an eviction judgement, and to increase resources for tenants including expanded self-help centers and more user-friendly court forms. Some cities have established a right to counsel in eviction cases, including New York City and San Francisco, and advocates in Los Angeles are calling for a similar right[14].

Cost savings of providing counsel. Evaluations have estimated that providing counsel could lead to long-term savings by keeping people housed and reducing the costs of other systems that support individuals post-eviction, including shelters, transitional housing, foster care, and emergency medical care. An evaluation by Stout[15] estimated that in Los Angeles, with "an annual investment of approximately $47.3 million by the County and $34.6 million by the City separately, the County and the City may avoid costs of approximately $226.9 million and $120.3 million, respectively."

State Resources. The 2022-23 Budget included $30 million to legal aid to provide eviction defense services. The 2021-22 Budget included $80 million in American Rescue Plan funding over three years to provide legal aid services for renters and homeowners. The 2020-21 Budget included $31 million from the National Mortgage Settlement Trust Fund for tenant legal aid (of a total $331 settlement, the rest went to housing counseling and mortgage relief). In addition, the state provides general funding to legal aid services, which may be used to support housing-related work. The state also provided roughly $5 billion in direct rental assistance to individuals, before the program expired in March 2022. For additional detail, see the attached handout from the LAO entitled, "Overview of State Funding Provided to Support Legal Assistance for Housing and Evictions."

Department of Justice (DOJ) Enforcement of Tenant Rights. The Consumer Protection Section at the DOJ engages in tenant protection work. The section works with the legal aid and advocacy community across the state to gather tips and leads, and is handling several ongoing law enforcement investigations related to tenants' rights issues. Examples include enforcement of the Tenant Protection Act and other state tenant protection laws. The Consumer Protection Section has also taken public actions including providing guidance to police and sheriffs regarding how to aid victims of illegal self-help evictions, issuing warning letters to eviction lawyers regarding compliance with COVID tenant protections, and entering into a prior settlement with property acquisition company Wedgewood regarding its eviction practices. These activities are supported by the Unfair Competition Law Fund, through civil penalty recoveries transferred from the Litigation Deposit Fund.

Federal Action. The Biden Administration recently announced actions to protect renters[16], including additional oversight by the Federal Trade Commission and the Consumer Financial Protection Bureau and directions for the Federal Housing Finance Agency and the U.S. Department of Housing and Urban Development to explore additional renter protection options.

---

[13] https://www.courts.ca.gov/documents/hwg_work-group-report.pdf
[14] https://www.latimes.com/local/lanow/la-me-ln-tenant-counsel-20190411-story.html
[15] https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report_12-10-19.pdf
[16] https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/25/fact-sheet-biden-harris-administration-announces-new-actions-to-protect-renters-and-promote-rental-affordability/

In addition, the Biden Administration, through a white paper prepared by the White House Domestic Policy Council and the National Economic Council, proposed five key protections that ever renter deserves[17]. One of these is "Eviction Prevention, Diversion, and Relief: Renters should be able to access resources that help them avoid eviction, ensure the legal process during an eviction proceeding is fair, and avoid future housing instability." The white paper emphasizes adequate notice, expanded diversion and mediation options, clear and fair court proceedings, and the automatic sealing of eviction records until a judge decides against the tenant.

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

[17] https://www.whitehouse.gov/wp-content/uploads/2023/01/White-House-Blueprint-for-a-Renters-Bill-of-Rights-1.pdf

0250 JUDICIAL BRANCH

Issue 2: Legal Aid Capacity Building

Proposal. The Senate is considering a proposal to provide $250,000 to the Access to Justice Commission to create a voluntary loan repayment assistance program (LRAP), which legal aid nonprofits could choose to participate in as a tool to recruit and retain legal aid attorneys. In addition, the Commission will provide an update on the Infrastructure and Innovation grants.

Panelists.

- Catherine Blakemore, Vice-Chair, California Access to Justice Commission
- Judge Lucy Armendariz, Member, California Access to Justice Commission

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 programs[18]. 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.

State Resources. California provides 104 nonprofit legal aid organizations with funding through the IOLTA (Interest on Lawyers' Trust Accounts) program and the Equal Access Fund (EAF)[19]. 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. The 2022-23 budget included the $40 million base allocation for the EAF, as well as funding for specific uses, including $30 million for eviction protection and $15 million for consumer debt cases. The budget also included $250,000 for legal aid organizations to prepare for implementation of the CARE Act.

Demand for Legal Aid Services. The state relies on legal aid to provide assistance in a wide variety of critical civil cases, ranging from housing and eviction defense to potentially providing counsel in CARE Act proceedings. However, according to the California Access to Justice Commission, there is only one legal aid attorney for every 7,000 Californians who are eligible for legal help.

Loan Repayment Assistance Programs (LRAPs). 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. In the legal profession, loan repayment assistance programs (LRAPs), which provide assitance with law school loan payments, are the standard

[18] https://justicegap.lsc.gov/resource/executive-summary/
[19] https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Legal-Aid-Grant-Recipients.pdf

recruiting tool, and are tax-exempt up to $5,250 per year. These programs can help individuals bridge the gap until they are eligible for Public Service Loan Forgiveness at ten years or service.

The Access to Justice Commission (ATJ) requests $250,000 to create a voluntary LRAP program. ATJ would administer the program, enabling organizations to provide an LRAP benefit without having to set up their own programs, and the actual loan assistance funding would be provided by the organizations through existing funding streams.

Infrastructure and Innovation Grants. In both 2021 and 2022, the state provided $5 million from the Equal Access Fund for Infrastructure and Innovation grants to legal services organizations, administered by the Access to Justice Commission. The legislation prioritizes services to rural and immigrant populations and organizations that work with community partners. 95 programs have been funded through the two years of this program.

Staff Recommendation. Hold Open.

Issue 3: County Law Libraries

Proposal. The Senate is considering a request to provide $16.5 million one-time General Fund to the County Law Libraries.

Panelists.

- Janice Schmidt, President of the Council of California County Law Librarians and Director of the Stanislaus County Law Library
- Michael Corbett, Lobbyist, the Council of California County Law Librarians

Background.

In 1891, the State of California, recognizing the need for free public access to legal information, authorized the formation of county law libraries in all 58 counties and provided for their funding via civil filing fees. These libraries provide tools, materials, and individual support to any Californian navigating the legal system, on any legal issue, including those who are self-represented.

Until 2005, the Legislature periodically authorized County Boards of Supervisors to increase filing fees to fund law libraries. From 1994 to 2005, 75 percent of all counties used this authority to raise the local law library portion of the civil filing fee to maintain funding and public access. However, the Uniform Civil Fee and Standard Fees Schedule Act of 2005 (UCF) established a schedule for trial courts across the state and provided a sunset to the authority of counties to adjust filing fees. Over 90 percent of County Law Library funding comes from a small portion of civil filing fees (ranging from $2 to $50 per case, depending on the county and type of case). The civil filing fee revenue that County Law Libraries depend on has decreased since 2009.

The state has provided General Fund backfill to the County Law Libraries in recent years to offset the revenue decrease, including $16.5 million in fiscal year 2018-19, $7 million in fiscal year 2020-21, and $16.5 million in fiscal years 2021-22 and 2022-23.

Staff Recommendation. Hold Open.

Issue 4: Criminal Fees

Proposal. The Senate is considering a request from to eliminate the remaining criminal administrative fees, which would require a General Fund backfill of up to $37.9 million annually.

Panelists.

- Stephanie Campos-Bui, Assistant Clinical Professor of Law, Policy Advocacy Clinic, University of California, Berkeley School of Law (appearing remotely)

Background.

As outlined by the Debt Free Justice Coalition, at nearly every point in the criminal legal process, California state law authorizes local jurisdictions to charge administrative fees. Fee types and amounts vary widely by county, judge, and courtroom. Once imposed, depending on the fee type, the court can order payment or set up payment plans. While a court cannot hold a person in contempt for non-payment of fees, it can convert an order into a civil judgment. As a result, if an individual fails to pay their fees in full or make payments on time, the debt can be referred to third-party collection agencies or the state Franchise Tax Board for tax refund intercept, wage garnishment, and bank levy, with fewer protections than provided for consumer debt collection.

The remaining 42 administrative fees range from court-ordered programs such as counseling or drug diversion programs to risk assessment evaluations. There are also fees related to postconviction remedies, including for record sealing or changing a plea. These fees are on top of other monetary sanctions like fines. Counties spend significant resources collecting these fees, as they have low collection rates, likely because many individuals cannot afford to pay them.

Over the past several budgets, the state has taken significant steps to reduce the fines and fees imposed through the criminal process. Assembly Bill 1869 (Committee on Budget), Chapter 92, Statutes of 2020 and Assembly Bill 177 (Committee on Budget), Chapter 257, Statutes of 2021 eliminated many criminal fees and made the unpaid balances uncollectible. The 2022 budget included statutory changes and backfill to reduce the civil assessment and provide one-time amnesty of outstanding civil assessment debt.

Staff Recommendation. Hold Open.

0820 DEPARTMENT OF JUSTICE

Issue 5: Ammunition Authorization Program Fee Increase

Governor's Budget. The proposed budget includes the following two changes to address the insolvency of the Ammunition Authorization Program:

- *Provides DOJ With Authority to Adjust Ammunition Purchase Fee Through Regulation*. The administration proposes trailer bill language to authorize the Department of Justice (DOJ) to adjust the ammunition purchase fee beyond inflation through the regulatory process to ensure that sufficient revenues are collected to (1) support the program on an ongoing basis, (2) maintain a six-month fund balance, and (3) repay the General Fund loan supporting the program.

- *Authorizes Additional General Fund Loan*. To provide DOJ with sufficient time to implement a fee increase through the regulatory process, the administration proposes an additional General Fund loan of $8.6 million—$4.3 million in 2023-24 and $4.3 million 2024-25—to support the program. This proposed loan would increase the total amount that would need to be repaid to the General Fund to $33.6 million.

Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Anita Lee, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance
- Mark Jimenez, Principal Program Budget Analyst, Department of Finance

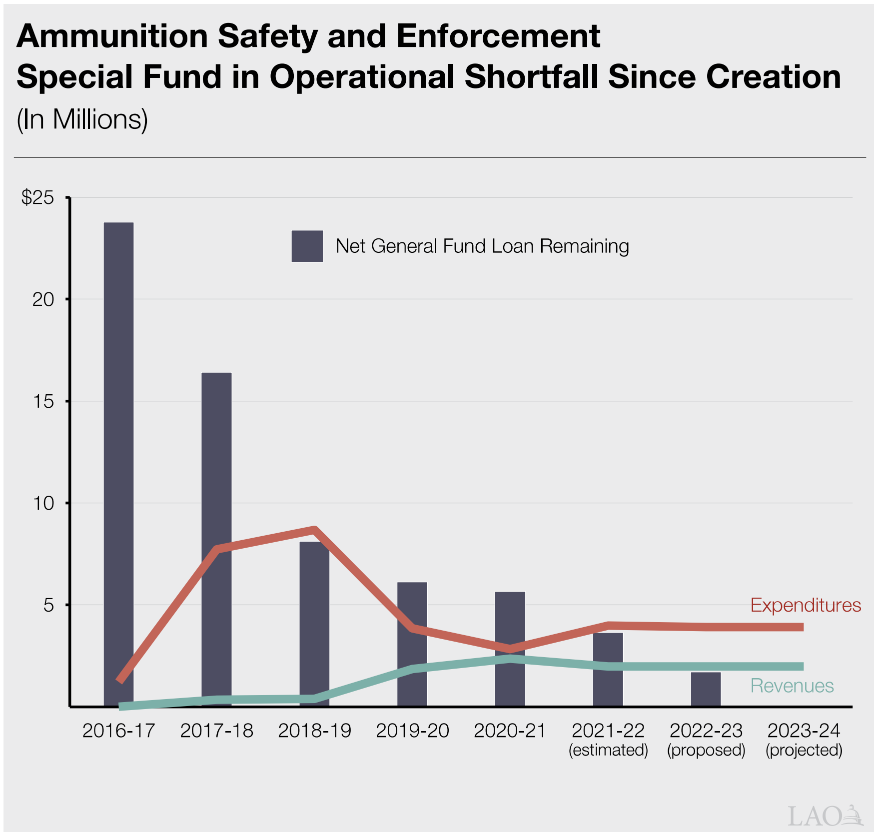
Background.

Ammunition Authorization Program Created by Proposition 63. Proposition 63 (2016)—subsequently amended by Chapter 55 of 2016 (SB 1235, De León)—required DOJ-licensed ammunition vendors check with DOJ at the time of sale to ensure that the purchaser is not legally prohibited from purchasing ammunition. Proposition 63 specifies that its provisions can be modified with a bill approved by 55 percent of the members of each house of the Legislature and signed by the Governor, as long as the changes are consistent with and further its intent.

Program Supported by Fee Revenues and General Fund Loan. The Ammunition Authorization Program is supported by fee revenue—most notably an ammunition purchase fee. Chapter 55's amendment to Proposition 63 authorized a fee of up to $1 per transaction, which is the amount being charged currently. This fee can be adjusted by DOJ to account for inflation but cannot be set higher than necessary to cover DOJ's reasonable program costs. This fee is deposited into the continuously appropriated Ammunition Safety and Enforcement Special Fund. To support the start-up costs of the program, $25 million one-time General Fund was appropriated as a loan to the fund to support the program.

Fee Revenues Insufficient to Fully Support Program. The current fees have not generated sufficient revenue to fully support the Ammunition Authorization Program. Specifically, the

Ammunition Safety and Enforcement Special Fund has consistently faced operational shortfalls—where expenditures exceed revenues—since it has been created (see chart below). Accordingly, the fund is facing insolvency and has not been able to pay back any of the $25 million General Fund loan to date.



Source: LAO[20]

LAO Comments.

Fee Increase and Loan Likely Needed. Given the inability of existing fee revenues to fully support the Ammunition Authorization Program, a fee increase appears necessary to maintain program operations as well as to repay the outstanding General Fund loan. In addition, a loan could be temporarily necessary while the fee is being increased given the fund's immediate need for resources and the time it could take to increase the fee and/or for fee revenue to be generated.

Proposal Reduces Legislative Oversight. The proposed trailer bill language to authorize DOJ to adjust the ammunition purchase fee through the regulatory process would reduce legislative oversight of the Ammunition Authorization Program as legislative approval would no longer be needed for fee increases. Instead, DOJ would have the authority to determine what fee level would be appropriate. This is particularly concerning as the fund is continuously appropriated—which means that DOJ does not need to seek legislative approval for any expenditures as long as revenue is available. Additionally, removing legislative authority to set the appropriate fee level would

[20] https://lao.ca.gov/reports/2022/4527/DOJ-proposals-021122.pdf

make it difficult for the Legislature to ensure that any increases are consistent with the original intent and requirements of Proposition 63.

LAO Recommendation.

Reject Proposed Authority Allowing DOJ to Adjust Ammunition Purchase Fee. The LAO recommends the Legislature reject the proposed trailer bill language authorizing DOJ to adjust the ammunition purchase fee through the regulatory process as it would reduce legislative oversight over the Ammunition Authorization Program.

Increase Ammunition Purchase Fee in Statute. Given the need for a fee increase, the LAO recommends the Legislature instead change state law to increase the ammunition purchase fee. This approach would ensure the Legislature retains oversight of the program and its operation. It would also allow the Legislature to determine specifically what fee level would be appropriate and ensure that the change is consistent with the original intent of Proposition 63.

Consider Various Factors When Increasing Fee. As noted in a prior analysis of this issue in The 2022-23 Budget: Department of Justice Proposals[21], the Legislature has various options on what fee level to charge. When weighing these options, there are various factors for consideration. Such factors include: (1) the maximum per transaction fee desired, (2) how quickly the General Fund loans should be repaid, and (3) when the desired fee increase should take effect. For example, using updated data and assumptions included in the administration’s proposal (including the additional General Fund loans proposed), the LAO estimates that increasing the ammunition fee by $4 (for a total $5 fee) could generate sufficient revenues to support DOJ program costs and potentially repay the General Fund loans within 15 years, while an increase of $5 (for a total $6 fee) could potentially repay the General Fund loans within 10 years.

Provide General Fund Loan As Needed Based on Fee Increase Approved. The administration’s proposal for an additional General Fund loan is reasonable to prevent decreased service levels pending a fee increase. However, if the Legislature adopts a fee increase as part of the 2023-24 budget as the LAO recommends and it goes into effect immediately, a loan may only be needed in 2023-24. As such, the Legislature will want to ensure that the amount ultimately loaned is consistent with legislative actions related to the fee increase.

Staff Recommendation. Hold Open.

[21] https://lao.ca.gov/reports/2022/4527/DOJ-proposals-021122.pdf

Issue 6: *New York State Rifle & Pistol Association v. Bruen*: Carry Concealed Weapon Licenses

Governor's Budget. The administration requests $5 million in 2023-24 ($2.9 million General Fund and $2 million Fingerprint Fees Account [FFA]) and $3.2 million in 2024-25 ($2.7 million General Fund and $519,000 FFA) to address an anticipated increase in workload to process Carry Concealed Weapon (CCW) licenses resulting from the elimination of the requirement to show good cause. DOJ states that workload will be monitored during this period to determine what resources will be needed in subsequent years. The administration also proposes budget bill language limiting use of these additional resources to addressing CCW permit workload.

Panelists.

- Chris Ryan, Chief of Operations, Department of Justice
- Anita Lee, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Kevin Clark, Staff Finance Budget Analyst, Department of Finance
- Mark Jimenez, Principal Program Budget Analyst, Department of Finance

Background. Under California Penal Code section 25850, it is unlawful for a person to carry a loaded firearm in a public place, whether the firearm is exposed or concealed, unless the person meets certain exemptions under Sections 26000-26060 or has been issued a license to carry a concealed weapon (CCW license). In California, local law enforcement agencies are responsible for issuing such licenses, including determining whether an applicant meets a number of criteria, and what proof the applicant must provide to demonstrate their eligibility. One of those criteria was that a good cause exists for the issuance of the license.

However, a June 2022 US Supreme Court decision in the *New York State Rifle & Pistol Association v. Bruen* case that found laws requiring individuals provide "good cause" to carry a concealed weapon to be unconstitutional. Since California has one of the lowest issuance rates among adult populations within the nation at 0.39 percent, the DOJ anticipates a significant uptick in the issuance of licenses as local authorities adopt "shall-issue" guidelines concordant with the ruling and the Attorney General's guidance, which will make it less restrictive for residents to acquire a CCW in California. The DOJ expects active licenses to increase from 187,582 to 655,232 over the next 5 years, based on current license rates, county trends, and results in other states.

Projected Workload Pre & Post Bruen Decision	Pre Bruen	Post Bruen				
	FY 22-23 *	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
New CCW LiveScans	50,304	459,276	42,667	46,630	50,962	55,697
New (Initial) CCW Licenses	37,778	413,348	38,400	41,967	45,866	50,127
Renewal (Subsequent) CCW Applications & Backgrounds	60,538	55,556	68,821	328,233	86,575	259,140

*Projection based on workload received from July 2022-November 2022. The total workload was divided over 5 months and multiplied by 12.

The DOJ has a number of duties related to CCW licensing. Primarily, DOJ operates the CCW Notification Team, a legislatively mandated program acquiring its regulatory authority under Penal Code sections 26150-26225. The CCW Notification Team's primary responsibility is to review the criminal offender record information of persons applying for licenses to carry a concealed weapon in California and provide the results of the background checks to the licensing authorities of the county or city in which that person resides. The CCW Notification Team also carries out peripheral duties contingent on the approval or denial of the applicant, requiring the monitoring of subsequent arrest notifications to ensure applicants remain firearms eligible and the receipt and repository of licensing information filed by licensing authorities under Section 26225(b).

LAO Recommendation.

Fund General Fund Portion of Request from DROS Special Account. The LAO recommends the Legislature fund the General Fund portion of this request ($2.9 million in 2023-24 and $2.7 million in 2024-45) from the DROS Special Account instead. State law authorizes DOJ to charge fees to cover the costs of processing carry concealed weapon licenses—such as by conducting background checks. According to DOJ, such fee revenues are deposited into the FFA as well as the DROS Special Account. While this proposal requests additional resources from the FFA, it does not request additional resources from the DROS Special Account. As noted in the LAO's February brief (The 2023-24 Budget: Department of Justice Proposals[22]), DROS revenues have exceeded expenditures in recent years—allowing for the steady increase in the DROS fund balance. There appears to be sufficient DROS Special Account fund balance to support the workload proposed to be supported from the General Fund. Given the state's budget situation, the LAO's recommendation would "free up" additional General Fund for other legislative priorities. The LAO also notes that a fee increase could be appropriate to ensure that sufficient revenues are collected to cover DOJ workload costs, as permitted by state law, given that DOJ indicates that the current CCW fees were set in 2004.

Staff Recommendation. Hold Open.

[22] https://lao.ca.gov/reports/2023/4701/DOJ-Proposals-022323.pdf

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Thursday, May 4, 2023
9:30 a.m. or upon adjournment of Session
1021 O Street – Room 2100

Consultant: Christopher Francis, Ph.D.

Items for Discussion

Public Comment

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

0559 SECRETARY FOR LABOR AND WORKFORCE DEVELOPMENT AGENCY (LWDA)
7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD (CWDB)

Issue 1: Moving California Further Along the "High Road"

Goal of Discussion. The state's budget and policy committees have deliberated strategies to maximize federal and state investments across various areas, with the goal of placing California on the "high road." Most recently, on March 22, 2023, the Senate Budget Subcommittee No. 5 and the Senate Committee on Labor, Public Employment and Retirement held a joint hearing entitled "Maximizing Industry and Workforce Opportunities Resulting from Federal and State Climate Investments." While the term "high road" has been applied and discussed, one theme is clear- the "high road" concept has clearly defined goals but require tailored approaches depending on the targeted sector. This panel will discuss the "high road" framework and approach from the labor and academic perspective- explaining the approach, discussing how the state's labor agency and its departments apply the term, and ways that the state can further California's progress along the "high road" through the subcommittee process.

<u>Panel</u>

- Doug Bloch, Strategic Advisor to the UC Berkeley Labor Center
- Derek Kirk, Assistant Deputy Secretary for Labor and Workforce Development Agency
- Tim Rainey, Executive Director, California Workforce Development Board

<u>Background</u>

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

"Low Road" Approach. By contrast, to the above, the low road approach describes a framework in which there is a lack of mechanisms such as standards, training, or planning for workers. The result of this are detrimental for both employees and employers- low-wage jobs, poor retention and recruitment, diminished social mobility for disadvantaged communities, and a race to the bottom for cheap, low-quality labor. As well, this approach undermines ability to have a clean environment due to the lack of environmental protections.

The below figure from the AB 398 report, "Putting California on the High Road: a Jobs and Climate Action Plan for 2030," jointly published by the Labor Agency, Governor's Office of Planning and Research, and the UC Berkeley Labor Center, (AB 398 report) illustrates a conceptual framework for the "high road."

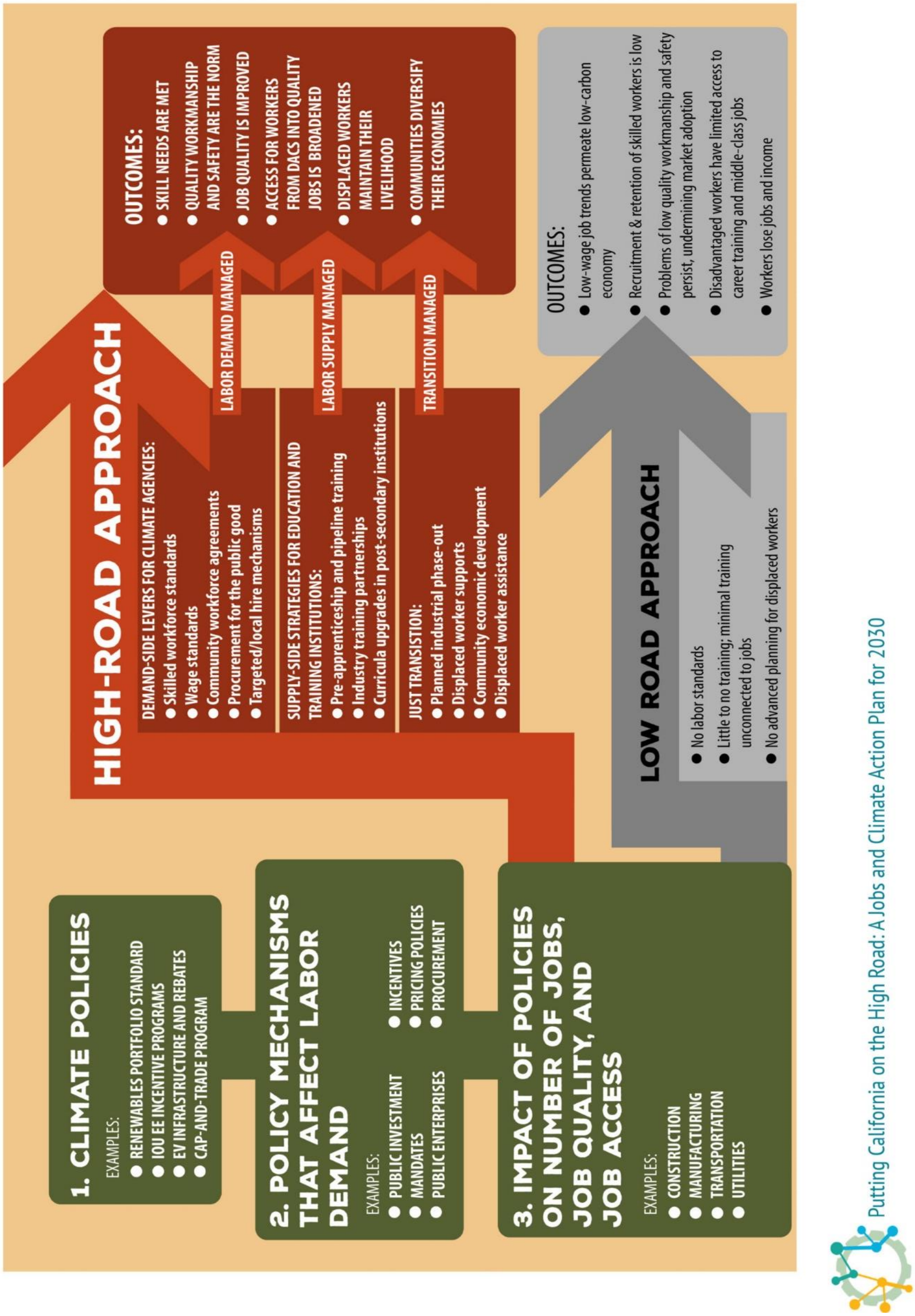


Figure 1: Conceptual Framework of "High Road" approach compared to the "Low Road"

A Variety of Mechanisms to Reach "High Road" Goals Exist. The mechanisms available to reach these goals are numerous and include clear statutory definitions that communicate expectations for employers and employees, education and training strategies, workforce standards, and legislative mandates. For example, existing law defines "high road" in the Unemployment Code for purposes of the California Workforce Innovation and Opportunity Act as a set of economic and workforce development strategies to achieve economic growth, economic equity, shared prosperity and a clean environment. Industry training partnerships, curricula upgrades in post-secondary institutions, pre-apprenticeship and pipeline training are examples of education and training strategies.[1] Formal recognition and incentivization strategies such as formal recognition to encourage consumer support, tax incentives, streamlined permitting or licensing, and priority for procurement decisions. Most notably, the state has a variety of labor standards that could be applied to economic development subsidies, contracting, and procurement processes to place the state on the "high road." The following list generated by the Senate Office of Research documents some labor standards. The suite of mechanisms ultimately adopted is sector dependent.

- ***Living Wage Standards.*** These wage floors require that all employers contracting with government, and in some instances, those receiving an economic development subsidy, pay all employees (and in some instance the employees of subcontractors) at or above a specified amount. Sometimes the required wage amount is tethered to some other amount like a multiple of the federal or state minimum wage (e.g. 150 percent) or a multiple of poverty income levels (e.g. 150 percent of federal poverty rate), or some other income measure. Tethering the wage floor to other measures means the required "living" wage automatically changes when the referenced measure changes.

- ***Prevailing Wage Standards and Prevailing Industry Standards***. These wage standards set occupationally specific wage floors typically determined through analysis of labor market and collective bargaining data for the occupations covered. Most often these wage standards apply in the construction sector but also in some jurisdictions they apply to service and food sector workers as well as others (numerous occupations are covered in San Francisco). Federal law applies prevailing wage standards for federal expenditures in the service and construction sectors (see for example the Davis-Bacon Act and the Service Contract Act). In California, at the state level, prevailing wages primarily apply to construction workers employed on public works projects. Typically prevailing wage standards at the state, local, and federal levels of government are applied to direct contracts between government entities and businesses doing work for the government but such standards can also be applied to recipients of economic development subsidies as well as their subcontractors or those using government property to conduct business. (In some instances occupationally specific wage standards have also been applied to private sector employers and employees with no government contract or subsidy in place—these are referred to as Prevailing Industry Standards).
- ***Comparatively Favorable Wage Standards.*** These types of standards are less rigid in terms of a minimum amount to be paid and are intended to vary according to context but signal intent to reward employers who pay comparatively good wages with respect to other employers in a specific labor market, occupation, or sector.

[1] Zabin, Carol, et. al. "Putting California on the High Road: A Jobs and Climate Action Plan for 2030" UC Berkeley Labor Center. Published: September 3, 2020.

- The "high road" definitional language in the budget trailer bill AB 138 (Committee on Budget), Chapter 78, Statutes of 2021 requires that high road training partnership (HRTP) grants be steered to employers who pay relatively good wages taking into consideration the occupation, sector, and regional labor market of workers and employers benefiting from the HRTP. In this instance, these requirements are in addition to other wage standard requirements that HRTP employers also comply with any applicable living wage and prevailing wage requirements pertaining to the employees and occupations in question.

- ***Labor Law Compliance Standards/Responsible Contractor Policies***. These standards are typically utilized to "cut off the low road" for employers doing business with government entities by factoring an employer's history of labor law compliance into government contracting decisions. Such standards can be applied through pre-qualification procedures or factored into scoring rubrics used in competitive bid procedures or applied through other administrative procedures.

- ***Worker Voice Standards.*** A central principle of "High Road" policy is ensuring that workers have a seat at the table. In the realm of workforce policy this means guaranteeing that workers play a role in workforce training and development decisions.

Example of Direct State Involvement in "High Road" Programs. The California Workforce Development Board (CWDB) is statutorily responsible (CUIC §14005, §14013) for the development and expansion of the "High Road" approach to workforce development. To this end, the CWDB oversees a suite of investments and policy initiatives to advance construction careers as a reliable pathway to the middle class for disadvantaged Californians: "High Road" Construction Careers (HRCC), "High Road" Climate Action Partnerships (HRCAP), and "High Road" Training Partnerships (HRTP).

1. **HRCC** prioritizes partnerships that link local building and construction trades councils to workforce boards, community colleges, and community-based organizations (CBOs), creating structured pathways to state-certified apprenticeships in a variety of crafts.

2. CWDB is part of the **HRCAP** initiative to ensure that state investments in climate change mitigation lead to high quality jobs and greater access to jobs for disadvantaged communities. As part of the work under HRCAP, the CWDB aims to develop formal partnerships with state agencies working towards climate change mitigation to advise and recommend on changes in program guidelines, funding solicitations to ensure that state investments in climate mitigation result in high-quality jobs, and to participate in multi-agency taskforces and work groups to align policy research and planning.

3. Finally, under the CWDB's **HRTP** framework, workers, labor and other worker organizations, and employers and work alongside CBOs and training institutions to provide custom workforce development solutions with pathways to quality jobs for all Californians, especially those from the most disadvantaged communities. CWDB notes that the HRTP approach is beneficial for all parties involved: (1) workers gain access to training programs, on-the-job mentoring, and career pathways that help them achieve success on the job and economic security, such as stable pay, health benefits, pensions, physical safety, stable

schedule (2) employers gain a high-performing and reliable workforce, (3) worker organizations and unions are able to set industry standards and secure higher wages when workers are trained to meet employer needs, and (4) communities become resilient by working alongside labor and worker organizations and employers to develop recruitment pipelines, equitable employment opportunities, climate mitigation strategies, and other worker-centered systems.

2022 Budget Act and "High Road." The state continued progress on the "high road" through budget act agreements across multiple policy areas:

- **"High Road" Standards Reporting Across LWDA.** The 2022 Budget Act directed LWDA, by January 10, 2023 to document relevant programs and initiatives under Employment Development Department (EDD), CWDB, and Department of Industrial Relations (DIR), for which the high road standard is a candidate for application. For those initiatives, LWDA reports the current statutory and regulatory requirements for each, including whether administering departments currently apply the high road standard.

- **"High Road" Training Partnerships in Health and Human Services.** The 2022 Budget Act included $135 million General Fund over three years, to recruit, train, hire, and advance California's health and human services sectors. Funding is intended to be awarded through regional grants. Partners may include community colleges, workforce boards, employers, and non-profit organizations.

- **State Government Trailer Bill Legislation- Best Value Procurement.** AB 157 (Committee on Budget and Fiscal Review) Chapter 570, Statutes of 2022 allows the Department of General Services (DGS) to utilize the Best Value procurement method to purchase and equip heavy mobile fleet vehicles and special equipment for use by the Department of Transportation. DGS and Caltrans previously held this authority, but it expired January 1, 2022. Consistent with past practice, this law defines "best value" as a contract award determined by objective criteria related to price, features, functions, and life-cycle costs, rather than simply lowest-cost. This law also defines requirements for bid evaluation and protest procedures. This law also requires the department to develop and publish a report on its use of best value procurement by March 1, 2024, which would include, to the extent feasible, information on the labor and economic impacts of the program. Most significantly, the report shall contain, to the extent feasible, the suppliers' commitments to providing jobs that lead to economic growth, equity, prosperity, and environmental improvements. Data related to these commitments may include, but are not limited to, improvements in job quality and access for underrepresented communities, meeting the skills and profitability needs of employers, and meeting the economic, social, and environmental needs of the community. This law would sunset the department's ability to use best value procurement on June 30, 2025.

- **Education Trailer Bill Legislation.** AB 181 (Committee on Budget and Fiscal Review), Chapter 52, Statutes of 2022, included $1.5 billion in funding for school districts to replace older school buses with zero-emission buses and purchase related infrastructure and required Department of General Services, in consultation with the State Energy Resources

Conservation and Development Commission and CWDB to establish statewide contracts with manufacturers of zero- or low-emission school buses for this purpose. The contracts must satisfy the existing “high road” standard and also incorporate new specified “high road” job standards and minimum contract terms.

2022 Non-Budget Legislation and “High Road.” Additionally, though not part of the 2022 Budget Act, SB 674 (Durazo), Chapter 875, Statutes of 2022 requires a covered public contract, defined as a public contract awarded by the Department of General Services or the Department of Transportation for the acquisition of zero-emission transit vehicles or electric vehicle supply equipment valued at $10 million or more except as specified in the law, to incorporate specific “high road” job standards, that warrant that the contractor and any subcontractors shall satisfy specified requirements, to be material terms of the final contract between the bidder and the relevant public agency. The bill requires the DGS, in consultation with LWDA and the Department of Transportation, to develop and publish policies, procedures, and requirements applicable to covered public contracts in the State Contracting Manual for the purpose of implementing these provisions.

Current Gaps. Several gaps that exist despite the strides made by the state. As highlighted by the AB 398 report, while workforce standards are being used by the State, many programs are not covered including those receiving state funding. Additionally, the state agencies with the ability to workforce standards to programs and spending are not the same agencies that are experts in workforce standards and embedding these standards in procurements. As a result, the administering agencies lack the tools and strategies necessary to leverage their practices so that quality jobs with robust access are created. As a starting point to address this gap, CWDB has indicated to staff that it provides training to Caltrans, California State Transportation Agency, and other state agencies on workforce standards in procurements.

The “high road” approach can maximize federal and state investments more than it currently does and in a deliberate way that meets the goals of the state, employees, and employers. Through proactive measures in state statutory, regulation, contracting, and procurement processes, the state can reach its environmental, climate, benchmarks in critical issue areas, reduce workforce shortages, and drive generational change through durable strategies that assure job quality and job access. 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. California has made significant investments to improve health and economic outcomes, but without the workforce to delivery 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.

<u>Suggested Questions</u>

- Last year’s budget agreement directed Labor Agency to develop a high road report that documents all relevant programs and initiatives under the EDD, the California Workforce Development Board, and the DIR that meet the high road standard. What insights from the report can you share with the subcommittee? (i.e. the number of programs in compliance,

level of compliance, and challenges)
- What are examples of sectors that use “high road” approaches? In what ways are these approaches deployed and how can they be applied to other sectors?
- How is equity considered in the “high road” framework? How are programs and agreements reaching communities that are historically not included?
- CWDB: For the HRTP in Health and Human Services funding included in the 2022 Budget Act, has funding in the CY been appropriated? If so, how much? Will all CY funding be disbursed before the next budget year goes into effect?
- What are some strategies (expansion of responsibilities, clearly defined statutes, etc.) that the state can adopt in this year’s budget agreement to keep California on the “high road”? Do these approaches entail immediate investments or are they statutory changes?
- CWDB: What is CWDB’s current role in high road procurement and contracting for the state? Does CWDB believe that the state would benefit from having this role defined in statute? If so, why and in what ways? What gaps would this help to address?
- CWDB: How has the CWDB been involved in the implementation process for AB 181 and SB 674?

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

7120 California Workforce Development Board

Issue 2: California Youth Leadership Corps (CYLC) Program

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst’s Office
- Tim Rainey, Executive Director, CWDB
- Rosa M. García, Ed.D., Executive Director, California Youth Leadership Corps and Co-Director, Community Learning Partnership
- Brenda Carrillo, CYLC-De Anza College Program Lead

Governor’s Budget

The Budget Act of 2022 included $60 million General Fund over three years ($20 million in each 2022-23, 2023-24, and 2024-25) to CWDB to invest in career pathway programs at community colleges. The Governor’s budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment to $40 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.

Background

The California Youth Leadership Corps (CYLC) is a 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 launched 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.

The 2022 Budget Act included $20 million General Fund in 2022-23 and $20 million General Fund in each of 2023-24 and 2024-25 as advance payment and support to the Emerald Cities Collaborative for the California Youth Leadership Corps for community change learn-and-earn career pathway programs at 20 selected community colleges over four-year period.

Implementation Updates. In a written subcommittee update, CWDB is currently processing a grant agreement to Emerald Cities Collaborative (ECC). Once the agreement is executed, CWDB will issue funding in a lump sum to ECC. Payment is expected to be made in June 2023.

Staff Comment. The Senate's "Protect Our Progress" plan proposes to maintain the investments for the California Youth Leadership Program as agreed upon in the 2022 Budget Act and without any reductions.

Suggested Questions

- Why was this program determined to be a candidate for the Governor's proposed budget solution?
- To date, what steps has the California Youth Leadership Corps partnerships taken to implement these agreements?
- Has funding in the current year (CY) been appropriated? If so, how much? Will all CY funding be disbursed before the next budget year goes into effect?
- What would be the impact on the program and outcomes if the Governor's proposal was adopted and funding was reduced?
- What data, if any, have the departments collected about it? Do the departments have any participation data for these initiatives? Were there activities that did not start yet? What challenges, if any, have the departments/organizations encountered as it implements these initiatives?

Staff Recommendation. Hold Open

7350 Department of Industrial Relations

Issue 3: Women in Construction Priority Unit

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Adele Burnes, Deputy Chief, Division of Apprenticeship Standards
- Meg Vasey, Executive Director, Tradeswomen Inc.

Governor's Budget

The Budget Act of 2022 included $15 million General Fund ongoing at DIR to promote and support women and non-binary individuals in skilled trade careers. The Governor's budget proposes to pause this funding in 2023-24 and 2024-25 and resume funding of $15 million General Fund ongoing in 2025-26. If there is sufficient General Fund in January 2024, then this pause will be withdrawn.

Background

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

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

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

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

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

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

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

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

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

Implementation Updates. In a written subcommittee update, DIR indicated that the largest utilization of these funds is through a solicitation, the Equal Representation in Construction Apprenticeships (ERiCA) grant. The funds from this grant will go towards supportive resources for childcare and outreach and community building for women, non-binary and underserved populations. The supportive resources for childcare will go to DAS-registered construction pre-apprenticeship and apprenticeship programs that are hiring parents with childcare challenges. DIR and DAS released the Solicitation for Proposals and received 38 applications. After their evaluation and selection process, DIR annouenced $25 million in ERiCA grant awards on March 14, 2023. In February 2023, the department indicated that it was still working on hiring the team that will support these awardees and drive the internal work within DIR to promote more women in construction. Given the communications, stakeholder management, workplace enforcement, and advisory committee infrastructure and administrative resources required to implement the legislation, funding reductions may impact programming.

Staff Comment. The Senate's "Protect Our Progress" plan proposes to maintain the investments for the Women in Construction Priority Unit without any pauses in expenditures.

Suggested Questions

- Why was this program determined to be a candidate for the Governor's proposed budget solution?
- How was funding for this initiative in the 2021 Budget Act initially used? Was the funding provided in 2022-23 and ongoing a continuation of those activities?
- What would be the impact on the program and outcomes if the Governor's proposal was adopted and funding was paused for the next two fiscal years?
- To date, what steps has DIR taken to appropriate the funding in the 2022 Budget Act agreement? Has funding in the current year (CY) been appropriated? If so, how much? Will all CY funding be disbursed before the next budget year goes into effect?
- What data, if any, has DIR collected about it? Do you have any participation data for these initiatives? Were there activities that did not start yet? What challenges, if any, have the departments/organizations encountered as it implements these initiatives?

Staff Recommendation. Hold Open

Issue 4: COVID-19 Workplace Outreach Program

Panel

- Patrick Toppin, Department of Finance
- Andrew March, Department of Finance
- Chas Alamo, Legislative Analyst's Office
- Deanna Ping, Chief Deputy Director, DIR
- Jora Trang, Chief of Staff and Equity, Worksafe

Governor's Budget

The Budget Act of 2022 included $50 million General Fund over two years ($25 million in each 2022-23 and 2023-24) to DIR to partner with organizations to perform COVID-19 outreach and education to workers and employers in high-risk industries. The Governor's budget proposes the elimination of $25 million in 2023-24.

Background

COVID-19 Outreach and Training Funded in 2020 Budget Act. SB 115 (Committee on Budget), Chapter 40, Statutes of 2020, budget bill junior, provided $32.5 million General Fund one-time to the Labor Agency to slow the spread of COVID-19 through employer and worker education and engagement, and enforcement. Of this funding, (1) $6 million was for DIR to enforce anti-retaliation protections, employment matters related to reopening or resumption of business, workplace health and safety protections, including the enforcement of protections to assist hospitality workers returning to work, and (2) $5 million for worker and employer training.

With these funds, LWDA launched the Safer at Work campaign, which comprised three outreach strategies:

1. A traditional paid and earned media effort, directed by the DIR,
2. A public education effort with several UC labor and occupational health programs and,
3. A community-based organization-led outreach effort known as the COVID-19 Workplace Outreach Project (CWOP).

CWOP 1.0 and 2.0. The CWOP campaign, administered by LWDA and executed by strategic coalitions of CBOs, set out to accomplish the primary goals of:

1. Reaching and empowering high-risk workers through organizations and community leaders, they trust,
2. Building relationships between CBOs and the state and,
3. Strengthening local CBO relationships and infrastructure.

CWOP 1.0 was initially launched as a six-month program from February through July 2021 that funded 52 CBOs. The second phase, CWOP 2.0 ran between August 2021 and May 2022. CWOP 2.0 funded 62 community-based organizations to conduct outreach to more than 680,000 workers throughout California.

CWOP Received Funding in 2022 Budget Act. The 2022 Budget Act included $25 million General Fund each in 2022-23 and in 2023-24 for the CWOP program at DIR. CWOP partner organizations are conducting outreach activities to educate workers and employers in high-risk industries, such as the food and agriculture sectors, on how to minimize the spread of COVID-19 in the workplace, and educating essential workers about COVID-19-related labor laws.

Recent Implementation Updates of CWOP 3.0. In a written subcommittee update, DIR invited six University of California labor and agriculture education centers to submit proposals to coordinate and administer grants to CBOs to perform outreach and education activities on improving workplace health and safety and working conditions for California workers by expanding awareness and outreach on labor laws and resources related to COVID-19. The outreach efforts are the continuance of CWOP 2020-2023. DIR expects the contracting to be finalized by June 2023 and expects the $25 million appropriated in 2022-23 to be disbursed by June 15, 2023. DIR has been working with OPR and CDPH on the third iteration of the CWOP program. From July 1, 2022, through February 8, 2023, 55 CBO partners completed 485,713 interactive outreach activities and 847,285 education outreach activities.

Staff Comment. The Senate's "Protect Our Progress" plan proposes to retain $25 million in 2023-24 for CWOP. Additionally, the Senate's plan proposes to rebrand program as California Workplace Outreach Program to continue worker rights education post-pandemic.

<u>Suggested Questions</u>

- DOF: Why was this program determined to be a candidate for the Governor's proposed budget solution?
- DOF: Did you consider using a special fund source to continue CWOP instead of proposing a cut? Why or why not?
- DIR: To date, what steps has DIR taken to appropriate the funding in the 2022 Budget Act agreement? Has funding in the current year (CY) been appropriated? If so, how much? Will all CY funding be disbursed before the next budget year goes into effect?
- What data, if any, has DIR collected about it? Do you have any participation data for these initiatives? Were there activities that did not start yet? What challenges, if any, have the departments/organizations encountered as it implements these initiatives?
- What would be the impact on the program and outcomes if the Governor's proposal was adopted and funding was eliminated?
- What is the purpose and, the impact of, rebranding the program so that activities continue post-pandemic? Are there activities that CBO partners conducted that are not solely COVID-19 related?
- Which industries were the most impacted by CWOP activities?
- How has CWOP addressed language access issues that workers experienced?
- LAO: Are there alternative fund sources that the Legislature can consider to preserve funding for CWOP? If so, what are they and why?

<u>Staff Recommendation.</u> Hold Open

Issue 5: Domestic Worker Health and Safety

Panel

- Chas Alamo, Legislative Analyst's Office
- Kimberly Alvarenga, Director, California Domestic Workers Coalition
- Saba Waheed, Research Director, UCLA Labor Center

Senate "Protect Our Progress" Proposal

The Senate's "Protect Our Progress" plan proposes to include $9 million per year for five years ($45 million total) beginning in 2023-24 and trailer bill legislation to support initiatives that protect the health and safety of household domestic service employees. These funds would be used to implement the following recommendations:

1. Remove the household domestic services exclusion from the Occupational Safety and Health Act (Cal/OSHA) and apply its requirements and obligations on domestic service employers, which should be a minor and absorbable cost because voluntary guidance has already been developed by the SB 321 (Durazo), Chapter 332, Statutes of 2021, Household Domestic Services Employment Safety Committee.
2. $7 million per fiscal year, starting in 2023-24, to fund health and safety outreach and education for domestic work employees and employers through an expansion of the existing Domestic Worker and Employer Education and Outreach Program (DWEOP).
3. $2 million per fiscal year, starting in 2023-24, to establish a financial and technical assistance program through the Division of Occupational Safety and Health (DOSH) to assist eligible low-income household domestic service employers to comply with Cal/OSHA regulations.

Background

In California, every employer has a legal obligation to provide and maintain a safe and healthful workplace for their employees. Under existing law, employers must have a written Injury and Illness Prevention Program that must be developed and implemented effectively by employers. Additionally, Cal/OSHA has a duty and authority to investigate workplaces for the safety and welfare of employees, either on its own motion or upon complaints. Additionally, Cal/OSHA is required to compile each year data pertaining to complaints received and citations issued and post it on its website.

Domestic Workers. "Domestic workers" or "household workers" are generally comprised of housekeepers, nannies and caregivers of children and others, including the disabled and elderly, who work in private households to care for the health, safety and well-being of those under their care. Throughout California, more than two million households hire nannies, housecleaners, and home attendants. They are primarily immigrant women and women of color, are an essential workforce to California's culture and economy. More than 325,000 domestic workers fuel the care industry throughout California, acting as the bridge to independent living for seniors and people with disabilities; easing the pain of illness; and becoming partners in parenting our children and caring for our homes.

Historical Exclusion of Domestic Workers. Historically domestic workers have been excluded from occupational safety and health laws as well as many other worker protections. The reasons are related to the nature of the work, who performs the work, and a long history of treating these workers as an extension of the "household." Such differences are historically rooted in the types of labor relations characteristic of predominantly agricultural societies, including those based on coercive labor regimes (including slavery and indentured servitude), where protective, formalized, and regulated employer-employee relationships usually do not exist. As many societies have diversified and modernized their productive base and have formalized employer-employee relations across broad sectors of the economy, formalization of work in the domestic sector has typically lagged. Until recently, this has meant that domestic workers have been excluded from worker protections that benefit workers in other sectors of the economy.

The Situation across the U.S. and in California. In the United States and California, domestic workers have been excluded from the most basic labor protections. Key federal labor laws--the National Labor Relations Act, the Fair Labor Standards Act, and OSHA-- have at some point, if not currently, excluded these workers. Such exclusions have served to further the idea that domestic work is voluntary "non-productive" work. Generally, failure to recognize domestic work as "real" work has left these workers particularly vulnerable to workplace injuries and illness, with little recourse to the remedies afforded other workers. A June 2020 report from the UCLA Labor and Occupational Safety and Health Program found that 85 percent of domestic workers surveyed experience musculoskeletal injuries that are associated with chronic pain. Many respondents reported continuing to work through their injuries for fear of job or financial loss.[2] Such injuries could be prevented by appropriate health and safety guidance and subsequent enforcement.

Domestic Workers Education and Outreach Program (DWOEP, 2019). The 2019 Budget Act provided $5 million in General Fund one-time to create an outreach and education grant program for domestic workers. DIR was directed to allocate grants to community based organizations to provide education and outreach services primarily focused on, but not limited to, domestic work employees and employers.

DWEOP Implementation Updates. Key components of the program include peer-to-peer outreach to workers and employers, training and workshops about existing labor rights, support for rights enforcement, capacity building, and media events to uplift the stories of domestic workers successfully asserting their rights.[3]

The initial 36-month contract of approximately $1 million per year between DIR and the California Domestic Workers Coalition included a six month planning period (June-December 2020), 27 month implementation phase (January 2021-March 2023) and a three-month assessment period (April-June 2023), with the possibility of extension of the program until June 2024. The Project Team for the pilot program has included 14 community based organizations and one legal advocacy organization. [4]

[2] UCLA Labor and Occupational Safety and Health Program, "Hidden Work, Hidden Pain: Injury Experience of Domestic Workers in California," June 2020.
[3] California Domestic Workers Coalition. "California Domestic Worker and Employer Education and Outreach Program" February 2022 report.
[4] Ibid.

To date, this program empowers domestic workers from diverse communities (Latino, Filipino, and Chinese) to lead the industries' outreach, education, and rights enforcement strategies; the program also recognizes the importance of integrating employer outreach, organizing, and education for effective change. Given the unique structure of the industry and the barriers to rights enforcement and access to information, experienced by both workers and employers, worker and employer-led CBOs serve as "trusted messengers" with demonstrated experience, to carry out activities of the program.

By December 2022, DWEOP reached over 153,000 domestic and residential care workers with information about their rights, local organizations, and resources. About 90 percent of outreach contacts were performed digitally, measuring new sign ups, and shares on online resources, demonstrating an enormous online presence and level of engagement throughout the height of the pandemic. With the return to in-person programming, more than 20,000 workers and over 4,000 employers were reached in-person within the first 24 months of implementation. As well, 200 Labor Commissioner employees and 50 employment and workers' rights attorneys received training.[5]

SB 321 (Durazo), Chapter 332, Statutes of 2021 Advisory Committee. On September 27, 2021, SB 321 was signed into law. The law created an advisory committee comprised of members of the public and experts to discuss and develop recommendations, ensuring the health and safety of domestic workers in the home setting. The law required require DOSH to post the report to its internet website and submit a copy to the Legislature, as specified as, no later than January 1, 2023.

SB 321 Advisory Committee Recommendations (2022). In accordance with law, the advisory committee convened nine meetings and produced a final report in December 2022. The report contained recommendations that were developed at advisory committee meetings, literature review, existing policies review, and input from experts in the field, workers, employers, and the public. These recommendations were grouped into four categories: Legal Responsibilities and Enforcement, Support for Employer Compliance, Outreach and Education, and Partnerships with Community Organizations. Below details the specific recommendations, replicated from the SB 321 report[6], that are the basis for the Senate's proposal:

"Legal Responsibilities and Enforcement – these recommendations advance the Advisory Committee view of the fundamental need for employers to have legal responsibility for the working conditions:

1. Remove the household domestic services exclusion from the California Labor Code.
2. Once the statutory exclusion is removed, the Department of Industrial Relations (DIR)and Cal/OSHA shall enforce health and safety regulations in these sectors.
    - 2A. DIR and Cal/OSHA should use the dual employer responsibility policy to hold theowner or renter of the home jointly liable for the working conditions in cases where there are multiple employers.

[5] Ibid.
[6] SB 321 Advisory Committee Report to the California State Legislature. SB 321 Committee Policy Recommendations to Protect the Health and Safety of Household Domestic Services Employees report. Published: December 2022.

3. Implement an industry-specific system for investigation and enforcement.
4. Develop and fund a pilot mediation program.
5. Maintain the existing civil monetary penalty structure for health and safety violations.
6. Create a liaison position within Cal/OSHA and train Cal/OSHA staff.
7. Uphold robust anti-retaliation protections for workers who speak out.

Support for Employer Compliance – these recommendations involve supporting employers to be able to provide healthy and safe conditions:

8. Establish a financial assistance program for low-resourced employers.
9. Provide educational resources and technical assistance for employers to facilitate compliance (role of Cal/OSHA Consultation Services).
    - 9A. A resource helpline should be made available by DIR to employers and workers, where they can receive assistance and support from Cal/OSHA in a timely manner.

Outreach and Education – these recommendations involve ensuring that workers and employers have access to effective education programs:

10. Promote and disseminate the *Guidelines to Protect the Health and Safety of Domestic Workers and Day Laborers: Make the Home a Safe Workplace*, developed by the SB 321 Committee.
11. Develop and promote a training program for domestic household service employers.
12. Develop and promote worker training resources.
13. Develop a broad campaign to reach workers and employers.
14. Develop and promote resources that complement health and safety training.

Partnerships with Community Organizations – these recommendations involve the importance of partnering with trusted community organizations in enforcement and educational efforts:

15. Establish partnerships with CBOs that represent workers and employers.
    - 15A. Maintain an Advisory Committee consisting of workers, employers, and health and industry experts to ensure ongoing, regular communication and consultation with industry stakeholders and community-based partners in order to assess and monitor the progress of compliance and to improve and implement effective industry-specific outreach, education, and enforcement strategies.
16. Expand the existing Domestic Worker and Employer Outreach and Education Program."

Suggested Questions

- LAO: Are there alternative fund sources that the Legislature can consider to fund these health and safety initiatives? If so, what are they and why?

Staff Recommendation. Hold Open

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Issue 6: Improving CA's Current SDI/PFL Programs During Transition to EDDNext

Panel

- Chas Alamo, Legislative Analyst's Office
- Katherine Wutchiett, Senior Staff Attorney, Legal Aid at Work
- Lizett Rodriguez Peña, Attorney, Watsonville Law Center
- Juliana Franco, Staff Attorney, Center for WorkLife Law at UC College of the Law, SF
- Nancy Farias, Director, Employment Development Department
- Melissa Stone, Disability Insurance Deputy Director, Employment Development Department

Available for additional questions and detail:

- Patrick Toppin and Andrew March, Department of Finance

Governor's Budget

The Governor's budget includes $4.2 million Unemployment Compensation Disability Fund in each of 2023-24 and 2024-25 to implement the changes required by SB 951 (Durazo), Chapter 878, Statutes of 2022. EDD indicates that the amounts include one-time costs for contract services and staffing.

Background

As discussed in the April 18, 2023 Subcommittee No. 5 hearing, EDD administers the State Disability Insurance (SDI) program, which includes the Disability Insurance (DI) and Paid Family Leave (PFL) programs. The DI program provides benefits to workers who experience a non-work related disability, including pregnancy. In contrast, the PFL program offers up to eight weeks of wage replacement benefits to workers who care for a seriously ill or injured family member, participate in a qualifying event because of a family member's military deployment to a foreign country, or bond with a new minor child.

Current SDI Wage Replacement Rates. The current SDI wage replacement rates of 60 percent (70 percent for low-income workers) were instituted in 2016 by Chapter 5, Statutes of 2016 (AB 908). Those changes became effective January 1, 2018 and were scheduled to sunset on January 1, 2022. In 2021, Chapter 78, Statutes of 2021 (AB 138) extended the current percent wage replacement rates through December 2022.

Upcoming Changes Due to SB 951. SB 951 extends the current 60 and 70 percent wage replacement rates for the SDI program, which includes the DI and PFL programs, until December 31, 2024. Effective January 1, 2025, the wage replacement rates for DI and PFL increases permanently to either 70 percent or 90 percent depending on an individual's earnings. It also lowers the minimum amount of wages needed to receive a $50 minimum weekly benefit payment.

To help fund these increases, the bill removes the SDI program's taxable wage ceiling, effective January 1, 2024. However, it does not change the maximum weekly benefit amount calculation.

SB 951 extends the current 60 and 70 percent wage replacement rates until December 31, 2024. Beginning January 1, 2025, this bill would revise the formulas for determining the weekly benefit amounts for the DI and PFL programs indefinitely to the following:

- For individuals whose highest quarterly earnings are less than $722.50, the weekly benefit amount would be $50.
- For individuals whose highest quarterly earnings are more than 70 percent of the state average quarterly wage, the weekly benefit amount would be equal to the greater of the following:
    - 70 percent of wages paid during the individual's highest quarterly earnings, divided by 13.
    - 63 percent of the state average weekly wage.

For individuals whose highest quarterly earnings are 70 percent or less than the state average quarterly wage, the weekly benefit amount would be equal to 90 percent of the wages paid during the individual's highest quarterly earnings, divided by 13.

The bill maintains that no weekly benefit amount is to exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations (DIR) pursuant to Section 4453 of the Labor Code, which is current law.

Additionally, this bill repeals California Unemployment Insurance Code Section 985, removing the limitation on wages that are subject to SDI contributions. For calendar year 2022, the taxable wage ceiling is $145,600 for each employee, and the maximum SDI withholding for each employee is $1,601.60. Beginning in 2024, those wage earners who make more than the taxable wage ceiling would be taxed on their whole income.

EDD Proposed Implementation Activities. To adopt the new wage replacement rates, EDD will reprogram the department's automated systems, develop business requirements, and update appropriate resources, including manuals, handouts, forms, webinars, posters, and trainings. EDD will also offer educational outreach to businesses and employee communities to raise awareness. The overall implementation time is estimated at 26 months to complete the required changes in line with the following deadlines:

- January 1, 2024 deadline to repeal the taxable wage ceiling
- January 1, 2025 deadline to increase the wage replacement rates

EDD staff will begin the business requirements phase in January 2023. The costs during this period up to June 2023 is anticipated to be minimal and will be absorbed with existing resources. The procurement of vendors will also commence during this time with the goal of getting contractors on board by July 2023.

Staff Comments. ***Current Problems Exist As State Transitions to SB 951 and EDDNext.*** As the state transitions over from its legacy system for the SDI/PFL programs, as well as towards SB 951 implementation, parallel efforts are necessary to enhance existing benefit systems based on immediate needs. The pandemic particularly highlighted issues that continue to persist and impact users of these programs. These issues are likely to be compounded once SB 951 takes effect since the law makes PFL and SDI more affordable to lower income families and likely lead to an increase in applications to PFL and SDI in 2025. Concerns that staff and community based organizations received include:

- Inability to reach EDD staff for assistance with questions over the phone
- Long waits to reach a EDD staff over the phone
- Phone systems that disconnect calls after workers have been waiting for hours
- Long waits between initial EDD contact and conclusion of claim processing
- Inability to get updates on claim and payment statuses
- Confusing applications
- Language access
- Lack of accessible support for technical problems with login and online systems
- Follow up calls to claimants being placed from “blocked numbers”
- Undocumented workers are unable to apply online, which increases the burden on other access points
- Insufficient online resources to guide applicants and avoid the need for one-to-one support
- Use of ID.Me discouraging undocumented workers from applying

The Legislature may wish to understand how the EDD plans to address these issues through EDDNext and other actions in the short and long-term.

Suggested Questions

- How is EDD planning to prepare for and address a likely increase in applications in 2025 due to SB 951?
- Can you describe how improvements to EDDNext will reduce estimated wait time for SDI/PFL claims to be resolved? Are there improvements that will take effect in fiscal year 2023-24?
- How does EDD evaluate usability and the effectiveness of resources (both over the phone, in-office, and online) to improve its ability to provide applicants with the support that they need? Based on that evaluation, how does EDD, including through EDDNext, plan to change/modify its practices and resources? Are there modifications that will take effect in fiscal year 2023-24?
- What does EDD have planned to decrease the time between initial contact and determination of claims, especially for lower-wage workers? What support does the EDD need to improve these times?
- Does EDD have plans to better address inquiries into claim status and requests for technical assistance with the online system other than through the general phone lines?
- How does EDD plan to continue protecting workers’ immigration status data with

EDDNext and online applications?

- Workers with limited English proficiency are disproportionately represented in lower paid work. How does EDD plan to improve language access, now, and through EDDNext, to ensure adequate access and improve applications rates?

Staff Recommendation. Hold Open

Issue 7: Safety Net for All Workers Act

Panel

- Chas Alamo, Legislative Analyst's Office
- Sasha Feldstein, Economic Policy Director, California Immigrant Policy Center

Senate "Protect Our Progress" Proposal

The Senate proposes to include $237.4 million in 2023-24, $123.4 million in 2024-25 and 2025-26, and $50 million in 2026-27 as well as adopt trailer bill language that establishes, until January 1, 2027, the Excluded Workers Program, to be administered by EDD, for the purpose of providing income assistance to excluded workers who are ineligible for the existing state or federal benefits administered by the department and who are unemployed. The program would make individuals eligible to receive $300 per week for each week of unemployment, if the Director of Employment Development makes certain findings, as defined and specified in the trailer bill legislation. The bill would require the department to promulgate regulations to implement the program, including regulations providing for an application process, as specified in trailer bill legislation.

Background

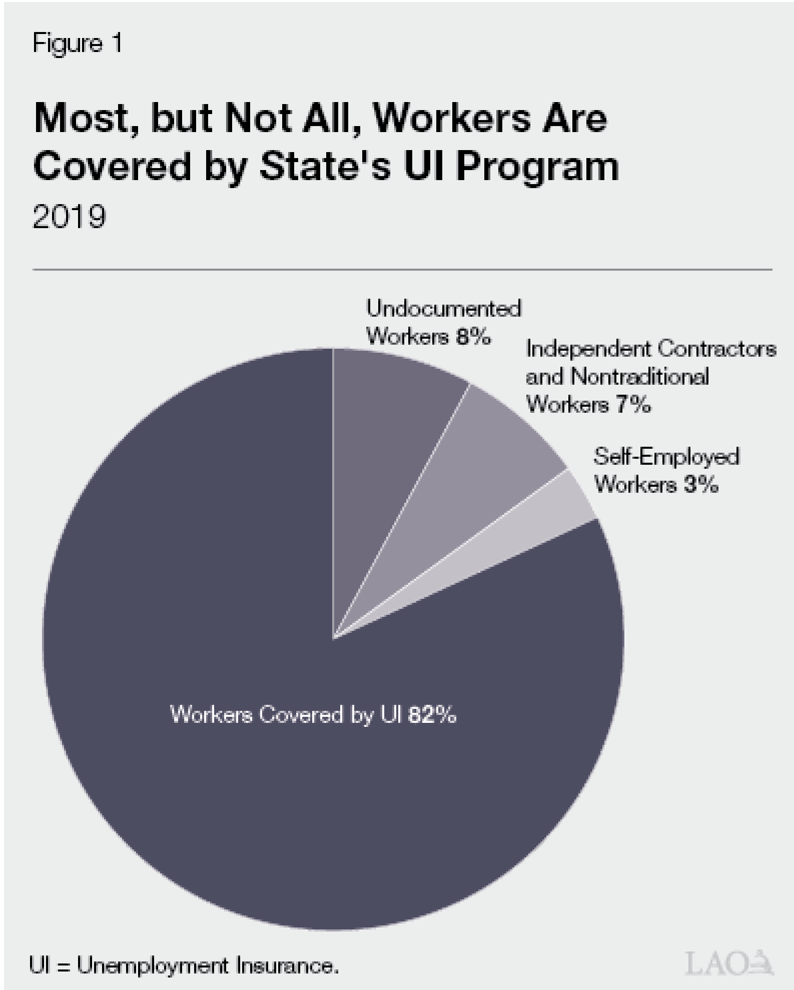
Overview of Unemployment Insurance (UI) Program. California's UI Program is a state-federal partnership that provides temporary wage replacement to unemployed workers. The program helps alleviate economic challenges for workers and their families when job losses occur and helps bolster the state economy during downturns.

Benefit Amounts and Duration. The program is intended to replace half of workers' wages for up to 26 weeks. State law sets the maximum benefit at $450 per week. Due to the cap, workers who make more than $46,000 per year—about 40 percent of UI recipients—get payments that are less than half their usual earnings. Overall, the average benefit is about $330 per week.

Businesses Pay Payroll Taxes to Cover UI Payments and Overhead Costs. Businesses pay state and federal UI payroll taxes. Revenue from the state tax, which averages 3.6 percent on the first $7,000 in wages ($252 per worker each year), goes into the UI trust fund to pay out future benefits. Federal law requires states to tax the first $7,000 in wages at a minimum. Most states tax a higher amount. Revenue from the federal tax is distributed back to states to cover a portion of administrative costs.

In the April 18, 2023 Subcommittee No.5 hearing on labor and workforce issues, the subcommittee held a special panel that discussed current challenges and shortcomings of the state's UI Program as the EDDNext modernization project continues. Amongst the shortcomings are outlined below.

Most Workers Are Eligible to Receive UI Benefits… Most California workers are covered by UI and therefore eligible for benefits when they become unemployed. Under state law, all traditional *employees* are covered by UI. Traditional employees are workers who work for the same business day to day. Most workers in California fall under this category. As shown in Figure 1 from the LAO, the state's UI program covered more than 80 percent (or 17.4 million) of California workers in 2019.



…But Some Workers Are Not Covered by State's UI Program. Nontraditional workers are not eligible for UI. As shown in Figure 1, between three million and four million workers are not covered. Ineligible workers include: undocumented workers (about eight percent of all workers), independent contractors and other nontraditional workers (about seven percent), and self-employed workers (about 3 percent).

State's UI Program Faltered During Recent Downturns. Despite its importance, the UI program faltered during the two most recent downturns— the Great Recession and the pandemic. During the pandemic, UI payments were delayed for roughly 5 million workers and improperly denied for as many as 1 million more. The department's phone lines were routinely overwhelmed by the number of frustrated callers. These failures caused hardship for unemployed workers, held back the economic recovery, and spurred frustration among Californians.

Why Was It Difficult for Unemployed Workers to Get Benefits? For unemployed workers, applying for and getting UI payments can be a difficult process for various reasons:

- Lengthy and complex application.
- Workers often required to submit additional documentation.
- Businesses frequently contest former workers' claims.
- Workers who appeal a denial must wait for an appeals hearing.

- Unemployed workers must regularly recertify their eligibility.

Federal Pandemic Unemployment Assistance (PUA) for Self-Employed Workers. To assist workers during the pandemic, the federal government enacted a one-time, temporary expansion of UI for workers who would typically not qualify.

Self-employed workers were the largest group of PUA recipients. The PUA program provided weekly payments of either $300 or $600 regardless of prior income. The temporary federal program ended in 2021. Undocumented Workers Were Not Eligible for Federal PUA Benefits. For the same reason that undocumented workers are not eligible for normal UI benefits under federal law (the able and available requirement), these workers were not eligible for the temporary, expanded benefits.

Twelve States Temporarily Expanded UI Benefits Further Than Federal PUA Program. Beginning in 2020, several states enacted one-time cash assistance programs specifically for undocumented workers. These programs tended to resemble the simpler federal PUA benefit scheme rather than traditional UI. States that took these one-time steps included California, New York, Colorado, Illinois, Massachusetts, New Jersey, Oregon, and Washington. New York's program was the largest by far ($2.1 billion overall), followed by Washington ($340 million) and California ($125 million).

California's One-Time Relief Program. California's program, the Disaster Relief Assistance for Immigrants (DRAI), provided one-time, pre-paid $500 debit cards to undocumented workers who were ineligible for federal assistance. The state's Department of Social Services administered the program and distributed 150,000 cards.

California Also Provided Additional Relief to Some Undocumented Workers. Under two rounds of the Golden State Stimulus, the state provided cash assistance to low- and middle-income taxpayers during the pandemic. Undocumented workers who file their taxes using an Individual Taxpayer Identification Number (ITIN) and have a dependent were eligible to receive Golden State Stimulus funds. About half (800,000) of all undocumented workers in the state file taxes using an ITIN. The administration reports that the state distributed $955 million in total to undocumented taxpayers via state stimulus payments.

<u>Colorado Enacted Small, Permanent UI Program for Undocumented Workers</u>

Program Redirected Surcharge on Payroll Tax to Cover Expanded Benefits. In 2022, Colorado enacted the Benefit Recovery Fund, a UI benefit program for undocumented workers with an ongoing funding source. Under Colorado law, the fund is limited to $30 million. State officials estimate that, under this limit, roughly 2,500 workers could receive state benefits each year. The fund is supported by a small surcharge on the employer UI payroll tax that had previously been used to fund state workforce development programs.

Colorado Paid Down Federal UI Loan at the Same Time. Colorado's expanded program was enacted as part of a broader package of state UI action. At the same time that Colorado expanded UI to undocumented workers, the state also agreed to pay down $600 million in federal UI debt (out of a total of $1 billion) that the state had accumulated during the pandemic. Under existing federal law, Colorado employers would have instead repaid that amount over time through higher federal UI payroll tax rates.

Suggested Questions

- How does the Safety Net for All act address shortcomings for workers excluded from the benefits of California's UI Program? How many excluded workers would this program reach? What lessons can California learn from other states?

Staff Recommendation. Hold Open

Senate Budget and Fiscal Review—Nancy Skinner, Chair
SUBCOMMITTEE NO. 5 **Agenda**

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Wednesday, May 17, 2023
1:30 p.m.
1021 O Street - Room 1200

Part A

Transportation

Consultant: Eunice Roh

Item **Department** **Page**

ITEMS FOR DISCUSSION

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

0521 California State Transportation Agency
2600 California Transportation Commission
2660 California Department of Transportation
2740 California Department of Motor Vehicles

Issue 1: Overview of Governor's May Revision Proposals in Transportation

Governor's Proposal. The May Revision includes the following proposals in transportation:

CALIFORNIA STATE TRANSPORTATION AGENCY

- **Ports and Goods Movement.** The May Revision maintains $1.2 billion for projects that improve goods movement on rail and roadways at port terminals, but shift $150 million from General Fund to the State Highway Account.

CALIFORNIA TRANSPORTATION COMMISSION

- **Legal Services.** The Governor proposes $200,000 ($94,000 from the State Highway Account and $106,000 from the Public Transportation Account) to secure a contract for legal services, including but not limited to the Commission's role as a Responsible Agency pursuant to the California Environmental Quality Act. A contract for legal services is needed because the Commission no longer has access to legal services provided by the Department of Justice due to staffing and resource constraints being experienced in that department.

DEPARTMENT OF TRANSPORTATION

- **Fi$Cal Onboarding.** The Governor requests $6,637,000, which includes $3,750,000 in personnel services (PS) for twenty-seven (27) positions, and operating expenses of $2,887,000 of which $2,650,000 is for professional consulting services. These resources will support the increased workload for Caltrans on-boarding to the FI$Cal system.

- **Project Delivery Workload – Capital Outlay Support.** The May Revision includes $39.1 million and 143 Full Time Equivalents (FTEs) for the Capital Outlay Support (COS) Program for 2023-24. The resources requested considers budget year needs within the context of a five-year workload projection. The COS Program budget is growing to meet the needs and deliver projects required to achieve program commitments of Senate Bill 1 (SB 1), Asset Management, Infrastructure Investment and Jobs Act (IIJA), and the Middle-Mile Broadband Network Program.

- **Technical Adjustments.** The Governor requests the following items:

    - **Reappropriations.** Reappropriate up to $1.255 million to allow Caltrans to complete the upgrade of the financial management system while continuing FI$Cal onboarding activities; up to $23.769 million to extend the encumbrance liquidation period for Caltrans to continue to purchase replacement fleet equipment; and various items to extend liquidation period for active projects funded under SB 1.

- **Budget Act Changes.** Correct the allocation, encumbrance, and liquidation period of a budget item to align with Caltrans' standards as well as correct typographical and other mistakes.
- **Budget Authority.** Amend federal funding authority to reflect the full federal grant amount; fund increase in insurance costs for Caltrans mobile fleet equipment; change fund source for intercity rail projects; and an increase in reimbursement authority to address an increase in administrative cost recoveries for Caltrans to support locally-funded projects and middle-mile broadband network projects.

DEPARTMENT OF MOTOR VEHICLES

- **Motor Voter.** The May Revision includes $4.5 million and three temporary positions in 2023-24 for personnel and contracted resources from the General Fund to continue DMV's planning and implementation activities to comply with Chapter 314, Statutes of 2021 (AB 796, Berman).

- **Digital Experience Platform (DXP) Reappropriation.** The Governor requests to reappropriate $30,016,000 of previously approved Motor Vehicle Account funding for DMV to continue the DXP project, the comprehensive modernization of DMV's IT systems. DMV required potential vendors to conduct extensive testing before awarding the contract, causing a delay in the encumbrance of funding.

- **Commercial Driver Licensing Information System Reappropriation.** The Governor requests to reappropriate $6,580,000 of previously approved Motor Vehicle Account funding for DMV to continue planning and project activities for the federally-mandated Commercial Driver Licensing Information System.

- **Delano Field Office Replacement.** The Governor requests to replace the current year authority of $11,415,000 from the General Fund with $17,314,000 from the Public Buildings Construction Fund for the construction phase of the continuing DMV Delano Field Office Replacement Project.

- **REAL ID.** The May Revision proposes to revert $104.7 million of DMV's multi-year General Fund appropriation for REAL ID workload and other operational improvements, given the shift of the federal REAL ID enforcement date from May 2023 to May 2025.

Staff Recommendation: Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Wednesday, May 17, 2023
1:30 PM
1021 O Street - Room 1200

Part B-Labor, Workforce Development, Public Employment, and Public Retirement

Consultant: Christopher Francis, Ph.D.

Items for Discussion

Public Comment after Part C

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.

7100 Employment Development Department
7120 California Workforce Development Board
7350 Department of Industrial Relations

Issue 1: Overview of Governor's May Revision Proposals

Panel

- Patrick Toppin, Department of Finance
- Chas Alamo, Legislative Analyst's Office

Available for additional questions and detail: Andrew March, Department of Finance

Governor's May Revision Proposals for 2023-24

The Governor's May Revision includes the following major ongoing and one-time proposals. These proposals are in addition to the Governor's January budget and detailed below:

Employment Development Department (EDD)

- **Unemployment Insurance (UI) Loan Interest Payment and Unemployment Compensation Disability Fund Loan.** The Governor's budget included $279 million one-time General Fund to pay the annual interest payment on the state's UI loan balance. The May Revision increases the January proposal by $26.6 million one-time to align with the updated UI loan interest payment estimate of $306 million. The May Revision also proposes a one-time loan of $306 million from the Unemployment Compensation Disability Fund to the General Fund to support the state's payment of the UI loan interest payment. Because of lower revenue projections and a resulting increase in the budget problem, the May Revision proposes this loan to assist in closing the projected shortfall and ensuring the submission of a balanced budget plan. The loan provision will include language to prevent the State Disability Insurance contribution rate from increasing because of the loan.

California Workforce Development Board (CWDB)

- **Federal First Step Act Grant.** The May Revision includes $5.33 million one-time federal funds to allow the California Workforce Development Board to implement a federal grant that expands the Prison 2 Employment program into federal prisons. It is also requested that provisional language be added to provide an extended encumbrance period for this funding to March 30, 2026.

Department of Industrial Relations (DIR)

- **Women in Construction Priority Unit Restoration.** The May Revision proposes to restore $15 million in 2023-24 and $15 million in 2024-25 for the Department of Industrial Relation's Women in Construction Priority Unit. The Governor's budget proposed to pause this funding for two years as part of the proposed budget solutions and the May Revision proposes to restore this funding.

Suggested Questions

- Why is a loan from the Unemployment Compensation Disability Fund to the General Fund proposed? Why was this special fund determined to be an appropriate candidate to provide a General Fund loan?
- Are there any long-term impacts of this proposal to the Unemployment Compensation Disability Fund or Disability Insurance Program? Can you explain how the proposed budget bill language avoids any negative impacts to the funds or DI program?

Staff Recommendation. Hold open all May Revision proposals

7900 California Public Employees' Retirement System
7920 California State Teachers' Retirement System

Issue 2: Overview of Governor's May Revision Proposals

Panel

- Aston Tennefoss, Department of Finance, for CalPERS proposals
- Nick Schroeder, Legislative Analyst's Office, for CalPERS proposals
- Ryan Weinberg Department of Finance, for CalSTRS proposals
- Angela Short, Legislative Analyst's Office, for CalSTRS proposals

Governor's May Revision Proposals and Adjustments for 2023-24

The Governor's May Revision includes the following major 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 $1.7 million in 2023-24 relative to the Governor's January budget. The Governor's budget previously proposed $8.5 billion ($4.7 billion General Fund) for the statutorily required annual state contribution to CalPERS for state pension costs based on the CalPERS actuarial valuation projected contribution rates as of June 30, 2021. 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 and the application of 2021-22 and 2022-23 supplemental pension payments.

- **CalPERS Unfunded Liability.** The January budget included $1.2 billion one-time Proposition 2 debt repayment funding as a supplemental payment toward the state plans' unfunded liabilities. The May Revision estimates $1.7 billion in one-time Proposition 2 debt repayment funding in 2023-24 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 two to one.

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM (CALSTRS)

- **State Contributions.** State contributions to the California State Teachers' Retirement System (CalSTRS) increased by $8.8 million General Fund in 2023-24, relative to the Governor's January budget, due to a revision in reported compensation for K-12 and community college teachers. The Governor's 2023-24 budget proposal included $3.9 billion General Fund in required contributions to CalSTRS. No supplemental payment to CalSTRS is proposed in 2023-24, in contrast to past few years.

Staff Recommendation. Hold open all May Revision proposals.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

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

Wednesday, May 17, 2023
1:30 p.m.
1021 O Street – Room 1200

PART C

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

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

ITEMS FOR DISCUSSION

0250 JUDICIAL BRANCH

Issue 1: May Revision Overview – Judicial Branch

The May Revision includes total funding of $5 billion ($3.1 billion General Fund and $1.9 billion other funds) in 2023-24 for the Judicial Branch, of which $2.9 billion is provided to support trial court operations.

Appellate Court Support. The May Revision reflects an April Proposal to provide $2.7 million Appellate Court Trust Fund in 2023-24 and $2.3 million in 2024-25 and 2025-26 to address increases in the appellate court workload.

Community Assistance, Recovery, and Empowerment (CARE) Act. The May Revision includes the following resources for implementation for the CARE Act:

- **Judicial Branch.** An additional $8.9 million in 2023-24 and $4.7 million in 2024-25 to account for the early implementation of the CARE Act in Los Angeles County. In total, this provides $32.7 million in 2023-24, $55.3 million in 2024-25, and $68.5 million ongoing to the Judicial Branch for CARE Act implementation.

- **Legal Services.** An additional $16.8 million in 2023-24, $29.8 million in 2024-25, and $32.9 million ongoing to increase the number of hours per participant for legal services from 20 hours to 40 hours. This brings the total available for public defenders and legal services organizations to provide legal counsel to CARE participants to $22.9 million in 2023-24, $51.6 million in 2024-25, and $64.4 million ongoing.

Court Appointed Special Advocate Program. The May Revision restores $20 million in 2023-24 and 2024-25 for the Court Appointed Special Advocate program, which was proposed for reductions in the Governor's budget.

Trial Court Trust Fund Backfill. The May Revision includes $105.1 million ongoing General Fund to continue backfilling the Trial Court Trust Fund for revenue declines expected in 2023-24.

Ability-to-Pay Backfill Reduction. The May Revision reduces the funding available by $20.7 million General Fund in 2023-24 and $30 million ongoing to reflect updated estimates of revenue losses due to the implementation of the Ability-to-Pay program established by AB 199 (Committee on Budget), Chapter 57, Statutes of 2021. The associated revenue loss for all courts is lower than expected and is estimated to total $26.4 million in 2023-24, and $28.4 million ongoing.

Federal Byrne State Crisis Intervention Program Grant. The May Revision includes reimbursement authority totaling $5.9 million in 2023-24 and $5.7 million in 2024-25 and 2025-26 for Judicial Council to improve the execution of firearm relinquishment orders and to expand collaborative courts. The program will be supported by federal funding through the Byrne State

Crisis Intervention Program, passed from the Board of State and Community Corrections to the Judicial Branch.

Trial Court Employee Benefit Adjustment. The May Revision includes a reduction of $21.4 ongoing to reflect the updated health benefit and retirement rate changes for trial court employees.

Staff Recommendation. Hold Open.

5225 Department of Corrections and Rehabilitation

Issue 2: May Revision Overview – Corrections

The May Revision includes total funding of $14.4 billion ($14 billion General Fund and $374.6 million other funds) for the California Department of Corrections and Rehabilitation (CDCR) in 2023-24.

Adult Institution Population. The average daily adult incarcerated population for 2022-23 is projected to be 95,560, a decrease of 0.6 percent since the fall projections. The population is projected to continue to decline, reaching 92,882 in 2023-24 and 89,946 in 2025-26. This results in a net reduction of $20 million ($19.9 million General Fund and $123,000 Inmate Welfare Fund) and 191.9 positions one-time and $30.9 million ($30.8 million General Fund and $123,000 Inmate Welfare Fund) and 257.8 positions ongoing.

Parolee Population. The May Revision projects an overall parolee average daily population of 39,646 in 2022-23; 37,222 in 2023-24; and 36,061 by June 30, 2027.

Prison Closure. The May Revision includes refined estimates for the savings from closing prisons and facilities, including:

- $150.3 million annually from the closure of Deuel Vocational Institution in September 2021.
- $144.1 million annually from the upcoming closure of the California Correctional Center.
- $155.7 million annually from the planned closure of California City Correctional Facility by March 2024.
- $170 million annually from various facility deactivations at six institutions by the end of 2023.
- Unspecified future savings from the planned closure of Chuckawalla Valley State Prison by March 2025.

San Quentin Rehabilitation Center. The May Revision includes $360.6 million Public Buildings Construction Fund for the demolition of an existing building and the construction of a new Educational and Vocational Center at San Quentin State Prison, and maintains the $20 million General Fund that was included in the Governor's budget and $500,000 that was included in the 2022 Budget Act for various improvement projects. The proposed budget also includes statutory changes to rename the facility to the San Quentin Rehabilitation Center, and trailer bill and budget bill language to provide design-build authority and other exemptions for the project.

Board of Parole Hearings. The May Revision includes $4.2 million General Fund in 2023-24 and $2.6 million ongoing to support the Board of Parole Hearings, including state-appointed attorney fees and support for the Board's information technology (IT) system, among other uses.

COVID-19 Direct Response. The May Revision reduces the amount of funding for CDCR's COVID-19 response by $45 million, to a total of $96.9 million one-time General Fund in 2023-24.

Other Reductions. The May Revision maintains reductions from the Governor's budget including $30 million in deferred maintenance funding and $30.9 million in staff vacancy savings.

Tele-Mental Health. The May Revision includes $11 million General Fund and 85 positions in 2023-24 and $17.3 million and 144 positions in 2024-25 to expand the use of tele-mental health to psychology and social work, in addition to its current use in psychiatry which began in 2014-15.

Contract Medical Adjustments. The May Revision includes an additional $39.7 million ongoing General Fund to address a projected deficit in the budget for Contract Medical services, which supports the provision of specialty medical care services for the incarcerated population.

CalAIM Justice-Involved Initiative Adjustments. The May Revision includes $3.3 million one-time ($200,000 General Fund and $3.1 million in reimbursement authority) in 2023-24, $4.5 million General Fund in 2024-25, and $3.7 million General Fund in 2025-26 to enable California Correctional Health Care Services to develop the IT system needed to support the Medi-Cal billing process, in preparation for the implementation of the CalAIM Justice-Involved Initiative.

Division of Juvenile Justice Population. The May Revision maintains the reductions associated with the closure of the Division of Juvenile Justice (DJJ) on June 30, 2023.

Adjustments to Governor's Budget Proposals. The May Revision includes other minor adjustments to proposals included in the Governor's budget:

- **Comprehensive Employee Health Program**. The May Revision reduces the proposed Comprehensive Employee Health Program by $7.7 million and 70 positions ongoing to right-size the program proposed in the Governor's budget.

- **SB 1008 Free Calling**. The May Revision reduces the funding available for SB 1008 (Becker), Chapter 827, Statutes of 2022 implementation, requiring CDCR to provide free voice calling to incarcerated individuals, by $1.9 million ongoing to reflect actual free voice calling data since the beginning of the year and adjusted contract rates.

Staff Recommendation. Hold Open.

0690 Office of Emergency Services
0820 Department of Justice
5227 Board of State and Community Corrections
8120 Commission on Peace Officer Standards and Training

Issue 3: May Revision Overview – Public Safety

OFFICE OF EMERGENCY SERVICES (CAL OES)

Flood Impacts. The May Revision includes resources for emergency response related to flooding, including a $25 million Disaster Response Emergency Operations Account set aside and $125 million contingency funding for activities related to the 2023 storms.

Nonprofit Security Grant Program. The May Revision includes $10 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.

Gun Buyback Program. The May Revision moves $25 million in General Fund provided in the 2022 Budget Act for the Local Law Enforcement Gun Buyback Grant Program from the Board of State and Community Corrections to Cal OES, which will disburse the grants by January 1, 2024.

Statewide Disaster Warehousing Operations. The May Revision includes $43 million and 15 positions for ongoing resources to support northern and southern California emergency response warehousing operation, including funding for long-term leasing and operation of the Dixon warehouse and managing personal protective equipment consistent with the SMARTER Plan.

Southern Region: Emergency Operations Center. The May Revision includes $174.7 million one-time for the design-build phase of the Southern Region: Emergency Operations Center project.

DEPARTMENT OF JUSTICE

Litigation Deposit Loan Fund. The May Revision includes a $400 million loan from the Litigation Deposit Fund to the General Fund in 2023-24 to assist in closing the budget shortfall, and statutory language to authorize this loan.

eDiscovery Storage and Review Platform Augmentation. The May Revision includes $1.9 million ($702,000 General Fund and $1.2 million various Special Funds) in 2023-24, increasing to $4 million ($1.5 million General Fund and $2.5 million various Special Funds) in 2026-27 and ongoing to collect, store, and process electronic discovery information related to litigation.

April Adjustments. The May Revision reflects the following adjustments to the DOJ budget that were include in April Finance Letters:

- **Concealed Carry Weapon Permit**. The May Revision includes $5 million ($3 million General Fund and $2 million Fingerprint Fees Account) in 2023-24 and $3.2 million ($2.7 million General Fund and $519,000 Fingerprint Fees Account) in 2024-25 to process additional concealed carry weapon permits anticipated as a result of the federal court ruling.

- **Ammunition Authorization Program Fee Increase.** The May Revision includes statutory authority for the DOJ to adjust the ammunition purchase fee, and a loan of $4.3 million from the General Fund in 2023-24 and 2024-25 to temporarily support the program.

- **Firearm Information Technology System Modernization Project (FITSM**). The May Revision includes $7.5 million Dealer Record of Sale (DROS) Account in 2023-24 and $2.6 million ongoing to continue the FITSM project, an increase of $1.1 million in budget year and ongoing as compared to the April proposal.

- **Office of the General Counsel**. The May Revision reflects an April Proposal with net-zero cost to create the Office of the General Counsel, to provide general legal advice within the DOJ, including related to conflicts of interest, legal ethics, document retention and data confidentiality, and other areas.

- **Criminal Records Relief (SB 731)**. The May Revision reflects an April Proposal for $1.8 million Special Fund in 2023-24 and $1.5 million in 2024-25 to implement SB 731 (Durazo), Chapter 814, Statutes of 2022, and statutory changes for a delayed implementation date.

- **Sex Offender Registration**. The May Revision reflects an April Proposal for $1.7 million ongoing General Fund for workload related to the tiered system for sexual offenders.

BOARD OF STATE AND COMMUNITY CORRECTIONS

Missing and Murdered Indigenous Persons Grants. The May Revision includes $12 million General Fund (in addition to $12 million provided in the 2022 Budget Act) to support a grant program to help California tribes locate and identify missing Indigenous persons.

Proposition 47. The Department of Finance estimates net General Fund savings of $112.9 million in the 2023-24 May Revision. This is an increase of $11.9 million over the Governor’s budget projection. 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.

Post Release Community Supervision. The May Revision includes $9.3 million one-time General Fund in 2023-24 for county probation departments to supervise the temporary increase in the average daily population of individuals on Post Release Community Supervision as a result of the implementation of Proposition 57. This is an increase of $1.1 million over the Governor's budget.

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

SB 2 Department of Justice Costs. The May Revision includes an additional $6 million one-time in fiscal year 2023-24 and $5.3 million ongoing to fund Department of Justice legal costs that will be incurred by the Commission on Peace Officer Standards and Training for the peace officer decertification proceedings that will be heard before an administrative law judge pursuant to Chapter 409, Statutes of 2021 (SB 2, Bradford).

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Tuesday, May 23, 2023
1021 O Street – Room 2100
1:30 PM

Consultant: Christopher Francis, Ph.D.

Part B- Labor, Workforce Development, Public Employment, and Public Retirement
Vote-Only Calendar

Item Department **Page**

Public Comment

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

Vote-Only Calendar

0559 Labor And Workforce Development Agency (LWDA)
Various Departments

Issues 1-4: Various Proposals

Issue #	Origin	Subject	Description
1.	January Governor's Budget	**Association of Cooperative Labor Contractors Study.** The Governor's budget includes $800,000 General Fund one-time to establish a panel that will commission a study pursuant to AB 2849 (Mia Bonta), Chapter 808, Statutes of 2022 and engage with organized labor, worker cooperatives, and business stakeholder groups to assess the opportunities and challenges associated with the development and growth of high-road cooperative labor contractors.	Approve as budgeted
2.	January Governor's Budget	**Information Technology Preparedness for the New Labor Agency Building Move.** The Labor and Workforce Development Agency (LWDA) and its departments request $5.78 million (Various Funds) and $378,000 (Reimbursements) in 2023-24 and $1.2 million (Various Funds) in 2024-25 to secure the goods and services needed to provision information technology (IT) equipment required in the new LWDA building. The amounts include one-time equipment, maintenance, and contract services costs. In December 2025, LWDA will begin to move into the former Resources Building, along with the following departments and state entities: Agricultural Labor Relations Board (ALRB), California Workforce Development Board (CWDB), Department of Industrial Relations (DIR), Employment Development Department (EDD), Employment Training Panel (ETP). The new LWDA building (NLAB) will consolidate multiple LWDA entities into a singular physical location while supporting a telework staffing plan. The building will first undergo an extensive retrofit and when completed, will incorporate the latest features in physical infrastructure and space planning in order to provide a modern workspace environment.	Approve as budgeted

3.	Senate Democratic Caucus " Protect Our Progress" Plan	**Moving California Further Along the "High Road."** The Senate Democratic Caucus' "Protect Our Progress" plan proposed trailer bill legislation to update California's existing high road statute by: 1) adding definitions for "quality job" and "economic equity" and 2) clarifying the CA Workforce Development Board's role in high road procurement and high road contracting, and 3) developing a High Road Employment Plan.	Adopt placeholder trailer bill language and supplemental reporting language
4.	Senate Democratic Caucus	**Working Group on UI Benefits for Excluded Workers.** Proposes trailer bill language directing LWDA to convene a working group consisting of representatives from the Employment Development Department and state and local stakeholders to explore ways that the state can create and support a permanent fund for excluded workers to access the benefits paid for by their employers. This working group shall analyze and discuss current the role of technology infrastructure and funding issues as well as provide recommendations to the Legislature, Department of Finance, and Legislative Analyst's Office.	Adopt placeholder trailer bill language

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD)

Issues 5-17: Various Proposals

Issue #	Origin	Subject	Description
5.	January Governor's Budget	**Unemployment Insurance (UI) Small Business Relief Withdrawal.** The Governor's budget proposes to remove the $500 million one-time General Fund commitment in 2024-25, made as part of the Budget Act of 2022, to offset the anticipated rising federal unemployment insurance tax rates resulting from the UI Trust Fund insolvency.	Approve as budgeted
6.	January Governor's Budget with May Revision update	**UI Interest Payment and Unemployment Compensation Disability Fund Loan.** The Governor's budget included $279 million one-time General Fund to pay the annual interest payment on the state's UI loan balance. The May Revision increases the January proposal by $26.6 million one-time to align with the updated UI loan interest payment estimate of $306 million. The May Revision also proposes a one-time loan of $306 million from the Unemployment Compensation Disability Fund to the General Fund to support the state's payment of the UI loan interest payment. As a result of	Approve May Revision proposal

		lower revenue projections and a resulting increase in the budget problem, the May Revision proposes this loan to assist in closing the projected shortfall and ensuring the submission of a balanced budget plan. The loan provision will include language to prevent the State Disability Insurance contribution rate from increasing because of the loan.	
7.	January Governor's Budget	**UI Debt Payment Withdrawal.** The Budget Act of 2022 included $1 billion ($250 million federal funds in 2022-23 and $750 million General Fund in 2023-24) to pay down a portion of the state's approximately $18 billion UI Trust Fund debt. The Governor's budget proposes to withdraw the $750 million one-time General Fund payment in 2023-24.	Approve as budgeted
8.	January Governor's Budget	**EDDNext.** The Governor's budget includes $198 million one-time in 2023-24 ($99 million General Fund) to continue the planning and development of EDDNext, for the second year of a five-year plan to modernize EDD. The effort includes enhancements to EDD's benefits system, improving call centers, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and training. As part of the Administration's April 1st proposals, the expenditure or encumbrance date for 2023 EDDNext appropriation would be June 30, 2025. As well, the Administration proposes to extend the encumbrance period for the 2022 Budget Act appropriation for EDDNext to June 30, 2024.	Approve Governor's budget and April 1st proposals
9.	January Governor's Budget	**State Disability Insurance: Contribution Rates SB 951 (Durazo), Chapter 878, Statutes of 2022.** The Governor's budget includes $4.2 million in 2023-24 and $4.2 million in 2024-25 from the Unemployment Compensation Disability Fund to implement the changes required by SB 951. The amounts include one-time costs for contract services and staffing.	Approve as budgeted
10.	January Governor's Budget	**UI: reporting requirements: status of funds Trailer Bill Language.** The Governor's budget included trailer bill language that requires the Employment Development Department to submit to the Legislature in January and May, instead of May and October, of each year a report on the status of the Unemployment Fund and the Unemployment Compensation Disability Fund, containing actual and forecasted information on each fund.	Approve as proposed

11.	January Governor's Budget	**Emergency Medical Technician Training.** The Budget Act of 2022 committed $60 million General Fund over three years ($20 million in each 2022-23, 2023-24, and 2024-25) EDD to provide targeted emergency medical technician training. The budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment to $40 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.	Approve as budgeted
12.	January Governor's Budget	**Accounting and Business Services Resources.** The Governor's budget included $3 million ongoing, split equally between the Unemployment Compensation Disability Fund and the EDD Contingent Fund, to convert 20 existing limited-term positions provided in the 2020 Budget Act to permanent beginning in 2023-24. In addition, EDD is requesting $2.1 million two-year, limited-term resources split equally between the Unemployment Compensation Disability Fund and the EDD Contingent Fund to address accounting backlog. These resources are needed in order to address the permanent ongoing workload associated with the Department's transition from its legacy accounting systems to the statewide Financial Information System for California (FI$Cal). These resources will allow the EDD to comply with statewide and federal accounting policies as well as allow staff to perform critical daily accounting and procurement functions. When compared to EDD's legacy systems, FI$Cal requires additional tasks associated with the majority of the accounting and procurement functions. EDD will utilize these resources to ensure that its critical functions can be completed timely and accurately on an ongoing basis.	Approve as budgeted
13.	April 1 Letter	**Cybersecurity Licensing.** An April 1 letter requested that Item 7100-001-0185 and Item 7100-001-0588 each be increased by $1,673,000 ongoing to support the continued licensing of cybersecurity tools to identify vulnerabilities and respond to cybersecurity incidents. These tools were previously supported by one-time funding in the 2022 Budget Act.	Approve as budgeted

14.	May Revision	Adjustments to Program Benefits • **Unemployment Insurance Program Benefit.** The May Revision requests that that budget bill Items 7100-101-0871 and 7100-111-0890 be increased by $1.75 billion ongoing to align with updated forecast benefit payments. Additionally, budget bill Item 7100-101-0871, Budget Act of 2022, pursuant to Provision 3, is increased by $889.6 million in 2022-23 to align with an estimated increase in claims. • **Disability Insurance Program Benefits**. The May Revision requests that budget bill Item 7100-101-0588 be increased by $661 million ongoing to align with updated State Disability Insurance (SDI) program benefit payment estimates. Additionally, Item 7100-101-0588, Budget Act of 2022, pursuant to Provision 2, is increased by $444 million in 2022-23 to align with estimated SDI benefit claims.	Approve as budgeted
15.	May Revision	**Workforce Innovation and Opportunity Act (WIOA) Allocations.** The Administration requests that budget bill Items 7100-001-0869 and 7100-021-0890 be increased by $4,985,000 one-time in 2023-24, and Items 7120-101-0869 and 7100-101-0890 be increased by $49,030,000 one-time in 2023-24, to align WIOA authority with estimated federal allocations. Additionally, budget bill Item 7100-101-0869, Budget Act of 2022, pursuant to Provision 1, is increased by $7,221,000 in 2022-23, to align with anticipated federal allotments of nondiscretionary WIOA funds for local workforce development areas.	Approve as budgeted
16.	May Revision	**Direct Deposit Implementation.** The May Revision includes $15.4 million ($6.34 million General Fund) in 2023-24, $14.4 million ($1.68 million General Fund) in 2024-25, and $8.6 million in 2025-26 and ongoing to fund the implementation of direct deposit option for benefits. Funding will support vendor costs associated with direct deposit and departmental costs associated with system modifications, form changes, training, policy/procedure updates, and communications to all external customers. AB 138 (Committee on Budget), Chapter 78, Statutes of 2021 requires EDD to provide a person entitled to receive benefits under the state unemployment insurance compensation program or the disability insurance compensation program the option to receive payments directly deposited by	Approve as budgeted

		electronic fund transfer into a qualifying account of the recipient's choice, in addition to other alternative disbursement payment methods such as debit cards and checks, by January 1, 2024. EDD was authorized 23 positions and $5.5 million General Fund in 2021-22 and 2022-23 to begin planning a direct deposit solution. This initial budget augmentation was based on a two-year timeline. However, most vendors exited the market, including the major provider of financial services to EDD's benefit payment programs. As a result, planning and implementation activities were significantly delayed due to EDD's difficulty in acquiring a new EBP services vendor, and EDD had to conduct additional activities to develop a new Request for Proposal (RFP). EDD issued an RFP on September 2022 to select a new EBP services vendor to provide debit card and direct deposit payment services. A contract was awarded to the new vendor in January 2023. In addition, EDD completed the development of detailed requirements for all changes required to implement a direct deposit solution.	
17.	May Revision	**Community Economic Resilience Fund Clean-up Trailer Bill Language.** This proposed language addresses a chaptering out issue during the 2022 legislative session. This trailer bill restores changes approved in legislation signed into law, AB 2342 (Cervantes), Chapter 568, Statutes of 2022, that was subsequently chaptered out by AB 156 (Committee on Budget), Chapter 569, Statutes of 2022.	Approve as proposed

7120 California Workforce Development Board (CWDB)

Issues 18-20: Various Proposals

Issue #	Origin	Subject	Description
18.	January Governor's Budget	**California Youth Leadership Program.** The Budget Act of 2022 included $60 million General Fund over three years ($20 million in each 2022-23, 2023-24, and 2024-25) to CWDB to invest in career pathway programs at community colleges. The Governor's budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment to $40 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.	Reject this proposal
19.	January Governor's Budget	**Training Related Reporting.** The Governor's budget $374,000 General Fund one-time develop a plan to measure training outcomes and implement SB 755 (Roth), Chapter 815, Statutes of 2022.	Approve as budgeted
20.	May Revision	**Federal First Step Act Grant.** The May Revision includes $5.33 million one-time federal funds to allow the California Workforce Development Board to implement a federal grant that expands the Prison 2 Employment program into federal prisons. It is also requested that provisional language be added to provide an extended encumbrance period for this funding to March 30, 2026.	Approve as budgeted

7300 Agricultural Labor Relations Board (ALRB)

Issues 21-23: Various Proposals

Issue #	Origin	Subject	Description

21.	January Governor's Budget	**Farmworker Outreach.** The Governor's budget proposes to make permanent the Labor and Workforce Development funding ($658,000) and position authority for four positions (one Staff Services Manager I, three Associate Governmental Program Analysts) to continue the Farmworker Outreach program that supports broader adoption, compliance and enforcement of the State's labor laws in the agricultural industry including those adopted in response to COVID-19.	Approve as budgeted
22.	January Governor's Budget	**Miscellaneous Workload AB 2183 (Stone), Chapter 673, Statutes of 2022.** The Governor's budget includes $1,113,000 in General Fund and six positions (three Attorney III and three Field Examiner II positions) to address the increased workload and new demands that will be generated by the passage of AB 2183. The law initially provided two additional pathways for agricultural workers to select a union representative but was recently amended by early action trailer bill legislation AB 113 (Committee on Budget), Chapter 7, Statutes of 2023 to retain one of these pathways.	Approve as budgeted
23.	January Governor's Budget	**IT Security and Staffing.** The Governor's budget includes one permanent Information Technology Specialist I position and associated funding ($154, 000 General Fund) along with $300,000 General Fund in ongoing contract funds for additional IT Security Services and Support to meet Cal-Secure requirements. The combination of additional state IT staff and vendor supported software services would position ALRB to have the necessary resources needed to ensure ALRB can meet IT infrastructure and security measures needed to comply with California Department of Technology standards.	Approve as budgeted

7320 Public Employment Relations Board (PERB)

Issues 24-25: Various Proposals

Issue #	Origin	Subject	Description
24.	January Governor's Budget	**IT Security and IT Contracting.** The Governor's budget includes $164,000 General Fund 2023-24 and ongoing to comply with the California Department of technology IT security requirements and for contracted IT support.	Approve as budgeted
25.	May Revision	**Legal Classification Realignment.** The May Revision includes $22,000 General Fund in fiscal year 2023-24 and ongoing to refine and improve the organizational structure of the Division of Administrative Law. The Division of Administrative Law is responsible for holding formal hearings if a charge is not dismissed or resolved at the Office of the General Counsel. The formal hearing is conducted by an Administrative Law Judge (ALJ) who has not previously participated in the case. The current PERB structure provides two Administrative Law Judges and one Sr. Administrative Law Judge at each of the three PERB Regional Offices (the Los Angeles Regional Office has a third Administrative Law Judge due to historically maintaining a higher case count). The only supervisor in the division is the Chief Administrative Law Judge located in Sacramento. PERB requests to upgrade one of the Administrative Law Judge positions in the Los Angeles Regional Office to the newly created Supervising Administrative Law Judge classification. This will allow for better mentorship for newer ALJs and reduced travel of the Chief ALJ to Southern California.	Approve May Revision

7350 Department of Industrial Relations (DIR)

Issues 26-44: Various Proposals

Issue #	**Origin**	**Subject**	**Description**
26.	January Governor's Budget	**Wage Claim Adjudication.** The Governor's budget includes an additional $11.7 million special funds and 42 positions in 2023-24 and $6.5 million special funds ongoing for DIR to help address wage claim processing times by improving the efficiency of the claims intake and processing as well as automate portions of the claims processing activities within the Wage Claim Adjudication unit.	Approve Governor's proposed funding and modify as follows: • Add $12 million special funds for a Workers Rights Enforcement Grant Program that would be administered by DIR. This program would provide reimbursements to local city attorneys and district attorneys for funds expended on workers rights enforcement. • Adopt provisional budget bill language.

27.	January Governor's Budget	**Electronic Adjudication Management System Modernization.** The Governor's budget includes $21.1 million special funds in 2023-24 for DIR to support the replacement of the Division of Workers' Compensation's electronic case management and document storage system.	Approve as budgeted
28.	January Governor's Budget	**Apprenticeship Innovation Fund.** The Budget Act of 2022 included $175 million General Fund over three years ($55 million in 2022-23 and $60 million in each 2023-24 and 2024-25) at DIR to invest in and expand non-traditional apprenticeships. The Governor's budget proposes to withdraw $40 million ($20 million in each 2023-24 and 2024-25), reducing the total three-year investment to $135 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.	Approve as budgeted
29.	January Governor's Budget with May Revision modification	**Women in Construction Unit.** The May Revision proposes to restore $15 million in 2023-24 and $15 million in 2024-25 for the Department of Industrial Relation's Women in Construction Priority Unit. The Governor's budget proposed to pause this funding for two years as part of the proposed budget solutions and the May Revision proposes to restore this funding.	Approve May Revision proposal
30.	January Governor's Budget	**COVID-19 Workplace Outreach Program.** The Governor's budget proposes the elimination of $25 million in 2023-24. The Budget Act of 2022 included $50 million General Fund over two years ($25 million in each 2022-23 and 2023-24) to DIR to partner with organizations to perform COVID-19 outreach and education to workers and employers in high-risk industries.	Reject this proposal. Shift the $25 million in fiscal support for 2023-24 to the Labor and Workforce Development Fund. Rename program as California Workplace Outreach Program to continue worker rights education post-pandemic.

31.	January Governor's Budget	**CalOSHA Data Modernization Project.** The Governor's budget proposes $12.6 million in 2023-24 from the Occupational Safety and Health Fund to provide first year funding to develop a system that will meet federal and state-mandated requirements, consolidate information into a central database/repository, interface to other DIR systems, and automate manual processes across its units.	Approve as budgeted
32.	January Governor's Budget	**Workers' Compensation Information System Upgrade.** The Governor's budget proposes $750,000 in 2023-24 Workers' Compensation Administration Revolving Fund authority to upgrade the Workers' Compensation Information System.	Approve as budgeted
33.	January Governor's Budget	**Prevailing Wage and Public Works Trailer Bill Language.** AB 2011 (Wicks, Chapter 647, Statutes of 2022), also known as the Affordable Housing and High Road Jobs Act of 2022, makes certain types of specified affordable, multifamily housing developments a "use by right," subject to only streamlined, ministerial review, when sited within an urban area and in a zone where office, retail, or parking are a principally permitted use. AB 2011 also requires projects that take advantage of the "use by right" determination to pay prevailing wages and maintain certified payroll records with additional requirements for projects with 50 or more units. Contractors that employ construction craft employees are required to employ apprentices as specified, make specified health care expenditures, and provide monthly reports to the local government demonstrating compliance. These labor standards provisions are to be enforced by the Labor Commissioner's Office (LCO), workers in civil and administrative complaints, and joint labor-management committees in civil actions. SB 6 (Caballero), Chapter 659, Statutes of 2022, also known as the Middle Class Housing Act of 2022, allows housing projects as an allowable use on parcels zoned for office, retail, or parking uses in urban areas. Developers wishing to use SB 6's provisions must agree to payment of prevailing wage and skilled and trained workforce requirements. Similarly to AB 2011, the enforcement of prevailing wage and skilled and trained workforce requirements falls under the purview of DIR and LCO's Public Works Unit.	Adopt placeholder trailer bill language

		Of note, the Labor Commissioner's Public Works Unit is charged with investigating public works projects that are paid in whole or in part by public funds. The Public Works Unit is responsible for enforcing prevailing wage laws and recovery of appropriate prevailing wages for workers on public works projects. Following an investigation by the Public Works Unit, LCO issues and serves a Civil Wage and Penalty Assessment (CWPA), which specifies the wage deficiencies for workers and penalties for violating prevailing wage requirements. The Governor's budget included trailer bill language to clarify contractor registration requirements, establish penalties for violations of AB 2011 and SB 6, and provide DIR with the authority to establish and adjust annual registration and renewal fees.	
34.	January Governor's Budget	**AB 2011 and SB 6 Implementation Budget Change Proposal.** In addition to the above trailer bill language, the Governor's budget includes 30 positions and $5.8 million in 2023-24 and $5.4 million in 2024-25 and ongoing from the State Public Works Enforcement Fund to implement and enforce both AB 2011 and SB 6. The positions requested are outlined below: • 25 positions for Prevailing Wage and Apprenticeship Enforcement: The LCO anticipates a surge in new housing development projects requiring the division's enforcement of applicable labor standards. LCO expects to perform 420 additional investigations as a result of this legislation. • Three positions for Civil Wage and Penalty Assessment Appeals and Legal Consultation: The Labor Commissioner's Office explains that it will require attorney staffing to address the increased appeal workload resulting from AB 2011 and SB 6. Additionally, DIR projects an increase in the number of requests for legal services, primarily in the form of legal advice and counsel, for the Office of the Director – Research Unit and Division of Apprenticeship Standards. • Two positions for Administrative Support: Support positions are requested to meet administrative demands and provide general support services in Human Resources, Business Management, Fiscal Services, and Information Services.	Approve as budgeted

35.	January Governor's Budget	**AB 2143 (Carrillo), Chapter 774, Statutes of 2022 Implementation – Construction Of Renewable Generation Facilities: Prevailing Wage.** The Governor's budget includes \$2.43 million in 2023-24, \$4.5 million in 2024-25, and \$4.4 million in 2025-26 and ongoing from the State Public Works Enforcement Fund and 24 positions to implement AB 2143. AB 2143 created a new category of construction projects that will be subject to DIR's enforcement of prevailing wage requirements. The bill designates certain types of "net energy metering" electrical generation facility construction projects as "public works" after December 31, 2023, thereby requiring the payment of prevailing wages among other obligations. The projects covered under the bill include renewable electrical generation facilities and associated battery storage. Requested positions include 20 positions for the Labor Commissioner's Office to investigate public works projects pursuant to AB 2143, 2 positions in the Office of the Director – Legal Unit to manage related legal work, and two positions for administrative support.	Approve as budgeted

36.	January Governor's Budget	**AB 1601 (Akilah Weber), Chapter 752, Statutes of 2022 Implementation: Employment Protections: Mass Layoffs, Relocation Or Termination: Call Centers** The Governor's budget includes $230,000 in 2023-24 and $218,000 in 2024-25 and 2025-26 from the Labor Enforcement and Compliance Fund to implement AB 1601. AB 1601 requires call center employers who intend to relocate their operations to a foreign country to notify specified entities, including the Employment Development Department, and affected call center employees 60 days prior to relocation, imposing various restrictions regarding eligibility for state grants, loans, and tax credits to those employers. The Labor Commissioner's Office currently enforces the provisions requiring similar notice requirements for relocations, terminations, and mass layoffs that generally apply to industrial or commercial facilities, as defined in the California Worker Adjustment and Retraining Act. Funding would be used for additional staffing resources to conduct an anticipated three additional investigations per year.	Approve as budgeted

37.	January Governor's Budget with May Revision modification	**AB 1643 (Rivas), Chapter 263, Statutes of 2022 Implementation: Heat Advisory Committee Study.** The Governor's budget includes $1 millionone time in 2023-24 from the Occupational Safety and Health Fund to implement AB 1643. AB 1643 requires the Labor and Workforce Development Agency (LWDA) to convene an advisory committee on or before July 1, 2023 to study the impact of heat on workers and businesses in the state. The advisory committee is tasked with meeting and determining the scope of studies on the impact of heat. LWDA is delegating this legislative mandate to DIR. The department will convene and coordinate the work of this advisory committee, which includes the following tasks: selection of committee members; secure meeting space; notice to the public regarding meetings; contract with external entities as needed in order to do the studies; and respond to inquiries from the public, Legislature, and Governor's Office. To execute the mandate of the bill, DIR requests an attorney position to carry out the legal functions of the advisory committee, a principal safety engineer to represent CalOSHA in meetings, and a Senior Industrial Hygienist to create study proposals for review. DIR is additionally anticipating $300,000 for the contracting cost of the studies. The May Revision requests budget bill language be added to budget bill item 7350-001-3121 to extend the encumbrance period from June 30, 2024 to June 30, 2025 for the implementation of AB 1643 to align with the DIR's implementation proposed in the Governor's budget.	Approve as budgeted and adopt MR budget bill language addition

38.	January Governor's Budget	**AB 2068 (Haney), Chapter 485, Statutes of 2022 Implementation: Occupational Safety And Health Postings In Spoken Languages.** The budget includes $254,000 in 2023-24 and $238,000 in 2024-25 ongoing from the Occupational Safety and Health Fund to implement AB 2068. AB 2068 requires employers to post at worksites employee notices of citations and special orders issued and prepared by CalOSHA, translated into the top seven non-English languages used by limited-English-proficient adults in California, as determined by the most recent American Community Survey by the United States Census Bureau, as well as Punjabi if that language is not otherwise included among the top seven. Additionally, the Division may add to the languages using data sources from local and state government or feedback from community-based and/or labor organizations. CalOSHA can enforce this new requirement by issuing a citation for an employer's failure to comply. CalOSHA requests resources to perform translations, translation accuracy reviews, including contracting with outside vendors if bilingual staff are not available to provide translation services.	Approve as budgeted
39.	January Governor's Budget	**SB 1295 (Limon), Chapter 844, Statutes of 2022 Implementation – Hazardous Or Deserted Wells And Facilities: Labor Standards.** The Governor's budget includes $376,000 in 2023-24 and $348,000 in 2024-25 and ongoing from the State Public Works Enforcement Fund for 2 positions to implement SB 1295. SB 1295 expands the universe of public works projects by deeming all work done and funded by the Oil, Gas, and Geothermal Administrative Fund and performed by outside contractors to be public work for which prevailing wages are required to be paid. The bill also requires the use of a skilled and trained workforce (apprentices) on such projects for work performed after January 1, 2028. The Labor Commissioner is responsible for enforcement of these requirements. The Labor Commissioner's Office anticipates 60 additional public works investigations per year, and requests two positions for prevailing wage and apprenticeship enforcement activities.	Approve as budgeted

40.	January Governor's Budget	**AB 1751 (Daly), Chapter 758, Statutes of 2022 Implementation – Workers' Compensation: COVID-19 Critical Workers.** The Governor's budget includes $5 million in 2027-28 from the Workers Compensation Administration Revolving Fund to implement AB 1751. In response to the COVID-19 pandemic, SB 1159 (Hill), Chapter 85, Statutes of 2020 created three different rebuttable presumptions that consider an employee's COVID-19 illness or death, as an occupational injury and therefore eligible for workers' compensation benefits. The criteria for eligibility included COVID-19 injuries occurring between specific dates; injuries occurring to first responders and designated health care workers; and workers whose employers have five or more employees and who test positive for COVID-19 during an outbreak at their place of employment. The Labor Commissioner was also granted authority to cite employers who fail to report to their claims administrator when an employee has tested positive for COVID-19. SB 1159 provided that the presumption statutes remain in effect until January 1, 2023. AB 1751 extends the SB 1159 presumptions of COVID-19 related illness or injury for an additional year until January 1, 2024, requiring a one-year extension of the resources provided in the SB 1159 budget request. Because of the extension of presumptions of COVID-19 related illness or injury for an additional year until January 1, 2024, DIR believes that claims could continue to be filed with the Workers Compensation Appeals Board through January 1, 2025, at the earliest. Assuming the same claim lifespan of 18 months, this would mean that the AB 1751 workload would continue into 2027.	Approve as budgeted
41.	April 1 Letter	**AB 2243 (Garcia), Chapter 778, Statutes of 2022 Implementation: Occupational Safety And Health Standards – Heath Illness And Wildfire Smoke.** The Governor's Budget proposes $1.2 million special fund in 2022-23 and $361,000 ongoing to implement Occupational Safety and Health Fund to implement AB 2243. A subsequent April 1 letter requested that the proposal be decreased by 4 positions in 2023-24 through 2026-27 to correct a technical error in the Heat Illness and Wildfire Smoke standards proposal included in the Governor's January Budget.	Approve April 1 Letter

		AB 2243 requires CalOSHA, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard. The bill requires the division, in preparing the proposed regulations, to consider revising the heat illness standard to require employers to distribute copies of the Heat Illness Prevention Plan. The bill similarly requires a rulemaking proposal to consider revising the wildfire smoke standard, with regard to farmworkers, to reduce the existing air quality index threshold for PM2.5 particulate matter at which control by respiratory protective equipment becomes mandatory for farmworkers. The bill requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025. Finally, the bill further requires the division to consider regulations, or revising existing regulations, relating to protections related to acclimatization to higher temperatures. To meet the bill's mandates, CalOSHA anticipates that it will need to promulgate two separate rulemaking packages, one for heat and one for wildfire smoke, as the hazards are quite different and require different substantive expertise and research. Based on research and expertise needed, as well as the rulemaking timeline under the Office of Administrative Law (OAL), the packages are anticipated to take three to four years to complete. Requested funding will cover costs of performing technical research and conducting Standardized Regulatory Impact Assessments, including contract costs with outside vendors to work closely with CalOSHA's subject matter experts. Resources will also provide technical, editorial, and legal review prior to public noticing, as well as intake of public comments, Board engagement and vote, and final submission to OAL.	

42.	April 1 Letter	**Withdrawal of FAST Recovery Act: Food Facilities and Employment, AB 257 (Holden) Chapter 246, Statutes of 2022.** An April 1 letter requested that Item 7350-001-3121 be decreased by $1,520,000 and six positions in 2023-24 and $1,440,000 and six positions in 2024-25 and ongoing. It is also requested that Item 7350-001-3152 be decreased by $3,087,000 and 13 positions in 2023-24 and $2,899,000 and 13 positions in 2024-25 and ongoing. This request withdraws resources proposed at Governor's Budget to implement AB 257 given that, on January 24, 2023, the Secretary of State certified that a referendum qualified for the 2024 General Election challenging AB 257. AB 257 cannot be enforced or implemented unless it is approved by voters in the 2024 General Election.	Approve April 1 Letter
43.	May Revision	**Resources to Implement Chapter 1, Statutes of 2023 First Extraordinary Session (SBX1-2).** The May Revision includes, as part of a larger implementation package, one position and $286,000 in 2023-24 and $272,000 in 2024-25 and ongoing from the Occupational Safety and Health Fund to implement Chapter 1, Statutes of 2023, First Extraordinary Session (SB 2). The resources would enable DIR to consult with the California Energy Commission to consider ways to manage oil refinery turnaround and maintenance schedules in a manner that considers workers' health and safety. At a special session of the assembly on December 5, 2022, the Governor introduced SB-x1-2, a bill focused on fundamental change to prevent future extreme price spikes and price gouging by oil companies. The bill was renumbered to SB 2 and signed by the Governor on March 28, 2023 with its provisions coming into effect three months after signing. The legislation aims to set regulations for a maximum margin that refiners can make and to create greater transparency to ensure an adequate, affordable, and reliable supply of fuels, as the state transitions away from petroleum fuels.	Consistent with actions taken in Senate Budget Subcommittee No. 2 for this proposal, approve as budgeted

44.	Senate Democratic Caucus " Protect Our Progress" Plan	**Domestic Worker Health and Safety.** The Senate's "Protect Our Progress" plan proposes to include \$9 million per year for five years (\$45 million total) beginning in 2023-24 and trailer bill legislation to support initiatives that protect the health and safety of household domestic service employees. These funds would be used to implement the following recommendations: 1. Remove, through trailer bill legislation, the household domestic services exclusion from the Occupational Safety and Health Act (Cal/OSHA) and apply its requirements and obligations on domestic service employers, which should be a minor and absorbable cost because voluntary guidance has already been developed by the SB 321 (Durazo), Chapter 332, Statutes of 2021, Household Domestic Services Employment Safety Committee. 2. \$7 million per fiscal year, starting in 2023-24, to fund health and safety outreach and education for domestic work employees and employers through an expansion of the existing Domestic Worker and Employer Education and Outreach Program (DWEOP). 3. \$2 million per fiscal year, starting in 2023-24, to establish a financial and technical assistance program through the Division of Occupational Safety and Health to assist eligible low-income household domestic service employers to comply with Cal/OSHA regulations.	Approve as proposed

7501 California Department of Human Resources (CalHR)

Issues 45-55: Various Proposals

Issue #	Origin	Subject	Description
45.	January Governor's Budget	**Tribal Consultation Training, AB 923 (Ramos), Chapter 475, Statues of 2022.** AB 923 requires CalHR to develop training by June 1, 2024, regarding the required elements of government-to-government consultations with California Native American Tribes. It also requires designated state officials to complete the training by January 1, 2025, and for officials appointed after that date to do so within six months of their appointment. All designated officials are required to retake the training annually. The Governor's budget includes $100,000 General Fund in 2023-24 for consulting services for the design, development and delivery of the required training, and $10,000 General Fund for fiscal year 2024-25 and ongoing for all related annual update activities and ongoing administrative and maintenance functions.	Approve as budgeted
46.	January Governor's Budget	**CalHR Privacy Officer.** The Governor's budget includes one permanent position and $172,000 ($65,000 General Fund) for fiscal year 2023-2024, and $165,000 ($63,000 General Fund) ongoing to allow CalHR to have a dedicated Privacy Officer to develop and manage the department's, policies, procedures, and compliance with California requirements on privacy laws and standards.	Approve as budgeted
47.	January Governor's Budget	**Psychological Screening Program Administrative Support Adjustment.** The Governor's budget includes reimbursement authority of $116,000 and permanent position authority to transition one limited-term position within the Medical and Psychological Screening Division.	Approve as budgeted
48.	January Governor's Budget	**Communications Office and Content Management System Replacement.** The Governor's budget includes two positions and $1,352,000 ($994,000 General Fund) in fiscal year 2023-2024 and $563,000 ($214,000 General Fund) in fiscal year 2024-2025 and ongoing to 1) research and plan for the replacement of the CalHR Web Content Management System (CMS); and, 2) research, plan and develop an improved communication service to the public, state, and employees.	Approve as budgeted

49.	January Governor's Budget	**Retirement Rate Adjustment for Excluded Employees.** The Governor's budget included trailer bill language that would provide CalHR with flexibility to adjust retirement rates for excluded employees. Currently, changes to excluded employee retirement rates depend on the associated bargaining unit. For example, statutory language the Director of CalHR discretion to retroactively adjust retirement rates for associated excluded employees of specific bargaining units. For others, adjustments are not possible prior to the date CalPERS receives a notification of change. According to CalHR, this creates timing challenges, especially when bargained Memoranda of Understanding include retroactive changes for rank-and-file members. The proposed changes will align statutory language for excluded employees across the various bargaining units, ensure employees in the same bargaining unit are contributing equally based on actuarially determined rates, and provide CalHR with the flexibility to adjust rates without restrictions on timing.	Approve as proposed
50.	January Governor's Budget	**Personnel Management Division Strategic Workload Support.** The Governor's budget includes two positions and $428,000 ($256,000 General Fund) in fiscal year 2023-2024, and $412,000 ($246,000 General Fund) in 2024-2025 and ongoing to provide the Personnel Management Division strategic workload support to enable CalHR capacity to provide better customer service in alignment with CalHR's Strategic Plan.	Approve as budgeted
51.	April 1 Letter	**Reimbursement Authority for Childcare Bargaining Division.** The Governor's April 1 Letter proposes to add $25 million of permanent reimbursement authority for CalHR to serve as a pass-through entity to receive automatically authorized deductions from state vendors that administer subsidized family child care programs to the child care providers exclusive representative/union as required by, and defined in, Welfare and Institutions Code section 10420 et seq. The Welfare and Institutions Code (WIC) section 10426.5 was added via AB 131 (Committee on Budget), Chapter 116, Statutes of 2021 and states that the exclusive representative for represented family child care providers, Child Care Providers United - California (CCPU), may request for deductions (membership dues, initiation fees, general assessments, and payment of any other membership program sponsored by the certified provider organization) to be made from provider subsidy payments paid by state vendors. CCPU may determine its authorized deductions, which does not require the state's input. WIC section 10426.7 requires CalHR ensure that CCPU's requests are honored.	Approve as budgeted

52.	May Revision	**Legal Accounting and Work Management System (LAWS) Project Reappropriation.** The May Revision requests reappropriation language be added to extend the encumbrance or expenditure availability of $1.7 million General Fund in 2023-24. This reappropriation allows CalHR to complete the Legal Accounting and Work Management System project approved in the 2022 Budget Act.	Approve as budgeted
53.	May Revision	**Compensation Study Schedule Trailer Bill Language.** The May Revision includes trailer bill language to amend the timeline for CalHR's statutory requirement to create and submit total compensation reports six months prior to the expiration of a Memorandum of Understanding (MOU) to instead occur biennially. This proposal is based on a 2021 recommendation of the Legislative Analyst's Office. The purpose of the change is to provide consistent and improved data that decision makers can depend on. The first set of biennial reports would be published on February 1, 2025. Compensation studies are relied upon by state employee unions, the Legislature and the Administration. Currently, compensation studies are tied to bargaining contract cycles rather than a set schedule. Because bargaining contracts can vary in length, leading to varied periods of time without compensation studies, there can be data gaps, making it difficult to identify and analyze market trends. This creates a challenge for those evaluating state employee compensation. Conducting biennial compensation studies ensures publishing dates are consistent and up-to-date data may show reliable market trends.	Adopt placeholder trailer bill language
54.	May Revision	**California State Payroll System (CSPS) Project.** The May Revision includes an increase by nine positions and $2.9 million General Fund in fiscal year 2023-24, $1.8 million General Fund in 2024-25, and $2.0 million General Fund in 2025-26 and ongoing, to support the California State Payroll System project as it transitions from planning to implementation, maintenance, and operation. Resources in the California Department of Human Resources (CalHR) support labor relations, data management and conversion, human resources training, classification and pay, marketing and outreach, and web development.	Approve as budgeted
55.	May Revision	**Uniform Payroll Cycle Trailer Bill Language.** The May Revision includes trailer bill language to amend Government Code section 19824 to change the State's current unique "monthly" payroll cycle to "uniform" payroll cycle. This will allow implementation of a customary biweekly payroll cycle with the implementation of the CSPS Project. Additionally, in order to maximize operational efficiencies in payroll processing for over 285,000 State employees, remove section 19824 (b)	Adopt placeholder trailer bill language

		allowing supersession by collective bargaining. This will prevent unintended conflicts with existing memoranda of understanding and allow the state to continue payroll processing cycles through the transition to the CSPS solution. In 2019, the CSPS Project conducted market research via two Requests for Information from the vendor community, which included a request for vendor feedback on the State's current payroll cycle and how it might have an impact on implementation of a future solution. The market research responses on the State's current payroll cycle indicated that all vendors identified biweekly pay as an industry standard and best practice. All vendors suggested that moving employees to biweekly payroll cycle would simplify payroll processing.	

7900 California Public Employees' Retirement System (CalPERS)

Issue 56: CalPERS Supplemental Pension Payment and Annual Contribution

Issue #	Origin	Subject	Description
56.	January Governor's Budget with May Revision modification	**CalPERS Supplemental Pension Payment and Annual Contribution.** • **CalPERS State Contributions.** State contributions to the CalPERS have decreased by a net total of $1.7 million in 2023-24 relative to the Governor's January budget. The Governor's budget previously proposed $8.5 billion ($4.7 billion General Fund) for the statutorily required annual state contribution to CalPERS for state pension costs based on the CalPERS actuarial valuation projected contribution rates as of June 30, 2021. 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 and the application of 2021-22 and 2022-23 supplemental pension payments. • **CalPERS Unfunded Liability.** The January budget included $1.2 billion one-time Proposition 2 debt repayment funding as a supplemental payment toward the state plans' unfunded liabilities. The May Revision estimates $1.7 billion in one-time Proposition 2 debt repayment funding in 2023-24 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 two to one.	Approve May Revision

7920 California State Teachers' Retirement System (CalSTRS)

Issue 57-59: Various Proposals

Issue #	Origin	Subject	Description
57.	January Governor's Budget with May Revision modification	**State Contribution.** State contributions to the California State Teachers' Retirement System (CalSTRS) increased by $8.8 million General Fund in 2023-24, relative to the Governor's January budget, due to a revision in reported compensation for K-12 and community college teachers. The Governor's 2023-24 budget proposal included $3.9 billion General Fund in required contributions to CalSTRS. No supplemental payment to CalSTRS is proposed in 2023-24, in contrast to past few years.	Approve May Revision
58.	January Governor's Budget	**Enterprisewide Strategic Support.** The Governor's budget includes $17.3 million in permanent funding for enterprisewide strategic support resources to advance the CalSTRS 2022–25 Strategic Plan goals and initiatives and to support enterprisewide growth. This includes $8.6 million to establish 56 permanently authorized positions and $8.7 million for various technology service contracts.	Approve as budgeted
59.	April 1 Letter	**Pension Solution Project.** In support of CalSTRS 2022-25 Strategic Plan, this proposal includes $87,173,000 in one-time budget authority to fund internal and external resources to continue fiscal year 2023–24 system implementation activities for the Pension Solution Project. The Pension Solution Project is an ongoing effort by CalSTRS to modernize the legacy pension administration system. The new system, BenefitConnect, will enhance our ability to respond to customer and business needs, gain long-term operational efficiencies, improve internal controls, and enhance services to more than one million members and their beneficiaries, as well as the school employer community. The current Pension Solution Project budget is $334.8 million. This proposal will bring the interim project budget to $422.0 million. This proposal was presented to, and approved by, the Teachers' Retirement Board (board) at the March 1, 2023, board meeting.	Approve as budgeted

VARIOUS DEPARTMENTS

Issue 60: Various Proposals on Retiree Benefits

Issue #	Origin	Subject	Description
60.	January Governor's Budget with May Revision modification	**Retiree Benefits- Health and Dental Benefits for Annuitants (Item 9650) and Health Benefits for California State University Annuitants (Item 6645).** The Governor's budget includes $390 million in one-time Proposition 2 debt repayment funding for the employer's share of contributions to pay for future retiree health benefits. The May Revision increases employee compensation by a net total of $22.2 million in 2023-24 and ongoing, relative to the Governor's budget, to reflect increased employee compensation costs resulting from updated payroll information, updated health and dental rates, increased enrollment in health and dental plans, and a change in the health plan enrollment composition. Collective bargaining negotiations are ongoing with 15 of the state's 21 bargaining units, whose contracts are expired or will expire in summer 2023, including Service Employees' International Union, Local 1000; California Correctional Peace Officers' Association; California Statewide Law Enforcement Association; California Associations of Professional Scientists; International Union of Operating Engineers (craft and maintenance employees in bargaining unit 12); Union of American Physicians and Dentists; and American Federation of State, County and Municipal Employees.	Approve May Revision

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Thursday, May 23, 2023
1:30 p.m.
1021 O Street - Room 2100

PART A – TRANSPORTATION

Consultant: Eunice Roh

Item **Department** **Page**

VOTE-ONLY ITEMS

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

VOTE-ONLY

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

Issue 1: Transportation Infrastructure Package

Governor's Proposal. The Budget includes $2.7 billion in General Fund reductions, partially offset by $500 million from the State Highway Account, to the $9.5 billion Transportation Infrastructure Package included in the 2022-23 Budget. This item was originally heard on March 9th, 2023.

Staff Recommendation:

- Approve proposed fund shifts for the Active Transportation Program and Climate Adaptation Program; proposed reduction to the Active Transportation Program; and proposed delay to the Grade Separations Program.
- Reject the proposed reductions to the Transit and Intercity Rail Capital Program (TIRCP).
- Adopt trailer bill language that allows for some flexibility of funds for TIRCP, contingent on meeting specific accountability and reform requirements.

0521 California State Transportation Agency
2740 California Department of Motor Vehicles
7120 California Workforce Development Board

Issue 2: Supply Chain and Goods Movement Package

Governor's Proposal. The Budget includes a delay of the $600 million for the Port and Freight Infrastructure Program scheduled for 2023-24. This would be done by maintaining $200 million in 2023-24 and providing additional allotments of $200 million in both 2024-25 and 2025-26. This item was originally heard on March 9th, 2023.

The May Revision proposes to reduce a portion of the General Fund scheduled to be provided to the Port and Freight Infrastructure Program in 2023-24 by $150 million and to backfill the decrease with an equal amount from SHA. This item was originally heard on May 17th, 2023.

Staff Recommendation: Approve as budgeted.

2600 California Transportation Commission

Issue 3: Legal Services

Governor's Proposal. The Governor proposes $200,000 ($94,000 from the State Highway Account and $106,000 from the Public Transportation Account) to secure a contract for legal services, including but not limited to the Commission's role as a Responsible Agency pursuant to the California Environmental Quality Act. A contract for legal services is needed because the Commission no longer has access to legal services provided by the Department of Justice due to staffing and resource constraints being experienced in that department. This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

Issue 4: Technical Adjustments to Shift the Reduction of 2023-24 Appropriations

Governor's Proposal. The May Revision requests that Item 2600-001-0001 be reduced by $547,000 and that Item 2600-001-0042 be increased by $547,000 to offset this General Fund reduction and provide the CTC resources to complete work related to Climate Adaptation from the State Highway Account. The Governor's Budget reduced various items of appropriations in the 2023-24 fiscal year in Control Section 4.07. This is a technical adjustment to provide transparency at the department level by shifting the reductions from the statewide control section to items of appropriation in the applicable departmental budgets.

Staff Recommendation: Approve as budgeted.

2660 California Department of Transportation

Issue 5: Encampment Homeless Services Liaisons

Governor's Proposal. The Budget includes $5.8 million in 2023-24, $5.8 million in 2024-25, and $4.5 million in 2025-26 from the General Fund for 37 limited-term positions to support statewide efforts to address homelessness within the highway system right of way. This proposal is made up of two components:

- Encampment Coordinator Team: This includes 30 three-year, limited-term positions to coordinate encampment remediation and closure efforts.
- Solutions Team: This includes 7 two-year, limited term positions to coordinate all long-term planning efforts involving homelessness and housing, including redevelopment of surplus property for housing.

This item was originally heard on March 9th, 2023.

Staff Recommendation: Approve as budgeted and adopt budget bill language that requires Caltrans to report on an evaluation of the outcomes of the Encampment Coordinator Team. Specifically, the report shall include, but not be limited to, the following information:

(1) the number of encampment sites identified and addressed;
(2) the location of the encampment sites identified and addressed;
(3) a summary of the department's success in connecting individuals experiencing homelessness at the encampment sites addressed with housing and/or supportive services;
(4) a summary of how the department coordinated activities with local governments, law enforcement, service providers, and community-based organizations; and
(5) a summary of the measures taken by the department to reduce the likelihood of an encampment being reestablished on the state highway system or being moved from the state highway system to a local jurisdiction's right of way.

The report shall be due to the Joint Legislative Budget Committee and the Legislative Analyst's Office by January 1, 2026.

Issue 6: Hazardous Material Removal at Encampments

Governor's Proposal. The Budget includes $20.6 million from the State Highway Account on a two-year limited-term basis for the removal of statewide hazardous material from encampments statewide. This item was originally heard on March 9th, 2023.

Staff Recommendation: Approve as budgeted.

Issue 7: Highway Maintenance Safety Program

Governor's Proposal. The Budget includes 38 positions and $48.4 million on a four-year, limited-term basis from the State Highway Account to continue and expand the HM-4 Safety Pilot Program. This item was originally heard on March 9th, 2023.

Staff Recommendation: Approve as budgeted.

Issue 8: Pedestrian Crossing Signals (AB 2264)

Governor's Proposal. The Budget provides $1.7 million ongoing from the State Highway Account to reconfigure the timing of up to 6,000 traffic signals for leading pedestrian interval (LPI) pursuant to AB 2264 (Chapter 496, Statutes of 2022, Bloom). This item was originally heard on March 9th, 2023.

Staff Recommendation: Approve 9 limited-term positions, $1,900,000 in Personal Services, and $700,000 in Operating Expenses for a total of $2,600,000 in FY 2023-24 and $2,600,000 in FY 2024-25 for Traffic Operations to implement LPI traffic signal timing pursuant to AB 2264. Approve 1 permanent position starting in 2023-24 at a cost of $198,000 combined PS and OE annually and $610,000 in Operating Expenses after limited-term positions expire in Fiscal Year 25-26.).

Issue 9: Indirect Cost Recovery

Background. The Self-Help Counties are 25 local county transportation agencies that have passed a countywide sales tax measure to fund transportation projects.

California Department of Transportation (Caltrans) does work on behalf of Self-Help Counties who develop projects on the state highway system, in addition to cities, regional transit and transportation agencies, certain state agencies, and private entities. Caltrans recovers the cost of these services and charges these entities a rate that covers the cost of both administrative and program functional rates.

The 2021-22 Budget included trailer bill language that added to the State Highway Code Section 114.5 that limits Caltrans from charging any self-help counties with countywide sales tax measures dedicated to transportation improvements more than 10 percent for administration indirect cost recovery. This section expired on January 1st, 2023.

This item was originally heard on April 27th, 2023.

Staff Recommendation: Adopt trailer bill language that limits Caltrans from charging self-help counties with countywide sales tax measures dedicated to transportation improvements more than 10 percent for administration indirect cost recovery.

Issue 10: Project Delivery Workload – Capital Outlay Support

Governor's Proposal. The May Revision includes $39.1 million and 143 Full Time Equivalents (FTEs) for the Capital Outlay Support (COS) Program for 2023-24. The resources requested considers budget year needs within the context of a five-year workload projection. The COS Program budget is growing to meet the needs and deliver projects required to achieve program commitments of Senate Bill 1 (SB 1), Asset Management, Infrastructure Investment and Jobs Act (IIJA), and the Middle-Mile Broadband Network Program. This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

Issue 11: Technical Adjustments

Governor's Proposal. The Governor requests the following items:

- Increase Item 2660-001-0890 by $3 million one-time for a Road Usage Charge federal grant.
- Increase Item 2660-001-0042 by $7,253,000 ongoing for increased vehicle insurance premiums for Caltrans vehicles.
- Increase Item 2660-304-6056 by $17,689,000 one-time for the Fenix Terminal project located in Los Angeles. The funding for this project was proposed as part of the 2023-24 Governor's Budget, but due to unforeseen project changes, Trade Corridors Improvement Fund funding is now recommended instead of the previously proposed mix of funds.
- Increase Item 2660-304-6059 by $1.9 million one-time for the Camarillo Station Improvements Project.
- Increase reimbursements to Item 2660-001-0042 by $10 million due to increased work that is reimbursed by local governments.
- Amend Item 2660-302-0890 to allow funds to be allocated to the new Carbon Reduction Program.
- Amend Items 2660-101-0042, 2660-102-0042, and 2660-490 to fix typographical and other mistakes in the proposed 2023-24 Governor's Budget.
- Amend Item 2660-491 and add Item 2660-492 to reappropriate funding for the following programs or projects:
    - Advantage Management System upgrade (appropriated in Budget Act of 2022)
    - Fleet acquisition and replacement (appropriated in Budget Act of 2020)
    - State Highway Operations and Protection Program and other projects whose funding has not yet been fully encumbered.
- Add Item 2660-496 to revert the unexpended balance of appropriations made in the 2021 Budget Act. The 2023-24 Governor's Budget reverted these funds in statewide Control Section 4.06. This is a technical adjustment to provide transparency at the department/agency level by shifting the reversions from the statewide control section to the applicable departmental budget. To effectuate this change, it is requested that Item 2660-496 be added as follows:
    - Climate Adaptation—Revert $198 million appropriated in Item 2660-102-0001, Budget Act of 2021. Revert $1,453,000 appropriated in Item 2660-002-0001.
- Amend Item 2660-490 to remove the reappropriation of Item 2660-101-0001, Budget Act of 2021, and increase Item 2660-102-0042 by $300 million (see Attachment 4). These changes will reduce the Active Transportation Program funding available by a net of $200 million.

- Increase Item 2660-102-0042 by $198 million and Item 2660-001-0042 by $1,453,000. When combined with the reversions in the newly created Item 2660-496, this will result in a net-zero fund swap between General Fund and State Highway Account funding for the Climate Adaptation Program.

This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

Issue 12: FI$Cal Onboarding

Governor's Proposal. The Governor requests $6,637,000, which includes $3,750,000 in personnel services (PS) for twenty-seven (27) positions, and operating expenses of $2,887,000 of which $2,650,000 is for professional consulting services. These resources will support the increased workload for Caltrans on-boarding to the FI$Cal system. This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

2720 CALIFORNIA HIGHWAY PATROL

Issue 13: Wireless Mobile Video/Audio Recording System and Body-Worn Camera Statewide Implementation

Governor's Proposal. The Budget includes 11 positions and $9.8 million in 2023-24, $9.9 million in 2024-25, and $4.9 million in 2025-26 and ongoing from the Motor Vehicle Account to extend the Wireless Mobile Video/Audio Recording System (WMVARS) project and implement the Body-Worn Camera (BWC) statewide. This item was originally heard on March 9th, 2023.

Staff Recommendation: Approve as budgeted.

Issue 14: Capital Outlay Proposals

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

- $500,000 from the General Fund for Statewide Planning and Site Identification.
- $10,963,000 from the General Fund for the performance criteria phase of the Redding, Los Banos, Porterville, Antelope Valley, and Barstow Area Office Replacement projects.
- $85,631,000 from the Public Buildings Construction Fund for the design-build phase of the Gold Run and Humboldt Area Office Replacement projects.
- $201,369,000 from the Public Buildings Construction Fund (to replace existing current year authority of $184,320,000 from the General Fund) for the design-build phase of the Quincy, Baldwin Park, and Santa Fe Area Office Replacement projects.
- $7,407,000 from the Public Buildings Construction Fund for the design-build phase of the San Bernardino Area Office Replacement project.

This item was originally heard on March 9th, 2023.

Staff Recommendation: Approve as budgeted.

2740 California Department of Motor Vehicles

Issue 15: Motor Voter

Governor's Proposal. The May Revision includes $4.5 million and three temporary positions in 2023-24 for personnel and contracted resources from the General Fund to continue DMV's planning and implementation activities to comply with Chapter 314, Statutes of 2021 (AB 796, Berman). This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

Issue 16: Digital Experience Platform (DXP) Reappropriation

Governor's Proposal. The Governor requests to reappropriate $30,016,000 of previously approved Motor Vehicle Account funding for DMV to continue the DXP project, the comprehensive modernization of DMV's IT systems. DMV required potential vendors to conduct extensive testing before awarding the contract, causing a delay in the encumbrance of funding. This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

Issue 17: Commercial Driver Licensing Information System Reappropriation

Governor's Proposal. The Governor requests to reappropriate $6,580,000 of previously approved Motor Vehicle Account funding for DMV to continue planning and project activities for the federally-mandated Commercial Driver Licensing Information System. This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

Issue 18: Reversion of REAL ID

Governor's Proposal. The May Revision proposes to revert $93,070,000 of DMV's multi-year General Fund appropriation for REAL ID workload and other operational improvements, given the shift of the federal REAL ID enforcement date from May 2023 to May 2025. This item was originally heard on May 17, 2023.

Staff Recommendation: Approve as budgeted.

Issue 19: Capital Outlay Proposals

Governor's Proposal. The Budget includes three capital outlay proposals for the Department of Motor Vehicles (DMV), including:

- $2,458,000 from the General Fund for the performance criteria phase of the El Centro Field Office Replacement project.
- $17,314,000 from the Public Buildings Construction Fund (to replace existing current year authority of $11,415,000 from the General Fund) for the construction phase of the Delano Field Office Replacement project.
- $21,962,000 from the Public Buildings Construction Fund (to replace existing current year authority of $20,928,000 from the General Fund) for the construction phase of the Inglewood: Field Office Replacement project.
- $41,654,000 from the Public Buildings Construction Fund for the design-build phase of the San Francisco: Field Office Replacement project.

This item was originally heard on March 9th, 2023.

Staff Recommendation: Approve as budgeted.

Issue 20: Mobile Driver's License TBL

Governor's Proposal. The May Revision includes statutory changes be added to increase the mobile driver license pilot program testing population cap from 0.5 percent of licensed drivers to 5 percent. The pilot program creates a mobile application for California driver licenses so that a customer can use it in place of a physical card. In working with major phone application developers, DMV discovered that the 0.5 percent cap, equivalent to 137,000 users, is too small of a sample size to achieve meaningful testing of the application. The proposed increase to 5 percent of licensed drivers, equivalent to 1.37 million users, is expected to generate sufficient data for meaningful analysis of the application. This item was originally heard on May 17th, 2023.

Staff Recommendation: Approve as budgeted.

0521 California State Transportation Agency

Issue 21: Encumbrance Extension

Senate Proposal. The Senate proposes to extend the encumbrance period for the Port of Oakland for improvements that facilitate enhanced freight and passenger access and to promote the efficient and safe movement of goods and people. This funding was originally provided in the Budget Act of 2021. The encumbrance period shall be extended to June 30, 2027, and available for liquidation until June 30, 2030.

Staff Recommendation. Approve.

0650 Office of Planning and Research

Issue 22: Zero-Emissions Jobs Roadmap

Senate Proposal. The Senate proposes $500,000 from the General Fund for a statewide roadmap to ensure workers are included in the ZEV transition. The Office of Planning and Research, in consultation with the Labor and Workforce Development Agency, shall convene a working group made up of transit agencies, other relevant public agencies, educational institutions, relevant community organizations, and other necessary parties, to create a zero-emission roadmap for the state which shall identify the actions needed to meet California's zero-emissions goals, with minimal displacement of existing workers. The roadmap shall include but not be limited to:

- an estimation of the number of public operations and maintenance jobs provided by existing buses, rolling stock, vehicles or related equipment that would be eliminated or substantially changed by the transition to zero-emission;
- identification of gaps in skills needed to operate and maintain the new electric-powered buses, rolling stock, vehicles or related equipment;
- development of model solicitation and contract language, to be utilized in procurements for zero-emissions buses, for the training of public service employees on the servicing of the zero-emission buses being purchased; and
- development of a comprehensive plan to transition, train, or retrain public transportation system employees impacted by the transition goals, including an estimated budget for implementing this plan and the identification of funding streams to fund this transition.

Staff Recommendation: Approve.

VARIOUS DEPARTMENTS

Issue 23: Best Value Procurement

Senate Proposal. The Senate proposes trailer bill language to expand best value procurement authority to local agencies, such as city/county governments, transit agencies, and school districts, as well as state agencies, such as the California Department of Transportation and Department of General Services, for transportation-related purchases, such as manufactured transportation vehicles and electric vehicle charging equipment.

Staff Recommendation: Approve placeholder trailer bill language.

Issue 24: Statutory Relief for Transit Operators

Senate Proposal. Senate proposes trailer bill language that does the following:

- Expand provisions that temporarily hold harmless transit operators that receive state funding and whose ridership levels have been negatively impacted by COVID-19.
- Extend the provisions that temporarily eliminate financial penalties for noncompliance with transit funding efficiency measures in the Transportation Development Act and the State Transit Assistance Program.
- Expand provisions that allow for increased flexibility in the use of funds transit operators receive from the State Transit Assistance - State of Good Repair program and the Low Carbon Transit Operations program.
- Create a Task Force to examine ways to improve transit and increase ridership in the long term, including reforming the Transportation Development Act

Staff Recommendation: Approve placeholder trailer bill language.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Josh Newman
Senator Kelly Seyarto

Tuesday, May 23, 2023
1021 O Street – Room 2100
1:30 PM

Consultant: Christopher Francis, Ph.D.

Part B- Labor, Workforce Development, Public Employment, and Public Retirement
Vote-Only Calendar

Public Comment

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

Vote-Only Calendar

0559 Labor And Workforce Development Agency (LWDA)
Various Departments

Issues 1-4: Various Proposals

Issue #	Origin	Subject	Description
1.	January Governor's Budget	**Association of Cooperative Labor Contractors Study.** The Governor's budget includes $800,000 General Fund one-time to establish a panel that will commission a study pursuant to AB 2849 (Mia Bonta), Chapter 808, Statutes of 2022 and engage with organized labor, worker cooperatives, and business stakeholder groups to assess the opportunities and challenges associated with the development and growth of high-road cooperative labor contractors.	Approve as budgeted
2.	January Governor's Budget	**Information Technology Preparedness for the New Labor Agency Building Move.** The Labor and Workforce Development Agency (LWDA) and its departments request $5.78 million (Various Funds) and $378,000 (Reimbursements) in 2023-24 and $1.2 million (Various Funds) in 2024-25 to secure the goods and services needed to provision information technology (IT) equipment required in the new LWDA building. The amounts include one-time equipment, maintenance, and contract services costs. In December 2025, LWDA will begin to move into the former Resources Building, along with the following departments and state entities: Agricultural Labor Relations Board (ALRB), California Workforce Development Board (CWDB), Department of Industrial Relations (DIR), Employment Development Department (EDD), Employment Training Panel (ETP). The new LWDA building (NLAB) will consolidate multiple LWDA entities into a singular physical location while supporting a telework staffing plan. The building will first undergo an extensive retrofit and when completed, will incorporate the latest features in physical infrastructure and space planning in order to provide a modern workspace environment.	Approve as budgeted

3.	Senate Democratic Caucus " Protect Our Progress" Plan	**Moving California Further Along the "High Road."** The Senate Democratic Caucus' "Protect Our Progress" plan proposed trailer bill legislation to update California's existing high road statute by: 1) adding definitions for "quality job" and "economic equity" and 2) clarifying the CA Workforce Development Board's role in high road procurement and high road contracting, and 3) developing a High Road Employment Plan.	Adopt placeholder trailer bill language and supplemental reporting language
4.	Senate Democratic Caucus	**Working Group on UI Benefits for Excluded Workers.** Proposes trailer bill language directing LWDA to convene a working group consisting of representatives from the Employment Development Department and state and local stakeholders to explore ways that the state can create and support a permanent fund for excluded workers to access the benefits paid for by their employers. This working group shall analyze and discuss current the role of technology infrastructure and funding issues as well as provide recommendations to the Legislature, Department of Finance, and Legislative Analyst's Office.	Adopt placeholder trailer bill language

7100 Employment Development Department (EDD)

Issues 5-17: Various Proposals

Issue #	Origin	Subject	Description
5.	January Governor's Budget	**Unemployment Insurance (UI) Small Business Relief Withdrawal.** The Governor's budget proposes to remove the $500 million one-time General Fund commitment in 2024-25, made as part of the Budget Act of 2022, to offset the anticipated rising federal unemployment insurance tax rates resulting from the UI Trust Fund insolvency.	Approve as budgeted
6.	January Governor's Budget with May Revision update	**UI Interest Payment and Unemployment Compensation Disability Fund Loan.** The Governor's budget included $279 million one-time General Fund to pay the annual interest payment on the state's UI loan balance. The May Revision increases the January proposal by $26.6 million one-time to align with the updated UI loan interest payment estimate of $306 million. The May Revision also proposes a one-time loan of $306 million from the Unemployment Compensation Disability Fund to the General Fund to support the state's payment of the UI loan interest payment. As a result of	Approve May Revision proposal

		lower revenue projections and a resulting increase in the budget problem, the May Revision proposes this loan to assist in closing the projected shortfall and ensuring the submission of a balanced budget plan. The loan provision will include language to prevent the State Disability Insurance contribution rate from increasing because of the loan.	
7.	January Governor's Budget	**UI Debt Payment Withdrawal.** The Budget Act of 2022 included $1 billion ($250 million federal funds in 2022-23 and $750 million General Fund in 2023-24) to pay down a portion of the state's approximately $18 billion UI Trust Fund debt. The Governor's budget proposes to withdraw the $750 million one-time General Fund payment in 2023-24.	Approve as budgeted
8.	January Governor's Budget	**EDDNext.** The Governor's budget includes $198 million one-time in 2023-24 ($99 million General Fund) to continue the planning and development of EDDNext, for the second year of a five-year plan to modernize EDD. The effort includes enhancements to EDD's benefits system, improving call centers, simplifying forms and notices, including user testing and engagement, developing data analysis tools to continue curbing fraudulent benefit claims, and training. As part of the Administration's April 1st proposals, the expenditure or encumbrance date for 2023 EDDNext appropriation would be June 30, 2025. As well, the Administration proposes to extend the encumbrance period for the 2022 Budget Act appropriation for EDDNext to June 30, 2024.	Approve Governor's budget and April 1st proposals
9.	January Governor's Budget	**State Disability Insurance: Contribution Rates SB 951 (Durazo), Chapter 878, Statutes of 2022.** The Governor's budget includes $4.2 million in 2023-24 and $4.2 million in 2024-25 from the Unemployment Compensation Disability Fund to implement the changes required by SB 951. The amounts include one-time costs for contract services and staffing.	Approve as budgeted
10.	January Governor's Budget	**UI: reporting requirements: status of funds Trailer Bill Language.** The Governor's budget included trailer bill language that requires the Employment Development Department to submit to the Legislature in January and May, instead of May and October, of each year a report on the status of the Unemployment Fund and the Unemployment Compensation Disability Fund, containing actual and forecasted information on each fund.	Approve as proposed

11.	January Governor's Budget	**Emergency Medical Technician Training.** The Budget Act of 2022 committed $60 million General Fund over three years ($20 million in each 2022-23, 2023-24, and 2024-25) EDD to provide targeted emergency medical technician training. The budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment to $40 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.	Approve as budgeted
12.	January Governor's Budget	**Accounting and Business Services Resources.** The Governor's budget included $3 million ongoing, split equally between the Unemployment Compensation Disability Fund and the EDD Contingent Fund, to convert 20 existing limited-term positions provided in the 2020 Budget Act to permanent beginning in 2023-24. In addition, EDD is requesting $2.1 million two-year, limited-term resources split equally between the Unemployment Compensation Disability Fund and the EDD Contingent Fund to address accounting backlog. These resources are needed in order to address the permanent ongoing workload associated with the Department's transition from its legacy accounting systems to the statewide Financial Information System for California (FI$Cal). These resources will allow the EDD to comply with statewide and federal accounting policies as well as allow staff to perform critical daily accounting and procurement functions. When compared to EDD's legacy systems, FI$Cal requires additional tasks associated with the majority of the accounting and procurement functions. EDD will utilize these resources to ensure that its critical functions can be completed timely and accurately on an ongoing basis.	Approve as budgeted
13.	April 1 Letter	**Cybersecurity Licensing.** An April 1 letter requested that Item 7100-001-0185 and Item 7100-001-0588 each be increased by $1,673,000 ongoing to support the continued licensing of cybersecurity tools to identify vulnerabilities and respond to cybersecurity incidents. These tools were previously supported by one-time funding in the 2022 Budget Act.	Approve as budgeted

14.	May Revision	Adjustments to Program Benefits • **Unemployment Insurance Program Benefit.** The May Revision requests that that budget bill Items 7100-101-0871 and 7100-111-0890 be increased by $1.75 billion ongoing to align with updated forecast benefit payments. Additionally, budget bill Item 7100-101-0871, Budget Act of 2022, pursuant to Provision 3, is increased by $889.6 million in 2022-23 to align with an estimated increase in claims. • **Disability Insurance Program Benefits**. The May Revision requests that budget bill Item 7100-101-0588 be increased by $661 million ongoing to align with updated State Disability Insurance (SDI) program benefit payment estimates. Additionally, Item 7100-101-0588, Budget Act of 2022, pursuant to Provision 2, is increased by $444 million in 2022-23 to align with estimated SDI benefit claims.	Approve as budgeted
15.	May Revision	**Workforce Innovation and Opportunity Act (WIOA) Allocations.** The Administration requests that budget bill Items 7100-001-0869 and 7100-021-0890 be increased by $4,985,000 one-time in 2023-24, and Items 7120-101-0869 and 7100-101-0890 be increased by $49,030,000 one-time in 2023-24, to align WIOA authority with estimated federal allocations. Additionally, budget bill Item 7100-101-0869, Budget Act of 2022, pursuant to Provision 1, is increased by $7,221,000 in 2022-23, to align with anticipated federal allotments of nondiscretionary WIOA funds for local workforce development areas.	Approve as budgeted
16.	May Revision	**Direct Deposit Implementation.** The May Revision includes $15.4 million ($6.34 million General Fund) in 2023-24, $14.4 million ($1.68 million General Fund) in 2024-25, and $8.6 million in 2025-26 and ongoing to fund the implementation of direct deposit option for benefits. Funding will support vendor costs associated with direct deposit and departmental costs associated with system modifications, form changes, training, policy/procedure updates, and communications to all external customers. AB 138 (Committee on Budget), Chapter 78, Statutes of 2021 requires EDD to provide a person entitled to receive benefits under the state unemployment insurance compensation program or the disability insurance compensation program the option to receive payments directly deposited by	Approve as budgeted

		electronic fund transfer into a qualifying account of the recipient's choice, in addition to other alternative disbursement payment methods such as debit cards and checks, by January 1, 2024. EDD was authorized 23 positions and $5.5 million General Fund in 2021-22 and 2022-23 to begin planning a direct deposit solution. This initial budget augmentation was based on a two-year timeline. However, most vendors exited the market, including the major provider of financial services to EDD's benefit payment programs. As a result, planning and implementation activities were significantly delayed due to EDD's difficulty in acquiring a new EBP services vendor, and EDD had to conduct additional activities to develop a new Request for Proposal (RFP). EDD issued an RFP on September 2022 to select a new EBP services vendor to provide debit card and direct deposit payment services. A contract was awarded to the new vendor in January 2023. In addition, EDD completed the development of detailed requirements for all changes required to implement a direct deposit solution.	
17.	May Revision	**Community Economic Resilience Fund Clean-up Trailer Bill Language.** This proposed language addresses a chaptering out issue during the 2022 legislative session. This trailer bill restores changes approved in legislation signed into law, AB 2342 (Cervantes), Chapter 568, Statutes of 2022, that was subsequently chaptered out by AB 156 (Committee on Budget), Chapter 569, Statutes of 2022.	Approve as proposed

7120 California Workforce Development Board (CWDB)

Issues 18-20: Various Proposals

Issue #	Origin	Subject	Description
18.	January Governor's Budget	**California Youth Leadership Program.** The Budget Act of 2022 included $60 million General Fund over three years ($20 million in each 2022-23, 2023-24, and 2024-25) to CWDB to invest in career pathway programs at community colleges. The Governor's budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment to $40 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.	Reject this proposal
19.	January Governor's Budget	**Training Related Reporting.** The Governor's budget $374,000 General Fund one-time develop a plan to measure training outcomes and implement SB 755 (Roth), Chapter 815, Statutes of 2022.	Approve as budgeted
20.	May Revision	**Federal First Step Act Grant.** The May Revision includes $5.33 million one-time federal funds to allow the California Workforce Development Board to implement a federal grant that expands the Prison 2 Employment program into federal prisons. It is also requested that provisional language be added to provide an extended encumbrance period for this funding to March 30, 2026.	Approve as budgeted

7300 Agricultural Labor Relations Board (ALRB)

Issues 21-23: Various Proposals

Issue #	Origin	Subject	Description

21.	January Governor's Budget	**Farmworker Outreach.** The Governor's budget proposes to make permanent the Labor and Workforce Development funding ($658,000) and position authority for four positions (one Staff Services Manager I, three Associate Governmental Program Analysts) to continue the Farmworker Outreach program that supports broader adoption, compliance and enforcement of the State's labor laws in the agricultural industry including those adopted in response to COVID-19.	Approve as budgeted
22.	January Governor's Budget	**Miscellaneous Workload AB 2183 (Stone), Chapter 673, Statutes of 2022.** The Governor's budget includes $1,113,000 in General Fund and six positions (three Attorney III and three Field Examiner II positions) to address the increased workload and new demands that will be generated by the passage of AB 2183. The law initially provided two additional pathways for agricultural workers to select a union representative but was recently amended by early action trailer bill legislation AB 113 (Committee on Budget), Chapter 7, Statutes of 2023 to retain one of these pathways.	Approve as budgeted
23.	January Governor's Budget	**IT Security and Staffing.** The Governor's budget includes one permanent Information Technology Specialist I position and associated funding ($154, 000 General Fund) along with $300,000 General Fund in ongoing contract funds for additional IT Security Services and Support to meet Cal-Secure requirements. The combination of additional state IT staff and vendor supported software services would position ALRB to have the necessary resources needed to ensure ALRB can meet IT infrastructure and security measures needed to comply with California Department of Technology standards.	Approve as budgeted

7320 PUBLIC EMPLOYMENT RELATIONS BOARD (PERB)

Issues 24-25: Various Proposals

Issue #	Origin	Subject	Description
24.	January Governor's Budget	**IT Security and IT Contracting.** The Governor's budget includes $164,000 General Fund 2023-24 and ongoing to comply with the California Department of technology IT security requirements and for contracted IT support.	Approve as budgeted
25.	May Revision	**Legal Classification Realignment.** The May Revision includes $22,000 General Fund in fiscal year 2023-24 and ongoing to refine and improve the organizational structure of the Division of Administrative Law. The Division of Administrative Law is responsible for holding formal hearings if a charge is not dismissed or resolved at the Office of the General Counsel. The formal hearing is conducted by an Administrative Law Judge (ALJ) who has not previously participated in the case. The current PERB structure provides two Administrative Law Judges and one Sr. Administrative Law Judge at each of the three PERB Regional Offices (the Los Angeles Regional Office has a third Administrative Law Judge due to historically maintaining a higher case count). The only supervisor in the division is the Chief Administrative Law Judge located in Sacramento. PERB requests to upgrade one of the Administrative Law Judge positions in the Los Angeles Regional Office to the newly created Supervising Administrative Law Judge classification. This will allow for better mentorship for newer ALJs and reduced travel of the Chief ALJ to Southern California.	Approve May Revision

7350 DEPARTMENT OF INDUSTRIAL RELATIONS (DIR)

Issues 26-44: Various Proposals

Issue #	**Origin**	**Subject**	**Description**
26.	January Governor's Budget	**Wage Claim Adjudication.** The Governor's budget includes an additional $11.7 million special funds and 42 positions in 2023-24 and $6.5 million special funds ongoing for DIR to help address wage claim processing times by improving the efficiency of the claims intake and processing as well as automate portions of the claims processing activities within the Wage Claim Adjudication unit.	Approve Governor's proposed funding and modify as follows: • Add $12 million special funds for a Workers Rights Enforcement Grant Program that would be administered by DIR. This program would provide reimbursements to local city attorneys and district attorneys for funds expended on workers rights enforcement. • Adopt provisional budget bill language.

27.	January Governor's Budget	**Electronic Adjudication Management System Modernization.** The Governor's budget includes $21.1 million special funds in 2023-24 for DIR to support the replacement of the Division of Workers' Compensation's electronic case management and document storage system.	Approve as budgeted
28.	January Governor's Budget	**Apprenticeship Innovation Fund.** The Budget Act of 2022 included $175 million General Fund over three years ($55 million in 2022-23 and $60 million in each 2023-24 and 2024-25) at DIR to invest in and expand non-traditional apprenticeships. The Governor's budget proposes to withdraw $40 million ($20 million in each 2023-24 and 2024-25), reducing the total three-year investment to $135 million. If there is sufficient General Fund in January 2024, then this reduction will be restored.	Approve as budgeted
29.	January Governor's Budget with May Revision modification	**Women in Construction Unit.** The May Revision proposes to restore $15 million in 2023-24 and $15 million in 2024-25 for the Department of Industrial Relation's Women in Construction Priority Unit. The Governor's budget proposed to pause this funding for two years as part of the proposed budget solutions and the May Revision proposes to restore this funding.	Approve May Revision proposal
30.	January Governor's Budget	**COVID-19 Workplace Outreach Program.** The Governor's budget proposes the elimination of $25 million in 2023-24. The Budget Act of 2022 included $50 million General Fund over two years ($25 million in each 2022-23 and 2023-24) to DIR to partner with organizations to perform COVID-19 outreach and education to workers and employers in high-risk industries.	Reject this proposal. Shift the $25 million in fiscal support for 2023-24 to the Labor and Workforce Development Fund. Rename program as California Workplace Outreach Program to continue worker rights education post-pandemic.

31.	January Governor's Budget	**CalOSHA Data Modernization Project.** The Governor's budget proposes $12.6 million in 2023-24 from the Occupational Safety and Health Fund to provide first year funding to develop a system that will meet federal and state-mandated requirements, consolidate information into a central database/repository, interface to other DIR systems, and automate manual processes across its units.	Approve as budgeted
32.	January Governor's Budget	**Workers' Compensation Information System Upgrade.** The Governor's budget proposes $750,000 in 2023-24 Workers' Compensation Administration Revolving Fund authority to upgrade the Workers' Compensation Information System.	Approve as budgeted
33.	January Governor's Budget	**Prevailing Wage and Public Works Trailer Bill Language.** AB 2011 (Wicks, Chapter 647, Statutes of 2022), also known as the Affordable Housing and High Road Jobs Act of 2022, makes certain types of specified affordable, multifamily housing developments a "use by right," subject to only streamlined, ministerial review, when sited within an urban area and in a zone where office, retail, or parking are a principally permitted use. AB 2011 also requires projects that take advantage of the "use by right" determination to pay prevailing wages and maintain certified payroll records with additional requirements for projects with 50 or more units. Contractors that employ construction craft employees are required to employ apprentices as specified, make specified health care expenditures, and provide monthly reports to the local government demonstrating compliance. These labor standards provisions are to be enforced by the Labor Commissioner's Office (LCO), workers in civil and administrative complaints, and joint labor-management committees in civil actions. SB 6 (Caballero), Chapter 659, Statutes of 2022, also known as the Middle Class Housing Act of 2022, allows housing projects as an allowable use on parcels zoned for office, retail, or parking uses in urban areas. Developers wishing to use SB 6's provisions must agree to payment of prevailing wage and skilled and trained workforce requirements. Similarly to AB 2011, the enforcement of prevailing wage and skilled and trained workforce requirements falls under the purview of DIR and LCO's Public Works Unit.	Adopt placeholder trailer bill language

		Of note, the Labor Commissioner's Public Works Unit is charged with investigating public works projects that are paid in whole or in part by public funds. The Public Works Unit is responsible for enforcing prevailing wage laws and recovery of appropriate prevailing wages for workers on public works projects. Following an investigation by the Public Works Unit, LCO issues and serves a Civil Wage and Penalty Assessment (CWPA), which specifies the wage deficiencies for workers and penalties for violating prevailing wage requirements. The Governor's budget included trailer bill language to clarify contractor registration requirements, establish penalties for violations of AB 2011 and SB 6, and provide DIR with the authority to establish and adjust annual registration and renewal fees.	
34.	January Governor's Budget	**AB 2011 and SB 6 Implementation Budget Change Proposal.** In addition to the above trailer bill language, the Governor's budget includes 30 positions and $5.8 million in 2023-24 and $5.4 million in 2024-25 and ongoing from the State Public Works Enforcement Fund to implement and enforce both AB 2011 and SB 6. The positions requested are outlined below: • 25 positions for Prevailing Wage and Apprenticeship Enforcement: The LCO anticipates a surge in new housing development projects requiring the division's enforcement of applicable labor standards. LCO expects to perform 420 additional investigations as a result of this legislation. • Three positions for Civil Wage and Penalty Assessment Appeals and Legal Consultation: The Labor Commissioner's Office explains that it will require attorney staffing to address the increased appeal workload resulting from AB 2011 and SB 6. Additionally, DIR projects an increase in the number of requests for legal services, primarily in the form of legal advice and counsel, for the Office of the Director – Research Unit and Division of Apprenticeship Standards. • Two positions for Administrative Support: Support positions are requested to meet administrative demands and provide general support services in Human Resources, Business Management, Fiscal Services, and Information Services.	Approve as budgeted

35.	January Governor's Budget	**AB 2143 (Carrillo), Chapter 774, Statutes of 2022 Implementation – Construction Of Renewable Generation Facilities: Prevailing Wage.** The Governor's budget includes \$2.43 million in 2023-24, \$4.5 million in 2024-25, and \$4.4 million in 2025-26 and ongoing from the State Public Works Enforcement Fund and 24 positions to implement AB 2143. AB 2143 created a new category of construction projects that will be subject to DIR's enforcement of prevailing wage requirements. The bill designates certain types of "net energy metering" electrical generation facility construction projects as "public works" after December 31, 2023, thereby requiring the payment of prevailing wages among other obligations. The projects covered under the bill include renewable electrical generation facilities and associated battery storage. Requested positions include 20 positions for the Labor Commissioner's Office to investigate public works projects pursuant to AB 2143, 2 positions in the Office of the Director – Legal Unit to manage related legal work, and two positions for administrative support.	Approve as budgeted

36.	January Governor's Budget	**AB 1601 (Akilah Weber), Chapter 752, Statutes of 2022 Implementation: Employment Protections: Mass Layoffs, Relocation Or Termination: Call Centers** The Governor's budget includes $230,000 in 2023-24 and $218,000 in 2024-25 and 2025-26 from the Labor Enforcement and Compliance Fund to implement AB 1601. AB 1601 requires call center employers who intend to relocate their operations to a foreign country to notify specified entities, including the Employment Development Department, and affected call center employees 60 days prior to relocation, imposing various restrictions regarding eligibility for state grants, loans, and tax credits to those employers. The Labor Commissioner's Office currently enforces the provisions requiring similar notice requirements for relocations, terminations, and mass layoffs that generally apply to industrial or commercial facilities, as defined in the California Worker Adjustment and Retraining Act. Funding would be used for additional staffing resources to conduct an anticipated three additional investigations per year.	Approve as budgeted

37.	January Governor's Budget with May Revision modification	**AB 1643 (Rivas), Chapter 263, Statutes of 2022 Implementation: Heat Advisory Committee Study.** The Governor's budget includes $1 millionone time in 2023-24 from the Occupational Safety and Health Fund to implement AB 1643. AB 1643 requires the Labor and Workforce Development Agency (LWDA) to convene an advisory committee on or before July 1, 2023 to study the impact of heat on workers and businesses in the state. The advisory committee is tasked with meeting and determining the scope of studies on the impact of heat. LWDA is delegating this legislative mandate to DIR. The department will convene and coordinate the work of this advisory committee, which includes the following tasks: selection of committee members; secure meeting space; notice to the public regarding meetings; contract with external entities as needed in order to do the studies; and respond to inquiries from the public, Legislature, and Governor's Office. To execute the mandate of the bill, DIR requests an attorney position to carry out the legal functions of the advisory committee, a principal safety engineer to represent CalOSHA in meetings, and a Senior Industrial Hygienist to create study proposals for review. DIR is additionally anticipating $300,000 for the contracting cost of the studies. The May Revision requests budget bill language be added to budget bill item 7350-001-3121 to extend the encumbrance period from June 30, 2024 to June 30, 2025 for the implementation of AB 1643 to align with the DIR's implementation proposed in the Governor's budget.	Approve as budgeted and adopt MR budget bill language addition

38.	January Governor's Budget	**AB 2068 (Haney), Chapter 485, Statutes of 2022 Implementation: Occupational Safety And Health Postings In Spoken Languages.** The budget includes $254,000 in 2023-24 and $238,000 in 2024-25 ongoing from the Occupational Safety and Health Fund to implement AB 2068. AB 2068 requires employers to post at worksites employee notices of citations and special orders issued and prepared by CalOSHA, translated into the top seven non-English languages used by limited-English-proficient adults in California, as determined by the most recent American Community Survey by the United States Census Bureau, as well as Punjabi if that language is not otherwise included among the top seven. Additionally, the Division may add to the languages using data sources from local and state government or feedback from community-based and/or labor organizations. CalOSHA can enforce this new requirement by issuing a citation for an employer's failure to comply. CalOSHA requests resources to perform translations, translation accuracy reviews, including contracting with outside vendors if bilingual staff are not available to provide translation services.	Approve as budgeted
39.	January Governor's Budget	**SB 1295 (Limon), Chapter 844, Statutes of 2022 Implementation – Hazardous Or Deserted Wells And Facilities: Labor Standards.** The Governor's budget includes $376,000 in 2023-24 and $348,000 in 2024-25 and ongoing from the State Public Works Enforcement Fund for 2 positions to implement SB 1295. SB 1295 expands the universe of public works projects by deeming all work done and funded by the Oil, Gas, and Geothermal Administrative Fund and performed by outside contractors to be public work for which prevailing wages are required to be paid. The bill also requires the use of a skilled and trained workforce (apprentices) on such projects for work performed after January 1, 2028. The Labor Commissioner is responsible for enforcement of these requirements. The Labor Commissioner's Office anticipates 60 additional public works investigations per year, and requests two positions for prevailing wage and apprenticeship enforcement activities.	Approve as budgeted

40.	January Governor's Budget	**AB 1751 (Daly), Chapter 758, Statutes of 2022 Implementation – Workers' Compensation: COVID-19 Critical Workers.** The Governor's budget includes $5 million in 2027-28 from the Workers Compensation Administration Revolving Fund to implement AB 1751. In response to the COVID-19 pandemic, SB 1159 (Hill), Chapter 85, Statutes of 2020 created three different rebuttable presumptions that consider an employee's COVID-19 illness or death, as an occupational injury and therefore eligible for workers' compensation benefits. The criteria for eligibility included COVID-19 injuries occurring between specific dates; injuries occurring to first responders and designated health care workers; and workers whose employers have five or more employees and who test positive for COVID-19 during an outbreak at their place of employment. The Labor Commissioner was also granted authority to cite employers who fail to report to their claims administrator when an employee has tested positive for COVID-19. SB 1159 provided that the presumption statutes remain in effect until January 1, 2023. AB 1751 extends the SB 1159 presumptions of COVID-19 related illness or injury for an additional year until January 1, 2024, requiring a one-year extension of the resources provided in the SB 1159 budget request. Because of the extension of presumptions of COVID-19 related illness or injury for an additional year until January 1, 2024, DIR believes that claims could continue to be filed with the Workers Compensation Appeals Board through January 1, 2025, at the earliest. Assuming the same claim lifespan of 18 months, this would mean that the AB 1751 workload would continue into 2027.	Approve as budgeted
41.	April 1 Letter	**AB 2243 (Garcia), Chapter 778, Statutes of 2022 Implementation: Occupational Safety And Health Standards – Heath Illness And Wildfire Smoke.** The Governor's Budget proposes $1.2 million special fund in 2022-23 and $361,000 ongoing to implement Occupational Safety and Health Fund to implement AB 2243. A subsequent April 1 letter requested that the proposal be decreased by 4 positions in 2023-24 through 2026-27 to correct a technical error in the Heat Illness and Wildfire Smoke standards proposal included in the Governor's January Budget.	Approve April 1 Letter

		AB 2243 requires CalOSHA, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard. The bill requires the division, in preparing the proposed regulations, to consider revising the heat illness standard to require employers to distribute copies of the Heat Illness Prevention Plan. The bill similarly requires a rulemaking proposal to consider revising the wildfire smoke standard, with regard to farmworkers, to reduce the existing air quality index threshold for PM2.5 particulate matter at which control by respiratory protective equipment becomes mandatory for farmworkers. The bill requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025. Finally, the bill further requires the division to consider regulations, or revising existing regulations, relating to protections related to acclimatization to higher temperatures. To meet the bill's mandates, CalOSHA anticipates that it will need to promulgate two separate rulemaking packages, one for heat and one for wildfire smoke, as the hazards are quite different and require different substantive expertise and research. Based on research and expertise needed, as well as the rulemaking timeline under the Office of Administrative Law (OAL), the packages are anticipated to take three to four years to complete. Requested funding will cover costs of performing technical research and conducting Standardized Regulatory Impact Assessments, including contract costs with outside vendors to work closely with CalOSHA's subject matter experts. Resources will also provide technical, editorial, and legal review prior to public noticing, as well as intake of public comments, Board engagement and vote, and final submission to OAL.	

42.	April 1 Letter	**Withdrawal of FAST Recovery Act: Food Facilities and Employment, AB 257 (Holden) Chapter 246, Statutes of 2022.** An April 1 letter requested that Item 7350-001-3121 be decreased by $1,520,000 and six positions in 2023-24 and $1,440,000 and six positions in 2024-25 and ongoing. It is also requested that Item 7350-001-3152 be decreased by $3,087,000 and 13 positions in 2023-24 and $2,899,000 and 13 positions in 2024-25 and ongoing. This request withdraws resources proposed at Governor's Budget to implement AB 257 given that, on January 24, 2023, the Secretary of State certified that a referendum qualified for the 2024 General Election challenging AB 257. AB 257 cannot be enforced or implemented unless it is approved by voters in the 2024 General Election.	Approve April 1 Letter
43.	May Revision	**Resources to Implement Chapter 1, Statutes of 2023 First Extraordinary Session (SBX1-2).** The May Revision includes, as part of a larger implementation package, one position and $286,000 in 2023-24 and $272,000 in 2024-25 and ongoing from the Occupational Safety and Health Fund to implement Chapter 1, Statutes of 2023, First Extraordinary Session (SB 2). The resources would enable DIR to consult with the California Energy Commission to consider ways to manage oil refinery turnaround and maintenance schedules in a manner that considers workers' health and safety. At a special session of the assembly on December 5, 2022, the Governor introduced SB-x1-2, a bill focused on fundamental change to prevent future extreme price spikes and price gouging by oil companies. The bill was renumbered to SB 2 and signed by the Governor on March 28, 2023 with its provisions coming into effect three months after signing. The legislation aims to set regulations for a maximum margin that refiners can make and to create greater transparency to ensure an adequate, affordable, and reliable supply of fuels, as the state transitions away from petroleum fuels.	Consistent with actions taken in Senate Budget Subcommittee No. 2 for this proposal, approve as budgeted

44.	Senate Democratic Caucus " Protect Our Progress" Plan	**Domestic Worker Health and Safety.** The Senate's "Protect Our Progress" plan proposes to include $9 million per year for five years ($45 million total) beginning in 2023-24 and trailer bill legislation to support initiatives that protect the health and safety of household domestic service employees. These funds would be used to implement the following recommendations: 1. Remove, through trailer bill legislation, the household domestic services exclusion from the Occupational Safety and Health Act (Cal/OSHA) and apply its requirements and obligations on domestic service employers, which should be a minor and absorbable cost because voluntary guidance has already been developed by the SB 321 (Durazo), Chapter 332, Statutes of 2021, Household Domestic Services Employment Safety Committee. 2. $7 million per fiscal year, starting in 2023-24, to fund health and safety outreach and education for domestic work employees and employers through an expansion of the existing Domestic Worker and Employer Education and Outreach Program (DWEOP). 3. $2 million per fiscal year, starting in 2023-24, to establish a financial and technical assistance program through the Division of Occupational Safety and Health to assist eligible low-income household domestic service employers to comply with Cal/OSHA regulations.	Approve as proposed

7501 California Department of Human Resources (CalHR)

Issues 45-55: Various Proposals

Issue #	Origin	Subject	Description
45.	January Governor's Budget	**Tribal Consultation Training, AB 923 (Ramos), Chapter 475, Statues of 2022.** AB 923 requires CalHR to develop training by June 1, 2024, regarding the required elements of government-to-government consultations with California Native American Tribes. It also requires designated state officials to complete the training by January 1, 2025, and for officials appointed after that date to do so within six months of their appointment. All designated officials are required to retake the training annually. The Governor's budget includes $100,000 General Fund in 2023-24 for consulting services for the design, development and delivery of the required training, and $10,000 General Fund for fiscal year 2024-25 and ongoing for all related annual update activities and ongoing administrative and maintenance functions.	Approve as budgeted
46.	January Governor's Budget	**CalHR Privacy Officer.** The Governor's budget includes one permanent position and $172,000 ($65,000 General Fund) for fiscal year 2023-2024, and $165,000 ($63,000 General Fund) ongoing to allow CalHR to have a dedicated Privacy Officer to develop and manage the department's, policies, procedures, and compliance with California requirements on privacy laws and standards.	Approve as budgeted
47.	January Governor's Budget	**Psychological Screening Program Administrative Support Adjustment.** The Governor's budget includes reimbursement authority of $116,000 and permanent position authority to transition one limited-term position within the Medical and Psychological Screening Division.	Approve as budgeted
48.	January Governor's Budget	**Communications Office and Content Management System Replacement.** The Governor's budget includes two positions and $1,352,000 ($994,000 General Fund) in fiscal year 2023-2024 and $563,000 ($214,000 General Fund) in fiscal year 2024-2025 and ongoing to 1) research and plan for the replacement of the CalHR Web Content Management System (CMS); and, 2) research, plan and develop an improved communication service to the public, state, and employees.	Approve as budgeted

49.	January Governor's Budget	**Retirement Rate Adjustment for Excluded Employees.** The Governor's budget included trailer bill language that would provide CalHR with flexibility to adjust retirement rates for excluded employees. Currently, changes to excluded employee retirement rates depend on the associated bargaining unit. For example, statutory language the Director of CalHR discretion to retroactively adjust retirement rates for associated excluded employees of specific bargaining units. For others, adjustments are not possible prior to the date CalPERS receives a notification of change. According to CalHR, this creates timing challenges, especially when bargained Memoranda of Understanding include retroactive changes for rank-and-file members. The proposed changes will align statutory language for excluded employees across the various bargaining units, ensure employees in the same bargaining unit are contributing equally based on actuarially determined rates, and provide CalHR with the flexibility to adjust rates without restrictions on timing.	Approve as proposed
50.	January Governor's Budget	**Personnel Management Division Strategic Workload Support.** The Governor's budget includes two positions and $428,000 ($256,000 General Fund) in fiscal year 2023-2024, and $412,000 ($246,000 General Fund) in 2024-2025 and ongoing to provide the Personnel Management Division strategic workload support to enable CalHR capacity to provide better customer service in alignment with CalHR's Strategic Plan.	Approve as budgeted
51.	April 1 Letter	**Reimbursement Authority for Childcare Bargaining Division.** The Governor's April 1 Letter proposes to add $25 million of permanent reimbursement authority for CalHR to serve as a pass-through entity to receive automatically authorized deductions from state vendors that administer subsidized family child care programs to the child care providers exclusive representative/union as required by, and defined in, Welfare and Institutions Code section 10420 et seq. The Welfare and Institutions Code (WIC) section 10426.5 was added via AB 131 (Committee on Budget), Chapter 116, Statutes of 2021 and states that the exclusive representative for represented family child care providers, Child Care Providers United - California (CCPU), may request for deductions (membership dues, initiation fees, general assessments, and payment of any other membership program sponsored by the certified provider organization) to be made from provider subsidy payments paid by state vendors. CCPU may determine its authorized deductions, which does not require the state's input. WIC section 10426.7 requires CalHR ensure that CCPU's requests are honored.	Approve as budgeted

52.	May Revision	**Legal Accounting and Work Management System (LAWS) Project Reappropriation.** The May Revision requests reappropriation language be added to extend the encumbrance or expenditure availability of $1.7 million General Fund in 2023-24. This reappropriation allows CalHR to complete the Legal Accounting and Work Management System project approved in the 2022 Budget Act.	Approve as budgeted
53.	May Revision	**Compensation Study Schedule Trailer Bill Language.** The May Revision includes trailer bill language to amend the timeline for CalHR's statutory requirement to create and submit total compensation reports six months prior to the expiration of a Memorandum of Understanding (MOU) to instead occur biennially. This proposal is based on a 2021 recommendation of the Legislative Analyst's Office. The purpose of the change is to provide consistent and improved data that decision makers can depend on. The first set of biennial reports would be published on February 1, 2025. Compensation studies are relied upon by state employee unions, the Legislature and the Administration. Currently, compensation studies are tied to bargaining contract cycles rather than a set schedule. Because bargaining contracts can vary in length, leading to varied periods of time without compensation studies, there can be data gaps, making it difficult to identify and analyze market trends. This creates a challenge for those evaluating state employee compensation. Conducting biennial compensation studies ensures publishing dates are consistent and up-to-date data may show reliable market trends.	Adopt placeholder trailer bill language
54.	May Revision	**California State Payroll System (CSPS) Project.** The May Revision includes an increase by nine positions and $2.9 million General Fund in fiscal year 2023-24, $1.8 million General Fund in 2024-25, and $2.0 million General Fund in 2025-26 and ongoing, to support the California State Payroll System project as it transitions from planning to implementation, maintenance, and operation. Resources in the California Department of Human Resources (CalHR) support labor relations, data management and conversion, human resources training, classification and pay, marketing and outreach, and web development.	Approve as budgeted
55.	May Revision	**Uniform Payroll Cycle Trailer Bill Language.** The May Revision includes trailer bill language to amend Government Code section 19824 to change the State's current unique "monthly" payroll cycle to "uniform" payroll cycle. This will allow implementation of a customary biweekly payroll cycle with the implementation of the CSPS Project. Additionally, in order to maximize operational efficiencies in payroll processing for over 285,000 State employees, remove section 19824 (b)	Adopt placeholder trailer bill language

		allowing supersession by collective bargaining. This will prevent unintended conflicts with existing memoranda of understanding and allow the state to continue payroll processing cycles through the transition to the CSPS solution. In 2019, the CSPS Project conducted market research via two Requests for Information from the vendor community, which included a request for vendor feedback on the State's current payroll cycle and how it might have an impact on implementation of a future solution. The market research responses on the State's current payroll cycle indicated that all vendors identified biweekly pay as an industry standard and best practice. All vendors suggested that moving employees to biweekly payroll cycle would simplify payroll processing.	

7900 California Public Employees' Retirement System (CalPERS)

Issue 56: CalPERS Supplemental Pension Payment and Annual Contribution

Issue #	Origin	Subject	Description
56.	January Governor's Budget with May Revision modification	**CalPERS Supplemental Pension Payment and Annual Contribution.** • **CalPERS State Contributions.** State contributions to the CalPERS have decreased by a net total of $1.7 million in 2023-24 relative to the Governor's January budget. The Governor's budget previously proposed $8.5 billion ($4.7 billion General Fund) for the statutorily required annual state contribution to CalPERS for state pension costs based on the CalPERS actuarial valuation projected contribution rates as of June 30, 2021. 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 and the application of 2021-22 and 2022-23 supplemental pension payments. • **CalPERS Unfunded Liability.** The January budget included $1.2 billion one-time Proposition 2 debt repayment funding as a supplemental payment toward the state plans' unfunded liabilities. The May Revision estimates $1.7 billion in one-time Proposition 2 debt repayment funding in 2023-24 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 two to one.	Approve May Revision

7920 California State Teachers' Retirement System (CalSTRS)

Issue 57-59: Various Proposals

Issue #	Origin	Subject	Description
57.	January Governor's Budget with May Revision modification	**State Contribution.** State contributions to the California State Teachers' Retirement System (CalSTRS) increased by $8.8 million General Fund in 2023-24, relative to the Governor's January budget, due to a revision in reported compensation for K-12 and community college teachers. The Governor's 2023-24 budget proposal included $3.9 billion General Fund in required contributions to CalSTRS. No supplemental payment to CalSTRS is proposed in 2023-24, in contrast to past few years.	Approve May Revision
58.	January Governor's Budget	**Enterprisewide Strategic Support.** The Governor's budget includes $17.3 million in permanent funding for enterprisewide strategic support resources to advance the CalSTRS 2022–25 Strategic Plan goals and initiatives and to support enterprisewide growth. This includes $8.6 million to establish 56 permanently authorized positions and $8.7 million for various technology service contracts.	Approve as budgeted
59.	April 1 Letter	**Pension Solution Project.** In support of CalSTRS 2022-25 Strategic Plan, this proposal includes $87,173,000 in one-time budget authority to fund internal and external resources to continue fiscal year 2023–24 system implementation activities for the Pension Solution Project. The Pension Solution Project is an ongoing effort by CalSTRS to modernize the legacy pension administration system. The new system, BenefitConnect, will enhance our ability to respond to customer and business needs, gain long-term operational efficiencies, improve internal controls, and enhance services to more than one million members and their beneficiaries, as well as the school employer community. The current Pension Solution Project budget is $334.8 million. This proposal will bring the interim project budget to $422.0 million. This proposal was presented to, and approved by, the Teachers' Retirement Board (board) at the March 1, 2023, board meeting.	Approve as budgeted

VARIOUS DEPARTMENTS

Issue 60: Various Proposals on Retiree Benefits

Issue #	Origin	Subject	Description
60.	January Governor's Budget with May Revision modification	**Retiree Benefits- Health and Dental Benefits for Annuitants (Item 9650) and Health Benefits for California State University Annuitants (Item 6645).** The Governor's budget includes $390 million in one-time Proposition 2 debt repayment funding for the employer's share of contributions to pay for future retiree health benefits. The May Revision increases employee compensation by a net total of $22.2 million in 2023-24 and ongoing, relative to the Governor's budget, to reflect increased employee compensation costs resulting from updated payroll information, updated health and dental rates, increased enrollment in health and dental plans, and a change in the health plan enrollment composition. Collective bargaining negotiations are ongoing with 15 of the state's 21 bargaining units, whose contracts are expired or will expire in summer 2023, including Service Employees' International Union, Local 1000; California Correctional Peace Officers' Association; California Statewide Law Enforcement Association; California Associations of Professional Scientists; International Union of Operating Engineers (craft and maintenance employees in bargaining unit 12); Union of American Physicians and Dentists; and American Federation of State, County and Municipal Employees.	Approve May Revision

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

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

Tuesday, May 23, 2023
1:30 pm
1021 O Street – Room 2100

PART C
Consultant: Nora Brackbill, Ph.D.

ITEMS FOR VOTE ONLY

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

ITEM	BU	Department	Proposal	Description	Staff Recommendation
1	0250	Judicial Branch	Charles James Ogletree, Jr. Courthouse (AB 2268)	$440,000 one-time General Fund for new signage to rename the Superior Court of Merced County's main courthouse as the Charles James Ogletree, Jr. Courthouse pursuant to Chapter 410, Statutes of 2022 (AB 2268).	Approve as Budgeted
2	0250	Judicial Branch	Community Mental Health Services (SB 929) BCP and April Adjustment	$3.56 million General Fund and 2.0 positions in 2023-24, $3.54 million and 2.0 positions in 2024-25, and $1.97 million and 2.0 positions ongoing starting to comply with data collection requirements specified in SB 929 (Chapter 539, Statutes of 2022) relating to community mental health services, and a technical adjustment to the budget bill included in the April Letters.	Approve as Budgeted at April Letters
3	0250	Judicial Branch	Court of Appeal - New Sixth Appellate District Courthouse	$2,811,000 General Fund for the Performance Criteria phase of the New Sixth Appellate District Courthouse.	Approve Proposal with Lease Revenue Bond
4	0250	Judicial Branch	Courts of Appeal Workload	$2.7 million in 2023-24, and $2.3 million in 2024-25 and 2025-26 from the Appellate Court Trust Fund (ACTF) for appellate workload and operations.	Approve as Budgeted
5	0250	Judicial Branch	Extended Liquidation for Facility Services	Extends the liquidation period of the funding provided to the Judicial Branch by Control Section 6.10 of the 2018 Budget Act for deferred maintenance projects, from June 30, 2023 to June 30, 2024.	Approve as Budgeted
6	0250	Judicial Branch	Imperial County – New El Centro Courthouse – Bonds to Cash	$18,203,000 General Fund to pay a portion of expenditures for the construction phase of the Imperial County – New El Centro Courthouse project.	Reject bond to General Fund conversion
7	0250	Judicial Branch	Jury Duty (AB 1981)	$19 million General Fund in 2023-24, $17.5 million in 2024-25, and $4.2 million ongoing to implement Chapter 326, Statutes of 2022 (AB 1981).	Approve as Budgeted
8	0250	Judicial Branch	Language Access Efforts in the California Courts and Technical Adjustments to Budget Bill Language	$200,000 from the Court Interpreters' Fund in 2023-24 through 2027-28 to address the shortage of qualified interpreters by providing trainings for near passers of the bilingual interpreting examination, budget bill language to authorize yearly adjustments to the expenditure authority, and other technical adjustments included in the May Letters to remove erroneously included budget bill language.	Approve as Budgeted with provisional budget bill language
9	0250	Judicial Branch	Legal Support for Court Rules and User-Friendly Forms	$838,000 General Fund and 3.0 positions in 2023-24, and $1.6 million and 6.0 positions ongoing to implement new laws through rules of court and forms.	Approve as Budgeted
10	0250	Judicial Branch	Monterey County - New Fort Ord Courthouse and May Revision Reversion	$153,046,000 Lease Revenue bond authority for the Design-Build phase of the New Fort Ord Courthouse in Monterey County, and reversion of $25 million in the acquisition phase due to savings from donated land.	Approve as Budgeted
11	0250	Judicial Branch	Nevada County - New Nevada City Courthouse	$8,115,000 General Fund for the Acquisition phase of the New Nevada City Courthouse in Nevada County.	Approve Proposal with Lease Revenue Bond

12	0250	Judicial Branch	Ongoing CARE Court Support and May Revision Adjustment	$55.5 million in 2023-24 General Fund, $106.9 million General Fund in 2024-25, and $133.0 million General Fund in 2025-26 and ongoing to update previous cost estimates for the implementation of Chapter 319, Statutes of 2022 (CARE Act).	Approve funding for 2023-24 only as budgeted at May Revision, and adopt provisional budget bill language regarding quarterly reporting from Cohort 1
13	0250	Judicial Branch	Reappropriation of CARE Court Funding (May Revision)	Reappropriation of up to $1,750,000 provided in the 2022 Budget Act for information technology enhancements related to the implementation of the CARE Act.	Approve as Budgeted
14	0250	Judicial Branch	Sacramento County – New Sacramento Courthouse – Bonds to Cash	$17,046,000 General Fund to pay a portion of expenditures for the construction phase of the Sacramento County – New Sacramento Courthouse project.	Reject bond to General Fund conversion
15	0250	Judicial Branch	San Bernardino County – Juvenile Dependency Courthouse Addition and Renovation	$8,306,000 General Fund for the Construction phase for the San Bernardino Juvenile Dependency Courthouse.	Approve proposal with Lease Revenue Bond
16	0250	Judicial Branch	Shasta County – New Redding Courthouse – Bonds to Cash	$54,135,000 General Fund to pay a portion of expenditures for the construction phase of the Shasta County – New Redding Courthouse project.	Reject bond to General Fund conversion
17	0250	Judicial Branch	Support for Appellate Court Security BCP and TBL	$1.4 million from the Appellate Court Trust Fund (ACTF) in 2023-24 through 2025-26 for a three-year Appellate Court Security Pilot program, and trailer bill language allowing Judicial Council to spend out of the Appellate Court Trust Fund to manage the CHP-JPS contract on behalf of courthouses.	Approve resources and adopt placeholder trailer bill language
18	0250	Judicial Branch	Support for Judicial Branch Facilities Operations and Maintenance BCP and April Adjustment	$5.97 million ongoing General Fund to support operations and maintenance.	Approve as Budgeted at April 1 Adjustment
19	0250	Judicial Branch	Allocation for Employee Compensation and Staff Benefits	$22,000 ongoing compensation adjustment to reflect recently approved salary increases for Staff Attorneys.	Approve as Budgeted
20	0250	Judicial Branch	Federal Byrnes State Crisis Intervention Program Grant	Reimbursement authority of $5.9 million in 2023-24 and $5.7 million in 2024-25 and 2025-26 to implement federal funds from the Byrne State Crisis Intervention Program; to fund statewide program to improve execution of firearm relinquishment orders and expand collaborative courts.	Adopt provisional budget bill language redirecting a portion of the funding for Gun Violence Restraining Order and Domestic Violence Restraining Order education and outreach in different languages.
21	0250	Judicial Branch	State Court Facilities Construction Fund Solvency (May Revision)	$55.5 million one-time General Fund in 2023-24 to to backfill a projected shortfall in the State Court Facilities Construction Fund and to maintain existing service levels.	Approve as Budgeted at May Revision

22	0250	Judicial Branch	Ability-to-Pay Backfill Adjustment (May Revision)	$26.4 million in 2023-24 and $28.4 million ongoing to backfill revenue losses due to the implementation of the Ability-to-Pay program, a reduction of $20.7 million in 2023-24 and $30 million ongoing as compared to Governor's Budget.	Approve as Budgeted
23	0250	Judicial Branch	Filing Fee Waiver Backfill Adjustment (May Revision)	Reduction in the General Fund backfill for the revenue loss related to the expansion of filing fee waivers in the 2022 Budget Act by $16.4 million.	Approve as Budgeted
24	0250	Judicial Branch	Technical Provisional Language Adjustment (May Revision)	Provisional budget bill language to correct an error in the amount of funding available for the administrative costs of a grant program to provide legal services for indigent persons.	Adopt provisional budget bill language
25	0250	Judicial Branch	Extended Availability of Pretrial Funding (May Revision)	Provisional budget bill language to authorize the trial courts to carryover funding for pretrial services appropriated in the 2021 and 2022 Budget Acts to Los Angeles County, until June 30, 2024.	Approve as Budgeted
26	0250	Judicial Branch	Court-Appointed Special Advocate Program (May Revision Restoration for 2023-24 and 2024-25)	Maintain $20 million in 2023-24 and 2024-25 for the Court Appointed Special Advocate Program.	Approve as Budgeted at May Revision
27	0250	Judicial Branch	Trial Court Employee Benefit Adjustment (May Revision)	Reduction of $21,437,000 ongoing to reflect the updated health benefit and retirement rate changes for trial court employees.	Approve as Budgeted
28	0250	Judicial Branch	Trial Court Trust Fund Backfill (May Revision)	$105.1 million ongoing General Fund to continue backfilling the Trial Court Trust Fund for revenue declines expected in 2023-24, a decrease of $4.2 million from Governor's Budget.	Approve as Budgeted at May Revision
29	0250	Judicial Branch	Early Reversion of Various Proposals (May Revision)	Reversion of the remaining balances of proposals in previous Budget Acts including savings from trial court employee benefits, and proposals from previous Budget Acts for court reporters in family law and civil cases, increased transcript rate costs, Pretrial Pilot Projects, and implementation of Chapter 993, Statutes of 2018 (AB 1793).	Adopt provisional budget bill language
30	0250	Judicial Branch	Deferred Maintenance Funding Reduction and Technical Adjustment to Shift Reversion of 2021 Balances (May Revision)	Reversion of $49.5 million for deferred maintenance projects in the Judicial Branch provided by the 2021 Budget Act, and technical adjustments to shift this reversion from Control Section 4.06 to the department budget.	Approve as Budgeted at May Revision
31	0250	Judicial Branch	Delayed Implementation of AB 1576 Lactation Rooms	Trailer bill language to delay implementation of AB 1576 related to access to court lactation rooms from 2024 to 2028.	Adopt placeholder trailer bill language
32	0250	Judicial Branch	Elimination of Sunset Dates for Expiring Civil Fees	Trailer bill language that removes sunset dates for specific civil fees that would expire this year.	Adopt placeholder trailer bill language
33	0250	Judicial Branch	Legal Aid Loan Repayment Assistance Program (Legislative Proposal)	$250,000 ongoing General Fund and budget and trailer bill language for the Access to Justice Commission to administer a loan repayment program to help recruit and retain legal aid lawyers.	Approve Legislative Proposal and adopt provisional budget bill language and placeholder trailer bill language

34	0250	Judicial Branch	Prohibited Firearms Removal (Legislative Proposal)	Shift $25 million proposed for firearm surrender programs at Cal OES to the Judicial Branch for expedited removal of firearms from prohibited persons in criminal cases.	Approve Legislative Proposal and adopt provisional budget bill language
35	0250	Judicial Branch	Court Interpreters Workforce Pilot Program (Legislative Proposal)	Reappropriate up to $6.8 million for the implementation of the Workforce Pilot Program to expand the pool of court interpreters.	Approve resources and adopt provisional budget bill language
36	0250	Judicial Branch	County Law Libraries (Legislative Proposal)	$2.5 million General Fund one-time for County Law Libraries.	Approve Legislative Proposal
37	0250	Judicial Branch	Abstract of Judgment Clarification (Legislative Proposal)	Trailer bill language clarifying how long courts have to transmit abstracts of judgments to prisons or jails when an incarcerated person has been resentenced.	Adopt placeholder trailer bill language
38	0250	Judicial Branch	Criminal Fee Elimination (Legislative Proposal)	$1 million ongoing for additional fee relief.	Approve proposal and adopt placeholder trailer bill language.
39	0280	Commission on Judicial Performance	Support for Complaint Processing	$189,000 General Fund and 1.0 position in 2023-24 and $178,000 and 1.0 position ongoing to process judicial complaints.	Approve as Budgeted
40	0552	Office of Inspector General	Additional California Rehabilitation Oversight Board Resources (SB 903)	$117,000 in Fiscal Year 2023-2024 and ongoing and one position to support implementation of Chapter 821, Statutes of 2022 (SB 903).	Approve as Budgeted
41	0552	Office of Inspector General	Staff Complaint Monitoring Staffing Adjustment (April 1)	Adjustment to previously allocated resources for monitoring the staff complaint process at CDCR.	Approve as Budgeted
42	0690	Office of Emergency Services	988 Suicide and Crisis Lifeline (AB 988)	4 positions and $23,838,000 988 State Suicide and Behavioral Health Crisis Services Fund in FY 2023-24 and ongoing ($3,558,000 state operations and $20,280,000 local assistance) to support activities required to implement Chapter 747 Statutes of 2022 (AB 988.), and shifts $5.975 million current year funding from General Fund to 988 State Suicide and Behavioral Health Crisis Services Fund.	Approve as Budgeted
43	0690	Office of Emergency Services	Cal OES Mather: Security Checkpoint Enhancements	$1,802,000 General Fund for the construction phase of the Mather: Security Checkpoint Enhancements project.	Approve as Budgeted
44	0690	Office of Emergency Services	California Cybersecurity Integration Center	$28.7 million General Fund ongoing and 17 positions for the California Cybersecurity Integration Center, a multi-department partnership that coordinates cybersecurity preparation and response across the state.	Approve funding and adopt provisional budget bill language requiring reporting on the activities of Cal-CSIC.
45	0690	Office of Emergency Services	Disaster-Related Federal Funding Realignment	$1 billion federal trust fund authority and the creation of a new local assistance Item of appropriation to realign federal emergency and grant funding.	Approve as Budgeted
46	0690	Office of Emergency Services	Food and Agriculture Sector and Water and Wastewater Sector Cybersecurity (SB 892)	$531,000 General Fund in 2023-24 and $280,000 in 2024-25 to implement Chapter 820, Statutes of 2022 (SB 892).	Approve as Budgeted

47	0690	Office of Emergency Services	Grants Management Position Authority	55 permanent positions, funded within existing appropriation authority, to administer state and federal grants.	Approve as Budgeted
48	0690	Office of Emergency Services	Hazard Mitigation Staffing	37 positions, $9.5 million ($7 million Federal Trust Fund and $2.5 million General Fund) in 2023-24, and $9.1 million ($6.7 million Federal Trust Fund and $2.4 million General Fund) ongoing to support hazard mitigation and implement new federal programs.	Approve as Budgeted
49	0690	Office of Emergency Services	Mather: Headquarters Checkpoint Security Enhancements - Reappropriation	Reappropriation of $351,000 General Fund for the working drawings phase of the Mather: Security Checkpoint Enhancements project.	Approve as Budgeted
50	0690	Office of Emergency Services	Next Generation 9-1-1 and the California Public Safety Microwave Network	$137.6 million ($19.5 million state operations and $118.1 million local assistance) in 2023-24, $132.8 million ($12.1 million state operations and $120.7 million local assistance) in 2024-25, and $91.4 million ($6,2 million state operations and $85.2 million local assistance) ongoing State Emergency Telephone Number Account to support the completion of the California Public Safety Microwave Network buildout, completion of the Next Generation 9-1-1 system, and the ongoing maintenance and support of these systems.	Approve as Budgeted
51	0690	Office of Emergency Services	Office of Emergency Services Headquarters Modernization Reappropriation	Reappropriation of $3 million General Fund with an encumbrance extension to June 30, 2024, for support costs identified in the State Operations Center modernization project.	Approve as Budgeted
52	0690	Office of Emergency Services	Reappropriation of Mobile Command Vehicle Funding	Reappropriation of $2.9 million General Fund with an encumbrance extension to June 30, 2025, for purchase of a specialized vehicle to provide a backup, mobile warning center.	Approve as Budgeted
53	0690	Office of Emergency Services	School Cybersecurity (AB 2355)	$5.4 million General Fund and 17 positions (7 positions at CalOES, 5 positions at CDT, and 5 positions at CMD) in 2023-24 and $3.9 million General Fund and 17 positions from 2024-25 through 2026-27 to implement AB 2355, and provide funding through the January 1, 2027 repeal date.	Approve $951,000 and three ITS II positions from 2023-24 through 2026-27 for Cal-CSIC to plan, develop, and implement the database to meet the specific requirements of AB 2355.
54	0690	Office of Emergency Services	SMARTER Plan Expenditures	$4.5 million one-time General Fund to continue daily COVID-19 testing protocols.	Approve as Budgeted
55	0690	Office of Emergency Services	State and Local Cybersecurity Grant Program	$400,000 in state operations and $7.6 million in local assistance Federal Trust Fund authority to implement the new State and Local Cybersecurity Grant Program.	Approve funding with provisional budget bill language requiring reporting on grant outcomes.

56	0690	Office of Emergency Services	Validate As You Go Process	Eight positions, $1,251,000 Federal Trust Funds, and $416,000 General Fund to implement the new Federal Emergency Management Agency Validate As You Go payment process.	Approve as Budgeted
57	0690	Office of Emergency Services	Statewide Disaster Warehousing Operation (May Revision)	$43.3 million and 15 positions for ongoing resources to support northern and southern California emergency response warehousing operation, including funding for long-term leasing and operation of the Dixon warehouse and to procure the life-cycle management of personal protective equipment consistent with the state's SMARTER Plan.	Approve $43.258 million in 2023-24 and $33.76 million in 2024-25 only which approves only one year of PPE purchases in 2023-24. Adopt provisional budget bill language directing OES to report on other storage options.
58	0690	Office of Emergency Services	Gun Buyback Program (May Revision)	$25 million one-time to reallocate to Cal OES the amount appropriated to the Board of State and Community Corrections in the 2022 Budget Act for local gun buyback programs.	Reject, and move funding to the Judicial Branch to expedite removal of firearms from prohibited persons.
59	0690	Office of Emergency Services	Provisional Language to Authorize Augmentations for the State Cost-Share of Direct Federal Assistance (May Revision)	Provisional language to authorize augmentations to pay the state cost-share of direct federal assistance provided during disaster incidents.	Adopt provisional budget bill language.
60	0690	Office of Emergency Services	Nonprofit Security Grant Program (May Revision)	$10 million one-time in fiscal year 2023-24 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.	Approve $20 million one-time for this purpose.
61	0690	Office of Emergency Services	Distributed Administration Position Authority (May Revision)	12 positions ongoing for various administrative support activities, funded with distributed administration funding from other 2023-24 budget change proposals.	Approve as Budgeted
62	0690	Office of Emergency Services	Various Net-Zero Technical Adjustments. (May Revision)	Adjustments for the 2022-23 Support Capacity proposal budget language, allocations for employee compensation, and to shift the reversion of the Multifamily Seismic Retrofit from Control Section 4.07 to the department budget.	Approve as Budgeted
63	0690	Office of Emergency Services	Emergency Vehicle Reappropriation (May Revision)	Reappropriation of up to $1 million for emergency vehicles provided in the Budget Act of 2022, with funding available for encumbrance and expenditure until June 30, 2024.	Approve as Budgeted
64	0690	Office of Emergency Services	Warehousing Operations for Emergency Response Equipment and Supplies Reduction and Technical Adjustment to Shift Reversion of 2022 Balances	Reversion of the unexpended balance of $37 million from appropriations made in the 2022 Budget Act for warehousing operations and technical adjustments.	Approve as Budgeted

65	0690	Office of Emergency Services	Southern Region: Emergency Operations Center (May Revision)	$174.7 million one-time for the design-build phase of the Southern Region: Emergency Operations Center project, which includes construction of a new office building, warehouse, communications tower, and helipad.	Approve as Budgeted
66	0690	Office of Emergency Services	California Emergency Relief Fund Trailer Bill Language	Trailer bill language allowing unencumbered funds to be transferred from the California Emergency Relief Fund to the General Fund.	Adopt placeholder trailer bill language
67	0690	Office of Emergency Services	Strategic Plan Reporting Requirement Update	Budget bill language requiring Cal OES to incorporate the effects of these actions into the upcoming emergency response capacity report.	Adopt provisional budget bill language
68	0690	Office of Emergency Services	California Public Television Early Earthquake Warning System Pilot - Receiver Boxes (Legislative Proposal)	$500,000 in funding for receiver boxes that utilize the signals from the California Public Television network to provide early warnings and information during earthquakes and other emergencies.	Approve Legislative Proposal
69	0690	Office of Emergency Services	Transnational Emergency Aid (Legislative Proposal)	$500,000 one-time to support individuals experiencing transnational abandonment.	Approve Legislative Proposal
70	0690	Office of Emergency Services	Sexual and Domestic Violence Prevention Grant Extension (Legislative Proposal)	$2.875 million one-time to extend the Sexual and Domestic Violence Prevention Grant to October 2024.	Approve Legislative Proposal
71	0820	Department of Justice	California Law Enforcement Accountability Reform Act (AB 655)	$325,000 General Fund and 1.0 position in 2023-24 and $317,000 and 1.0 position in 2024-25 and ongoing to support the workload requirements of Chapter 854, Statutes of 2022 (AB 655).	Approve as Budgeted
72	0820	Department of Justice	Cardroom and Third Party Provider Proposition Player Workload and Positions	$1,300,000 Gambling Control Fund in 2023-24 and $1,266,000 in 2024-25 and ongoing to permanently support the workload in the Cardroom and Third Party Providers of Proposition Player Services sections.	Approve as Budgeted
73	0820	Department of Justice	Crimes: Race-Blind Charging (AB 2778)	$817,000 General Fund and 4.0 positions in 2023-24, $2,442,000 and 12.0 positions in 2024-25, and $2,373,000 and 12.0 positions in 2025-26 and ongoing to implement the mandates of Chapter 806, Statutes of 2022 (AB 2778).	Approve as Budgeted
74	0820	Department of Justice	Criminal Procedure: Discrimination (AB 256)	$2,178,000 General Fund in 2023-24, $2,114,000 in 2024-25, and $848,000 in 2025-26 and 2026-27 to support the workload requirements of Assembly Bill 256 (Chapter 739, Statutes of 2022).	Approve as Budgeted
75	0820	Department of Justice	Criminal Records: Relief (SB 731) and Trailer Bill Language (April Letters)	$1,780,000 Fingerprint Fees Account in Fiscal Year 2023-24 and $1,533,000 in 2024-25 to meet the mandates outlined in Chapter 814, Statutes of 2022 (SB 731), and trailer bill language to delay the implementation until July 1, 2024.	Approve resources and adopt placeholder trailer bill language.

76	0820	Department of Justice	DNA ID Fund Backfill, Expenditure Authority, and May Revision Technical Adjustment	$53.4 million General Fund in 2023-24 and ongoing to backfill the continued revenue declines in the DNA identification Fund, additional expenditure authority for program operation, and provisional language allowing for as adjustment to the General Fund backfill if needed.	Approve $46.1 million operational backfill and conforming expenditure authority for three years, and $7.3 million and conforming expenditure authority one-time for equipment purchase and replacement.
77	0820	Department of Justice	Domestic Violence: Death Review Teams (SB 863)	$1,462,000 General Fund and 5.0 positions in 2023-24 and $1,118,000 and 5.0 positions in 2024-25 and ongoing to support the workload requirements of Chapter 986, Statutes of 2022 (SB 863).	Approve as Budgeted
78	0820	Department of Justice	Establishment of the Office of General Counsel (April 1)	A net-zero transfer of $13,828,000 General Fund and 75 positions to establish the Office of General Counsel, including $6,236,000 General Fund and 19 positions from the Civil Law Division and $7,592,000 General Fund and 56 positions from the California Justice Information Services Division.	Approve as Budgeted
79	0820	Department of Justice	Federal Trust Fund Authority	$3.5 million Federal Trust Fund Expenditure Authority ongoing to allow the Department to fully expend anticipated federal grant awards within the Criminal Justice and Information Services Division.	Approve as Budgeted
80	0820	Department of Justice	Fee Increase to Maintain Operations of the Missing Persons DNA Program - BCP and TBL	$1,464,000 Missing Persons DNA Data Base Fund and 1.0 position in 2023-24, $1,447,000 in 2024-25, and $1,610,000 in 2025-26 and ongoing to maintain operations of the Missing Persons DNA Program, and trailer bill language to increase the death certificate fee to support the program.	Reject trailer bill language and provide backfill with General Fund.
81	0820	Department of Justice	Firearm Compliance Support Section	$342,000 General Fund and 3.0 positions in 2023-24 and $307,000 and 3.0 positions in FY 2024-25 and ongoing for firearm workloads within the Compliance Support Section.	Approve all eligible funding from the Dealer Record of Sale Account Special Funds and any remaining funds from the General Fund.
82	0820	Department of Justice	Firearms IT System Modernization (FITSM) Project and Update (April 1 and May Revision)	$7.5 million Dealer Record of Sale (DROS) Account in 2023-24 and $2.6 million ongoing to continue the the Firearms Information Technology System Modernization Project.	Approve as Budgeted at May Revision
83	0820	Department of Justice	Gender Identity: Female, Male or Nonbinary (SB 179)	$1,783,000 General Fund in 2023-24 to implement the necessary system modifications to meet the mandates of Chapter 853, Statutes of 2017 (Senate Bill 179).	Approve as Budgeted
84	0820	Department of Justice	Gender Neutral Retail Departments (AB 1084)	$272,000 General Fund and 2.0 positions in 2023-24 and $478,000 and 2.0 positions in 2024-25 and ongoing to support the implementation of Chapter 750, Statutes of 2021 (AB 1084).	Approve as Budgeted

85	0820	Department of Justice	Government-to-Government Consultation Act: State-Tribal Consultation: Training (AB 923)	$609,000 General Fund and 3.0 positions in 2023-24 and $585,000 and 3.0 positions in 2024-25 and ongoing to support the workload requirements of Chapter 475, Statutes of 2022 (AB 923).	Approve as Budgeted
86	0820	Department of Justice	Housing Strike Force	$1,375,000 ($973,000 General Fund and $402,000 Legal Services Revolving Fund) and 4.0 positions in 2023-24 and $1,337,000 in 2024-25 and ongoing to address litigation workload related to housing production and planning.	Approve as Budgeted
87	0820	Department of Justice	Illegal Gambling Investigations	$821,000 General Fund one-time in 2023-24 to refund the Indian Gaming Special Distribution Fund (SDF) and Gambling Control Fund (GCF) for illegal gambling enforcement activities that were improperly expensed to the SDF and GCF in 2019-20.	Approve as Budgeted
88	0820	Department of Justice	Implementation of Various Firearm-Related Legislation	$5,703,000 ($5,130,000 General Fund and $573,000 Special Fund) and 17.0 Positions in 2023-24, $4,402,000 ($3,899,000 General Fund and $573,000 Special Fund) in 2024- 25, and $2,713,000 ($2,534,000 General Fund and $179,000 Special Fund) in 2025-26 and ongoing to address increased workload associated with the implementation of Senate Bill 1384, Assembly Bill (AB) 2552, AB 1621, AB 1594, AB 2156, and AB 228.	Approve all eligible expenditures from the Dealer Record of Sale Account Special Funds and remaining expenditures from the General Fund.
89	0820	Department of Justice	Information Security (AB 2135)	$241,000 General Fund and 1.0 position in 2023-24 and $231,000 and 1.0 position in 2024-25 and ongoing to meet the mandates outlined in Chapter 773, Statutes of 2022 (AB 2135).	Approve as Budgeted
90	0820	Department of Justice	Juveniles: Electronic Monitoring (AB 2658)	$253,000 General Fund and 1.0 position in 2023-24 and $213,000 in 2024-25 and ongoing to make necessary information technology upgrades pursuant to Chapter 796, Statutes of 2022 (AB 2658).	Approve as Budgeted
91	0820	Department of Justice	License 2000 System Replacement	$3,176,000 ($1,652,000 Gambling Control Fines and Penalties Fund and $1,524,000 Indian Gaming Special Distribution Fund) in 2023-24 to continue the License 2000 System Replacement Project.	Approve as Budgeted
92	0820	Department of Justice	Marketplaces: Online Marketplaces (SB 301)	$779,000 General Fund and 3.0 positions in 2023-24 and $755,000 in 2024-25 and ongoing to support the workload requirements of Chapter 857, Statutes of 2022 (SB 301).	Approve as Budgeted
93	0820	Department of Justice	Microstamping and Law Enforcement Transfer (M-LET)	$1,461,000 General Fund and 5 positions in 2023-24, $1,418,000 in 2024-25, $1,406,000 in 2025-26 and $1,087,000 ongoing for tracking and reporting individual Firearm Identification Numbers related to firearm sales.	Approve all eligible expenditures from the Dealer Record of Sale Account Special Funds and remaining expenditures from the General Fund.
94	0820	Department of Justice	New York State Rifle & Pistol Association v. Bruen: Carry Concealed Weapon Licenses (April 1)	$4,978,000 ($2,943,000 General Fund and $2,035,000 Fingerprint Fees Account) in 2023-24 and $3,210,000 ($2,691,000 General Fund and $519,000 Fingerprint Fees Account) in 2024-25 to process an anticipated increase in carry concealed weapon permit applications.	Approve Fingerprint Fees Account funding and other eligible funding from the Dealer Record of Sale Special Account.

95	0820	Department of Justice	Ammunition Authorization Program Loan and Fee Increase Trailer Bill Language.	A loan of $4,300,000 in 2023-24 and 2024-25 from the General Fund to the Ammunition Authorization Program Fund, and trailer bill language to authorize the DOJ to set the Ammunition Authorization Program fee via the regulatory process.	Approve General Fund loan and adopt placeholder trailer bill language.
96	0820	Department of Justice	Online Content: Cyberbullying (AB 2879)	$340,000 General Fund and 2.0 positions in 2023-24 and $389,000 in 2024-25 and ongoing to support the workload requirements of Chapter 700, Statutes of 2022 (AB 2879).	Approve as Budgeted
97	0820	Department of Justice	Outside Co-Counsel	$3,000,000 General Fund in 2023-24 through 2026-27 to acquire external legal services to assist with ongoing litigation related to the state's pandemic tenant protections.	Approve as Budgeted
98	0820	Department of Justice	Police Practices Division and Police Use of Force (AB 1506)	$1,811,000 General Fund and 6.0 positions in 2023-24 and $1,762,000 in 2024-25 and ongoing to implement a Police Practices Divisions pursuant to the requirements of Chapter 326, Statutes of 2020 (AB 1506).	Approve as Budgeted
99	0820	Department of Justice	Price Discrimination: Gender (AB 1287)	$325,000 General Fund and 1.0 position in 2023-24 and $317,000 and 1.0 position in 2024-25 and ongoing to support the implementation of Chapter 555, Statutes of 2022 (AB 1287).	Approve as Budgeted
100	0820	Department of Justice	Remote Caller Bingo Loan Repayment	$2,320,000 one-time General Fund in 2023-24 for the payment of outstanding loans and unpaid interest related to the repealed Remote Caller Bingo Program.	Approve as Budgeted
101	0820	Department of Justice	Residential Real Property: Foreclosure (AB 1837)	$163,000 General Fund and 1.0 position in 2023-24 and $154,000 in 2024-25 and ongoing to support the workload requirements pursuant to Chapter 642, Statutes of 2022 (AB 1837).	Approve as Budgeted
102	0820	Department of Justice	Sex Offender: Registration (SB 384)	$1,744,000 ongoing to continue processing sex offender tiering and termination workload and provide system support and maintenance pursuant to Chapter 541, Statutes of 2017 (Senate Bill 384).	Approve as Budgeted
103	0820	Department of Justice	Social Media Companies: Terms of Service (AB 587)	$673,000 General Fund and 3.0 positions in 2023-24, and $646,000 and 3.0 positions in 2024-25 and ongoing to support the workload requirements of Chapter 269, Statutes of 2022 (AB 587).	Approve as Budgeted
104	0820	Department of Justice	Special Operations Unit	$7,206,000 General Fund and a reduction of $5.8 million of Reimbursement Authority in 2023-24 and ongoing to maintain the Special Operations Unit Program.	Approve resources and provisional budget bill language.
105	0820	Department of Justice	The California Age-Appropriate Design Code Act (AB 2273)	$888,000 General Fund and 4.0 positions in 2023-24, $1,180,000 in 2024-25 and $1,146,000 in FY 2025-26 and ongoing to support the workload requirements of Chapter 320, Statutes of 2022 (AB 2273).	Approve resources and adopt provisional budget bill language regarding workload costs after two years.
106	0820	Department of Justice	Wage Theft Criminal Prosecutions	$1,113,000 Unfair Competition Law Fund and 4.0 positions in 2023-24 and $1,063,000 and 4.0 positions in 2024-25 and ongoing to address current workloads in the Worker Rights and Fair Labor Section and facilitate associated investigatory work.	Approve as Budgeted
107	0820	Department of Justice	Tenant Protection Work (Legislative Proposal)	$3 million Unfair Competition Law Fund to expand the work of the Civil Law section related to the enforcement of tenant protections.	Approve Legislative Proposal

108	0820	Department of Justice	eDiscovery Storage and Review Platform Augmentation (May Revision)	$1,883,000 ($702,000 General Fund and $1,181,000 Special Fund) in 2023-24, $1,990,000 ($742,000 General Fund and $1,248,000 Special Fund) in 2024-25, $2,927,000 ($1,091,000 General Fund and $1,836,000 Special Fund) in 2025-26 and $3,996,000 ($1,489,000 General Fund and $2,507,000 Special Fund) in 2026-27 and ongoing to provide the resources necessary to collect, store, and process electronic discovery information pertaining to litigation.	Approve as Budgeted
109	0820	Department of Justice	Litigation Deposit Fund Loan (May Revision) and Trailer Bill Language	$400 million loan from the Litigation Deposit Fund to the General Fund to assist in closing the projected shortfall, provisional budget bill language that the loan is not subject to interest at the time of repayment, and trailer bill language explicitly authorizing the loan.	Approve loan and adopt placeholder budget bill and trailer bill language
110	0820	Department of Justice	Various Technical Net-Zero Adjustments (May Revision)	Technical budget bill adjustments to display administrative costs and position authority associated with the Antitrust Gasoline, Pricing, Agriculture, and Technology Enforcement, and the Wage Theft Criminal Prosecution proposals.	Approve as Budgeted
111	0820	Department of Justice	AB 1356 Technical Clean Up (Legislative Proposal)	Trailer bill language to change the initial reporting date and reporting frequency for the reporting required by AB 1356.	Adopt placeholder trailer bill language
112	0820	Department of Justice	Armed Prohibited Persons Report Date Change	Trailer bill language to move the due date of the annual Armed and Prohibited Persons Report from April 1 to March 1 to better align with the budget timeline.	Adopt placeholder trailer bill language
113	0820	Department of Justice	Advisory Council on Improving Interactions Between Law Enforcement and the Intellectual and Developmental Disabilities Community (Legislative Proposal)	$531,000 per year for three years to implement SB 882 (Eggman), Chapter 899, Statutes of 2022 and establish an Advisory Council on Improving Interactions Between Law Enforcement and the Intellectual and Developmental Disabilities Community.	Approve Legislative Proposal
114	0820	Department of Justice	D-Cal Funding Reduction (Legislative Proposal)	Reduce funding provided in the 2017 Budget Act to defend against federal actions by $6.5 million ongoing.	Approve Legislative Proposal.
115	0820	Department of Justice	Antitrust Gasoline Pricing, Agriculture, and Technology Enforcement	$7,956,000 ($3,978,000 Attorney General Antitrust Account and $3,978,000 Unfair Competition Law Fund) and 20.0 positions in 2023-24 and $7,786,000 ($3,893,000 Attorney General Antitrust Account and $3,893,000 Unfair Competition Law Fund) and 20.0 positions ongoing to prosecute antitrust violations within the gas and oil, technology, and agricultural sectors.	Approve as Budgeted
116	5225	Department of Corrections and Rehabilitation	BIS Migration to S4 Hana BCP and Provisional Language	$8.1 million General Fund in 2023-24, $9.3 million in 2024-25, and $7.8 million in 2025-26 to migrate CDCR's System Applications and Products (SAP) software to SAP's new system offering, S/4 HANA, and provisional budget bill language	Approve resources with provisional budget bill language

117	5225	Department of Corrections and Rehabilitation	California Advancing and Innovating Medi-Cal (CalAIM) Justice-Involved Initiative – Technical Adjustments and Medi-Cal Billing System	12.0 permanent positions and $3.3 million ($207,000 General Fund and $3.1 million Providing Access and Transforming Health reimbursement funding) limited-term funds in 2023-24, 19.0 permanent ongoing positions and $4.5 million limited-term General Fund in 2024-25, and $3.7 million limited-term General Fund in 2025-26, to create an information technology-based billing system, the Medi-Cal Reimbursement System, to allow federal reimbursement in order to support implementation of the California Advancing and Innovating Medi-Cal Justice-Involved Initiative. Shift all other resources requested for California Advancing and Innovating Medi-Cal (CalAIM) from the budget year to 2025-26, consistent with the revised implementation timelines for CalAIM.	Approve 12.0 permanent positions and $3.3 million ($207,000 General Fund and $3.1 million Providing Access and Transforming Health reimbursement funding) limited-term funds for 2023-24 and shifting of resources consistent with new implementation timeline.
118	5225	Department of Corrections and Rehabilitation	California State Prison, Corcoran: Correctional Treatment Center Individual Exercise Yards	$1.5 million one-time General Fund in 2023-24 to continue construction of two individual exercise yards adjacent to the Correctional Treatment Center at the California State Prison, Corcoran.	Approve as Budgeted
119	5225	Department of Corrections and Rehabilitation	California State Prison, Corcoran: Radio Tower and Equipment Vault	$925,000 in 2023-24 to continue with a project to build a new radio communications system at California State Prison, Corcoran.	Approve as Budgeted
120	5225	Department of Corrections and Rehabilitation	Clark Litigation Compliance	$2.8 million General Fund and 17.0 positions in 2023-2024 and ongoing to support the remedial measures associated with the Clark class action lawsuit at institutions with the highest populations of individuals with developmental disabilities.	Approve as Budgeted
121	5225	Department of Corrections and Rehabilitation	Closure of California City Correctional Facility BCP and May Revision Update	Reduction of $25.1 million and 110.6 positions General Fund and $85,000 and 0.8 positions Inmate Welfare Fund in 2023-24 and $126.4 million and 565.9 positions General Fund and $321,000 and 3.0 positions Inmate Welfare Fund in 2024-25 and ongoing to reflect the closure of the California City Correctional Facility.	Approve as budgeted at May Revision
122	5225	Department of Corrections and Rehabilitation	Closure of California Correctional Center BCP and May Revision Update	Reduction of $43.9 million and 257.1 positions General Fund and $111,000 and 1.2 positions Inmate Welfare Fund in 2022-23; $132.7 million and 779.1 positions General Fund and $334,000 and 3.0 positions Inmate Welfare Fund in 2023-24; and $133.1 million and 781.6 positions General Fund and $334,000 and 3.0 positions Inmate Welfare Fund in 2024-25 and ongoing to reflect the closure of California Correctional Center.	Approve as budgeted at May Revision
123	5225	Department of Corrections and Rehabilitation	Comprehensive Employee Health Program BCP and May Revision Update	78.0 positions and $15.0 million General Fund in 2023-24 and ongoing to maintain a comprehensive Employee Health Program and comply with federal and state regulations.	Reject positions and redirect funding to provide an additional 30 minutes of free video calling every two weeks for the incarcerated population.

124	5225	Department of Corrections and Rehabilitation	Court Compliance Initiative	$500,000 General Fund and two positions in 2023-2024 and ongoing to support court-mandated remedial measures associated with the Clark and Armstrong class action lawsuits at institutions with the highest populations of incarcerated persons with disabilities.	Approve as Budgeted
125	5225	Department of Corrections and Rehabilitation	COVID-19 Direct Response Expenditures BCP and May Revision Update	$96.9 million one-time General Fund in fiscal year 2023-24, for continued costs related to the COVID-19 Pandemic.	Approve as Budgeted at May Revision
126	5225	Department of Corrections and Rehabilitation	Division of Juvenile Justice Closure BCP and May Revision Update and Technical Adjustments	Net reduction of $91.8 million ($89.4 million General Fund and $2.4 million other funds) and 590.2 positions in 2023-24, and a net reduction of $98.9 million ($96.1 million General Fund and $2.8 million other funds) and 631.4 positions in 2024-25, and $95.8 million ($93 million General Fund and $2.8 million other funds) in 2025-26 and ongoing associated with the closure of the Division of Juvenile Justice, and net-zero technical adjustments associated with temporary staffing for the Division of Juvenile Justice post-closure.	Approve resources at May Revision and adopt provisional budget bill language.
127	5225	Department of Corrections and Rehabilitation	DOJ Legal Service Fees	$3.7 million General Fund in 2023-24 and ongoing for Department of Justice Legal Services fees.	Approve as Budgeted
128	5225	Department of Corrections and Rehabilitation	eDiscovery Ongoing Needs BCP and May Revision Update	11 positions and $10.4 million General Fund in 2023-24 and 11 positions and $7.2 million ongoing to continue to develop and implement the Department's comprehensive eDiscovery platform.	Approve as Budgeted at May Revision
129	5225	Department of Corrections and Rehabilitation	Employment Leave Expansion (AB 1041)	$1.9 million General Fund in 2023-24 and 2024-25 to comply with Chapter 748, Statutes of 2022 (AB 1041).	Approve as Budgeted
130	5225	Department of Corrections and Rehabilitation	Expanded County of Release Eligibility (SB 990)	10.4 positions and $2.3 million General Fund in 2023-24 and ongoing for the Division of Adult Parole Operations to process increased transfer investigation requests resulting from Chapter 826, Statutes of 2022 (Senate Bill 990).	Approve as Budgeted
131	5225	Department of Corrections and Rehabilitation	Free Voice Communication (SB 1008) BCP and May Revision Update	$5.6 million General Fund in 2022-23 and $28.5 million General Fund and 2 positions in 2023-24 and ongoing to provide free voice calling to all incarcerated persons and their families pursuant to Senate Bill 1008.	Approve as Budgeted at May Revision
132	5225	Department of Corrections and Rehabilitation	Health Care Facility Improvement Program Supplemental Appropriation	$10 million General Fund to complete construction of the remaining Health Care Facility Improvement Program (HCFIP) projects at 10 prisons, and provisional language to allow for transfers between the projects.	Approve as Budgeted and adopt provisional budget bill language
133	5225	Department of Corrections and Rehabilitation	Increased Inmate Welfare Fund Authority	$26.8 million Inmate Welfare Fund (IWF) in 2023-24 and ongoing to support increasing annual purchases for the incarcerated population, approval to request IWF authority through an annual Baseline Budget Adjustment, and Budget Bill Language to allow the Department to increase spending authority up to five percent above the budget to provide flexibility.	Approve resources and adopt provisional budget bill language requiring the CDCR to report on its assessments of wages and the canteen markup.

134	5225	Department of Corrections and Rehabilitation	Pelican Bay State Prison, Crescent City: Fire Suppression Upgrade	$35 million in 2023-24 to correct fire suppression system deficiencies at Pelican Bay State Prison identified by the State Fire Marshal and an extension of the liquidation period for working drawings funding.	Approve as Budgeted
135	5225	Department of Corrections and Rehabilitation	Prisons: Visitation (SB 1139)	11.5 positions and $1.1 million General Fund in 2023-2024 and ongoing for implementation of Chapter 837, Statutes of 2022 (SB 1139) to address expanded health information requests.	Approve as Budgeted
136	5225	Department of Corrections and Rehabilitation	Reappropriation of Fleet Asset Funding	Reappropriation of $1,034,000 General Fund from the 2020 Budget Act and $268,000 General Fund from the 2021 Budget Act to enable CDCR to complete the purchase of fleet assets.	Approve as Budgeted
137	5225	Department of Corrections and Rehabilitation	Roof Replacement Design and Construction	$1.5 million one-time General Fund in 2023-24 for design and $62 million in 2024-25 for construction of roof replacements at the Richard J. Donovan Correctional Facility, and $627,000 General Fund in 2023-24 and $621,000 ongoing for three positions to manage the growing roof replacement workload.	Approve as Budgeted
138	5225	Department of Corrections and Rehabilitation	April Letter Technical Adjustments	Budget bill language for a net-zero technical adjustment to realign resources.	Approve as Budgeted
139	5225	Department of Corrections and Rehabilitation	Staff Misconduct Investigation Expansion	$9.6 million General Fund and 16 positions in 2023-24, $9.3 million and 16 positions in 2024-25, and $2.9 million General Fund and 16 positions in 2025-26 and ongoing to adjust the department's process for handling allegations of staff misconduct.	Approve as Budgeted
140	5225	Department of Corrections and Rehabilitation	Statewide Correctional Video Surveillance Continuation	$87.7 million General Fund and 19 positions in 2023-24, and $7.5 million in 2024-25 and 2025-26, to implement audio video surveillance systems at ten state-owned institutions, and $14.7 million ongoing General Fund beginning in 2026-27 for associated licensing and software costs.	Approve resources for video surveillance at 5 prisons, approve remaining resources for body worn cameras, and adopt provisional budget bill language.
141	5225	Department of Corrections and Rehabilitation	Statewide Mental Health Program Regional Staffing Augmentation	13.0 positions and $3.9 million General Fund in 2023-24 and ongoing for suicide prevention programs.	Approve as Budgeted
142	5225	Department of Corrections and Rehabilitation	Technical Adjustments	Net zero realignment of budget authority within CDCR programs and to transfer $8 million General Fund in 2023-24 and ongoing from CDCR to the California Arts Council to support the Arts in Corrections program.	Approve as Budgeted
143	5225	Department of Corrections and Rehabilitation	The Integrated Gender Affirming Healthcare Program	$2.2 million General Fund and 7.5 positions in 2023-2024 and ongoing to support implementation of the Integrated Gender Affirming Health Care Program.	Approve as Budgeted

144	5225	Department of Corrections and Rehabilitation	The Joint Commission Accreditation	15.0 positions and $3.2 million General Fund in 2023-24, 19.0 positions and $3.8 million General Fund in 2024-25, 26.0 positions and $4.3 million General Fund in 2025-26, 31.0 positions and $5.1 million General Fund in 2026-27, and 38.0 positions and $6.1 million General Fund in 2027-28 and ongoing to pursue The Joint Commission accreditation for all prisons over a five-year implementation period.	Reject
145	5225	Department of Corrections and Rehabilitation	Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant	$34.2 million in 2023-24 for the construction of an arsenic and manganese removal water treatment plant at Valley State Prison (VSP) and at the adjacent Central California Women's Facility (CCWF).	Approve as Budgeted
146	5225	Department of Corrections and Rehabilitation	Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant Reappropriation (May Revision)	Reappropriation of $849,000 for the working drawings phase of the water treatment plant project at Valley State Prison, Chowchilla.	Approve as Budgeted
147	5225	Department of Corrections and Rehabilitation	Adult Population Adjustment (May Revision)	Net reduction of $20 million ($19.9 million General Fund and $123,000 Inmate Welfare Fund) and 191.9 positions one-time and $30.9 million ($30.8 million General Fund and $123,000 Inmate Welfare Fund) and 257.8 positions ongoing as compared to Governor's Budget to reflect the spring population projections.	Approve as Budgeted
148	5225	Department of Corrections and Rehabilitation	Facility Deactivations (May Revision)	Reduction of $23.7 million and 1.0 position General Fund in 2023-24; $3.2 million and 1.0 position General Fund in 2024-25 and 2025-26; $4.8 million and 1.0 position General Fund in 2026-27; and $4.9 million and 1.0 position General Fund in 2027-28 and ongoing associated with the facility deactivations at six institutions.	Approve as Budgeted
149	5225	Department of Corrections and Rehabilitation	San Quentin Rehabilitation Center, San Quentin: Improvement Projects (May Revision)	$20 million one-time General Fund to provide funding for the preliminary plans, working drawings, and construction phases for various facility improvements at the San Quentin Rehabilitation Center, pursuant to the vision and recommendation of a multidisciplinary Advisory Council, and technical adjustments to shift this funding from support to capital outlay.	Approve funding with provisional budget bill language requiring the development of a plan by the Advisory Council and Legislative notification prior to any expenditures.
150	5225	Department of Corrections and Rehabilitation	San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center (May Revision)	$360.6 million one-time Public Buildings Construction Fund to provide funding for the pre-construction and progressive design-build phases of a one-of-a-kind facility focused on rehabilitation, education, and workforce development, pursuant to the vision and recommendation of a multidisciplinary Advisory Council created by the Governor.	Reject

151	5225	Department of Corrections and Rehabilitation	San Quentin Rehabilitation Center, San Quentin: Trailer Bill	Statutory changes to enable project construction by 2025, including renaming San Quentin State Prison to San Quentin Rehabilitation Center, allowing CDCR to use the Progressive Design-Build project delivery method, and exempting this project from the State Historic Preservation requirements and the California Environmental Quality Act.	Adopt placeholder trailer bill language.
152	5225	Department of Corrections and Rehabilitation	Contract Medical Unallocated Adjustments (May Revision)	$39.7 million General Fund ongoing to address a structural deficit within the Department's Contract Medical subprogram.	Approve funding for one year only and adopt provisional budget bill language requiring reporting on updated funding methodology.
153	5225	Department of Corrections and Rehabilitation	Expansion of Tele-Mental Health Services (May Revision)	85.0 positions and $11.0 million General Fund in 2023-24, 144.0 positions and $17.3 million General Fund in 2024-25, and 144.0 positions and $16.8 million General Fund in 2025-26 and ongoing to expand the use of Tele-Mental Health services to include psychology and social work in addition to psychiatry.	Approve as Budgeted
154	5225	Department of Corrections and Rehabilitation	Board of Parole Hearings Budget Augmentation to Support Core Functions (May Revision)	$4.2 million one-time General Fund in 2023-24 and 1.0 position ongoing and $2.6 million in 2024-25 and ongoing to support several core Board of Parole Hearing functions.	Approve as Budgeted
155	5225	Department of Corrections and Rehabilitation	Deferred Maintenance Funding Reduction and Technical Adjustment to Shift Reversion of 2021 Balances (May Revision)	Reversion of $30 million for deferred maintenance projects provided by the 2021 Budget Act, and technical adjustments to shift this reversion from Control Section language to the department budget.	Approve as Budgeted
156	5225	Department of Corrections and Rehabilitation	COVID-19 Workers' Compensation Reduction and Technical Adjustment to Shift Reversion	Reduction of $30.9 million in 2023-24 and 2024-25 to reduce the amount provided for COVID-19 Workers' Compensation (Senate Bill 1159), and technical adjustments to shift this reversion from Control Section language to the department budget.	Approve as Budgeted
157	5225	Department of Corrections and Rehabilitation	Prison Closure (Legislative Proposal)	Trailer bill language specifying a timeline for additional prison closures and refining the selection criteria.	Adopt placeholder trailer bill language
158	5225	Department of Corrections and Rehabilitation	Family Dignity Act (Legislative Proposal)	Trailer bill language and resources requiring CDCR to take certain actions to facilitate visitation for families	Approve Legislative Proposal and adopt placeholder trailer bill language
159	5225	Department of Corrections and Rehabilitation	Home After Harm (Legislative Proposal)	$1.5 million one-time for the Home After Harm program, which provides in-prison parole readiness programming.	Approve Legislative Proposal
160	5225	Department of Corrections and Rehabilitation	Sexual Assault Response and Prevention Working Group (Legislative Proposal)	$250,000 for CDCR and $750,000 to the Sister Warriors Freedom Coalition to establish a workgroup to address sexual assault in carceral settings, and to provide trauma informed care and support to survivors.	Approve Legislative Proposal
161	5225	Department of Corrections and Rehabilitation	Community Reentry Center Clean Up	Net-zero language to adjust the funding provided in the 2022 Budget Act for Community Reentry Centers.	Adopt provisional budget bill and placeholder trailer bill language.

162	5227	Board of State and Community Corrections	Funding Reappropriations	Reappropriation of $9.8 million in Indigent Defense Grant funds originally authorized in the 2020 Budget Act to extend the availability for encumbrance and expenditure through June 30, 2024, $5 million General Fund for the Adult Reentry grant originally authorized in the 2018 Budget Act, and $300,000 General Fund for the Use of Force and De-escalation pilot program grant originally authorized in the 2022 Budget Act to extend the availability for encumbrance and expenditure through June 30, 2026.	Approve as Budgeted and adopt provisional budget bill language
163	5227	Board of State and Community Corrections	Increase Federal Spending Authority – Safer Communities Act	$50 million increase to its federal spending authority annually for five fiscal years beginning 2023-24 to draw down federal funds for the new grant program established through the Federal Bipartisan Safer Communities Act (Pub. L. No. 117-159).	Approve authority reflecting the actual federal award, adopt provisional budget bill language.
164	5227	Board of State and Community Corrections	Post Release Community Supervision Population	$9.3 million one-time General Fund in 2023-24 for county probation departments to supervise the temporary increase in the average daily population of individuals on Post Release Community Supervision as a result of the implementation of Proposition 57, an increase of $1.1 million over the Governor's budget.	Approve as Budgeted
165	5227	Board of State and Community Corrections	Public Defender Pilot Program and Technical Adjustment	Reduction of $50 million General Fund in 2023-24 for the Public Defender Pilot Program, and technical adjustments to shift this reversion from control section to the department budget.	Reject reduction, and maintain funding for the program.
166	5227	Board of State and Community Corrections	Local Law Enforcement Gun Buyback Program Grants Reduction (May Revision)	Reversion of $25 million provided in the Budget Act of 2022 for grants to local law enforcement agencies for gun buyback programs.	Approve as Budgeted
167	5227	Board of State and Community Corrections	Missing and Murdered Indigenous Persons (May Revision)	$12 million one-time General Fund in 2023-24 and provisional language to fund a competitive grant program to assist tribes in locating, identifying, and preventing missing Indigenous persons, consistent with the funding provided in the 2022 Budget Act for this purpose.	Approve as Budgeted
168	5227	Board of State and Community Corrections	Transitional Housing Services for Additional Youth (May Revision)	Provisional language to allow funds provided in the Budget Act of 2022 to be used for transitional housing services to youth returned to local custody following the closure of the Division of Juvenile Justice who are subsequently released by the juvenile court.	Approve as Budgeted
169	5227	Board of State and Community Corrections	Medication-Assisted Treatment Grant Program, Reappropriation (May Revision)	Reappropriation of $500,000 General Fund provided for BSCC administrative costs, and extension of the encumbrance or expenditure date to June 30, 2027.	Approve as Budgeted

170	5227	Board of State and Community Corrections	Juvenile Justice Realignment Block Grant Technical Clarification: Juvenile Correctional Probation Statistical System Search parameters	Trailer bill language to clarify the allocations of the Juvenile Justice Realignment Block Grant.	Adopt placeholder trailer bill language
171	5227	Board of State and Community Corrections	Juvenile Detention Facilities: Inspections for Secure Youth Track Facility, Camps, Ranches	Trailer bill language to clarify inspection authority for secure youth track facilities, camps, and ranches.	Adopt placeholder trailer bill language
172	5227	Board of State and Community Corrections	Sight Sound Separation Clarification	Trailer bill language to clarify sight and sound separation requirements in juvenile facilities.	Adopt placeholder trailer bill language
173	5227	Board of State and Community Corrections	Southern California Reentry Hub (Legislative Proposal)	$6 million one-time General Fund for the Anti-Recidivism Coalition to establish a Southern California Reentry Hub in Los Angeles.	Approve Legislative Proposal
174	7870	Victims Compensation Board	Information Technology Staff	$877,000 Restitution Fund and 4.0 positions in 2023-24 and $789,000 and 4.0 positions in 2024-25 and ongoing to implement and maintain increased cybersecurity capabilities.	Approve as Budgeted
175	7870	Victims Compensation Board	Victims Compensation (Legislative Proposal)	$1.65 million ongoing to expand victims compensation eligibility for individuals on probation or parole as outlined in AB 160 (Committee on Budget), Chapter 771, Statutes of 2022.	Approve Legislative Proposal and adopt placeholder trailer bill language.
176	8120	Commission on Peace Officers Standards and Training	Peace Officer Certification Hearings (SB 2)	$4.5 million from the General Fund in 2023-24 and $3.9 million ongoing to fund Office of Administrative Hearings costs associated with implementation of Senate Bill 2 (Chapter 409, Statutes of 2021).	Approve resources with provisional budget bill language requiring POST to report on workload
177	8120	Commission on Peace Officers Standards and Training	SB 2 Department of Justice Costs	$6.1 million one-time in fiscal year 2023-24 and $5.3 million ongoing to fund Department of Justice legal costs incurred by POST for hearings related to the implementation of Senate Bill 2 (Chapter 409, Statutes of 2021).	Approve three years of funding only
178	8120	Commission on Peace Officers Standards and Training	Chapter 409, Statutes of 2021 (SB 2) Implementation	Trailer bill language clarifying POST's Public Records Act duties related to SB 2 (Chapter 409, Statutes of 2021) documents.	Adopt placeholder trailer bill language
179	8140	Office of State Public Defender	Recruitment Support	$280,000 General Fund and 2.0 positions ongoing to support OSPD's efforts in recruitment and retention to improve staff diversity.	Approve as Budgeted
180	0250/ 0820/ 5225	Various Departments	Various Trailer Bill Language	Trailer bill language to fix chaptering issues and other technical clean up.	Adopt placeholder trailer bill language