Senate Budget and Fiscal Review—Holly J. Mitchell, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Maria Elena Durazo
Senator Jim Nielsen
Senator Thomas J. Umberg

Thursday May 16, 2019
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultants: Yong Salas, James Hacker, Anita Lee, Joe Stephenshaw

Item **Department** **Page**

ITEMS PROPOSED FOR VOTE ONLY

ITEMS PROPOSED FOR DISCUSSION/VOTE

Public Comment

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ITEMS PROPOSED FOR VOTE-ONLY

0840 STATE CONTROLLER'S OFFICE

Issue 1: California State Payroll System Project

Proposal. The May Revision includes $1.3 million General Fund ($471,000 ongoing) and $961,000 special funds ($355,000 ongoing) to support six positions and contracted service costs during the Project Approval Lifecycle process.

Background. Beginning in 2016, SCO began to assess current information technology and the latest industry standards, and initiated the re-engineering of a new human resource management and payroll system. This new initiative is named the California State Payroll System Project (CSPS).

Over the last few years, SCO received resources for CSPS to support the following:

- Perform business process documentation of human resource management and payroll processing practices to refine the scope of the future project.
- Contract with a vendor to provide IT consulting business process documentation and reengineering services.
- Complete CDT's PAL Stage 1 Business Analysis.
- Contract with a procurement support vendor to create new, or refine existing, mid-level solution requirements, assist with the performance of a market survey, conduct the final alternative analysis, prepare financial analysis worksheets, and aid in the development of a procurement strategy to be included in the CDT PAL Stage 2.
- Complete the CDT PAL Stage 2 Alternatives Analysis.

The CSPS Project intends to modernize and improve the efficiency of the current Uniform State Payroll System (USPS) or replace it entirely. Since the state continues to rely on its 1970s-era legacy systems, the CSPS Project is intended to develop a comprehensive approach to satisfy all stakeholders' concerns, meet the best interests of the State, and follow the PAL process to develop plans that align with SCO's strategic goals. A modern payroll system will allow SCO to meet its strategic objectives to promote financial integrity and accountability; provide excellent customer service; deliver core services more effectively through innovative business processes and technology solutions, invest in its employees to create a skilled, motivated, and diverse workforce; and enhance communications and information sharing.

SCO requests funding to support six permanent positions in 2019-20 and ongoing to continue work on the project activities that will drive the process of assessing options and designing a new statewide payroll approach.

Staff Recommendation. Approved as budgeted.

Issue 2: Personnel Cost Adjustments

Proposal. The May Revision includes $1.1 million ($589,000 General Fund) to support increased personnel costs as a result of the Financial Accountant (FA) series reclassification in 2017-18 and statewide Information Technology class consolidation reclassifications.

Background. In May 2014, the California State Auditor (CSA) issued an internal control finding on SCO regarding the preparation of the Comprehensive Annual Financial Report (CAFR). In that finding, CSA acknowledged the significant turnover rate experienced by the State Accounting and Reporting Division's (SARD) State Government Reporting Bureau, likely contributed to the issues that led to the finding. In response to the finding, SCO, among other corrective actions, would continue to pursue an SCO specific accounting classification with appropriate compensation that is commensurate with the work being performed.

SCO's 2015 State Leadership Accountability Act Biennial Report stated that current pay scales may not be competitive with local government and private sector wages; and as such, poses a risk to achieving the operational objective of maintaining an effective, efficient, knowledgeable and productive workforce. The solution was to consult with CalHR to ensure current classifications are appropriate for the work being performed.

In 2015, CalHR established the FA series for use by CalPERS and CalSTRS. SCO petitioned CalHR for use of the FA series, and in September 2016, CalHR determined that the complexity and sensitivity of the work being performed in SCO's SARD aligned with the FA series duties.

CalHR approved SCO's use of the FA series within SARD, resulting in SCO submitting a 2017-18 Accounting Administrator Reclassification May Revise Budget Change Proposal (BCP). This BCP requested funding in the amount of $600,000 and was approved in 2017-18 and 2018-19 to fund the reclassification of 38.0 Accounting Administrator positions to the FA series. SCO is now requesting $774,000 in 2019-20 and ongoing to permanently fund the 38.0 FA series positions.

Staff Recommendation. Approved as budgeted.

Issue 3: Statewide Retirement Reconciliation Program

Proposal. The May Revision includes $2.1 million ($1.2 million General Fund) to support 15 continuing positions to address ongoing workload, and resources to work with CalPERS to resolve data translation errors between the legacy systems and the myCalPERS system.

Background. Electronic interfaces between SCO and CalPERS communicate complex personnel and payroll information for retirement calculation for future compensation and benefits purposes for over 286,000 active members. The transaction volume often reaches over six million records annually.

To ensure a long-term business solution, SCO and CalPERS determined that the best resolution would be to create new interfaces that would extract CalPERS membership enrollment and payroll contribution data and convert the data to the XML file format that myCalPERS requires to bridge the translation gap between the two systems. In November 2013, SCO initiated the my|CalPERS File Readiness (MCFR) project to replace the translation process. The long-term objective of the project is to ensure the accurate reporting of CalPERS retirement contributions and service credit information for members.

Through a 2014-15 Budget Change Proposal (BCP), SCO received 15.0 five-year LT positions to address the increased workload of incoming errors created by the continued reporting issues and to clear the growing backlog of myCalPERS errors. SCO and CalPERS established mutual responsibility over myCalPERS error resolution, with SCO clearing retirement contribution-related errors, and CalPERS clearing retirement enrollment-related errors.

SCO is requesting 15.0 permanent positions to work with CalPERS to finalize implementation of Phase 2 of the MCFR project, complete Phase 3 of the MCFR project, support future maintenance and enhancements to these files on an ongoing basis, and provide ongoing support of the remaining manual workload.

Staff Recommendation. Approved as budgeted.

Issue 4: Settlement Claims

Proposal. The May Revision includes $9.5 million General Fund in to pay the class action settlements of *Nancy Baird, et al. v. Betty T. Yee, et al (2016) and Janis McLean v. State of California (2016).*

Background. *Nancy Baird, et al. v. Betty T. Yee, et al (2016)* concerned registered warrants the State Controller issued to members of a class of vendors in the summer of 2009, during the height of the State's fiscal crisis, in response to claims for payment for goods and services the class members provided to the State. The dispute centered on whether these registered warrants constitute "payment" under the California Prompt Payment Act.

Janis McLean v. State of California (2016) concerned Labor Code sections 202 and 203, which specify an employer must make prompt payment of the final wages owed to an employee who “quits” his or her employment, or else pay statutory penalties. In this case, plaintiff Janis S. McLean, a retired deputy attorney general, filed suit against the State of California on behalf of herself and a class of former state employees who, having resigned or retired, did not receive their final wages within the time periods set out in the statute.

Staff Recommendation. Approved as budgeted.

Issue 5: CalATERS

Proposal. The May Revision includes a decrease of $704,000 General Fund in 2019-20 through 2021-22 to reflect adjusted project cost.

Background. The California Automated Travel Expense Reimbursement System (CalATERS) provides a web-based solution for travel advance and expense reimbursement processing that, among other things, includes automated audits of statewide travel rules, form tracking, and management reporting capabilities. The CalATERS project is being paused beginning in 2019-20 to ensure the successful integration with FI$Cal.

Staff Recommendation. Approved as budgeted.

1111 DEPARTMENT OF CONSUMER AFFAIRS

Issue 6: Re-Appropriation of Equity Program Funding

Background. The 2018 Budget Act provided a one-time $10 million General Fund augmentation for the Bureau of Cannabis Control to provide grants to local equity programs and $483,000 (Cannabis Control Fund) to provide technical assistance to local equity applicants and licensees. However, funding to recipients have been delayed, and the reappropriation is needed to ensure they are distributed as intended.

Staff Recommendation. Re-appropriate this funding to provide grants to local equity programs.

7760 Department of General Services

Issue 7: Office of Public School Construction Personal Services

Governor's Budget. The Office of Public School Construction requests $1.2 million and 10 positions.

Staff Comment. These positions will support workload at the Office of Public School Construction related to processing applications for funding in the School Facilities Grant Program made available through Proposition 51 bond funding. This issue was heard in Subcommittee #1 on Education.

Recommendation. Approve the Governor's Budget proposal, add reporting language related to volume of applications processed over the 2019-20 year. This conforms to an action taken in Subcommittee #1 on Education.

0650 GOVERNOR'S OFFICE OF PLANNING AND RESEARCH (OPR)

Issue 8: Health in All Policies

Governor's Budget. The budget requests three positions and $430,000 General Fund in 2019-20 and ongoing to continue the existing Health in All Policies (HiAP) program at the Strategic Growth Council (SGC).

SGC's HiAP staffing has been fully funded by philanthropic partners and current HiAP staff are employees of the Public Health Institute (PHI), the non-profit partner to the state. State funds have not been allocated to support HiAP staff. However, philanthropic support has amounted to over $4 million since 2010, which has paid staff salaries and benefits.

HiAP currently supports four positions at SGC, fully funded by PHI. SGC provides in-kind support to house staff. The philanthropic funding for these positions will expire in July 2019, and SGC has indicated that PHI does not intend to extend it. OPR has indicated that HiAP would move from four to three positions once funding is brought in-house. All three current work streams would continue, with work focusing on state and interagency issues. Workload related to interstate or international efforts would be absorbed or expire.

Staff Recommendation. Approve as Budgeted.

Issue 9: Precision Medicine

Governor's Budget. The Administration has requested trailer bill language the extend the statutory authority for the California Initiative for Precision Medicine until 2026. The Institute was provided $30 million in the 2018-19 budget, which is available for encumbrance until 2022 and liquidation until 2025. However the statutory authority for the Initiative currently sunsets in 2020.

The requested trailer bill language would align the Initiative's statutory with available funding. It would also require the Initiative to report annually to the Legislature on the progress and outcomes of funded projects.

Staff Recommendation. Approve as Proposed.

Issue 10: Administration Resources

Governor's Budget. The Administration has requested provisional language to enable OPR to utilize up to five percent of local assistance funding provided to the office for grant programs for program administration. While it is reasonable to expect OPR to require administrative resources for the variety of grant making programs it oversees, those administrative resources should be provided on a case by case basis. Providing blanket authority to OPR to use five percent of any program placed at the office for administrative purposes is an inappropriate ceding of legislative authority over the budget to the administration.

Staff Recommendation: Reject the requested provisional language.

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 11: No Place Like Home

Governor's Budget. The budget requests a $7 million General Fund loan for cash needs of the No Place Like Home Program (NPLH) until the No Place Like Home bonds are issued in Fall of 2019.

Welfare and Institutions Code (WIC) Section 5849.8(b) sets the criteria for Alternative Process (AP) counties: "The department may establish an alternative process for allocating funds directly to counties, as calculated in Section 5849.6, with at least five percent of the state's homeless population and that demonstrate the capacity to directly administer loan funds for permanent supportive housing serving the target population and the ability to prioritize individuals with mental health supportive needs who are homeless or at risk of chronic homelessness, consistent with this part and as determined by the department." HCD evaluated the AP counties capacity to administer a housing program as part of the designation process. Only four counties meet the five percent threshold, and all will be AP counties by May. It will not be reassessed unless the statute is amended.

Based on the 2017 point-in-time results, the HCD designated the eligible AP Counties are Los Angeles, Santa Clara, San Diego, and San Francisco. Los Angeles County indicated a cash flow need of $3,000,000 and Santa Clara a cash flow need of $4 million before October for projects they intend to provide construction lending to, although awards have not formally been made at this time. The Administration has indicated that the requested $7 million will be repaid to the General Fund once bonds have been sold in the fall of 2019.

Staff Recommendation. Approve as Budgeted.

Issue 12: Regional Housing Needs Allocation Process (AB 1771 and SB 829)

Governor's Budget. The budget requests $638,000 in 2019-20 and $543,000 ongoing General Fund for 3.0 positions to implement AB 1771 (Bloom), Chapter 989, Statutes of 2018 SB 828 (Wiener), and Chapter 974, Statutes of 2018, which added methodology review requirements for HCD in the Regional Housing Needs Allocation (RHNA) process.

AB 1771 and SB 828 collectively revise the process and criteria for developing local housing goals in regional needs allocation plans. SB 828 incorporates additional data into regional methodologies and specifies that prior underproduction does not justify a reduction on housing goals while AB 1771 allows HCD to verify the methodology used to develop these plans is consistent with state law. It is reasonable to believe that this additional workload will require additional resources, particularly given the timing of much of the workload.

The Administration, Senate, and Assembly have all proposed potential long-term changes, developed in a process involving consultation with relevant stakeholders, to the methodology for allocating housing needs to regions and jurisdictions. Because changes to the RHNA process may impact the workload required by AB 1771 and SB 828, limited term funding is appropriate for these resources.

Staff Recommendation. Approve $638,000 in 2019-20 and $543,000 in 2020-21

Issue 13: Mixed Income Allocation Provisional Language

Governor's Budget. The May Revision includes budget bill language that allows additional flexibility in the use of funds for mixed income projects, and clarifies that the funds are specifically for the California Housing Finance Agency (CalHFA). This is a technical adjustment that clarifies the uses of specific funds for the CalHFA Mixed Income Loan Program, which the Senate has provided $500 million for in its housing and homelessness framework adopted on May 9, 2019.

Staff Recommendation. Approve as Budgeted.

Issue 14: Serna Program Trailer Bill Language

Governor's Budget. The Administration has proposed trailer bill language to make several changes to the Joe Serna Jr. Farmworker Housing Grant Program, which provides grants to finance the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households.

The proposed language would allow the program to charge an annual monitoring fee, not to exceed 0.42 percent of annual loan payment amounts, to fund ongoing monitoring and compliance work. It would also remove a requirement for matching funds, and lower the amount of funding required to be set aside in case of loan defaults to 1.5 percent. These changes would align the Serna Program with other multifamily housing programs at HCD.

Staff Recommendation. Approve as Proposed.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

Issue 15: Housing First – Parolee Programs Cleanup

Governor's Budget. The Administration has requested trailer bill language to allow recovery housing, defined as sober living facilities and programs that provide housing in an abstinence-focused and peer-supported community, to count as a "housing first" program under current law if it also meets certain other criteria.

Most CDCR housing programs currently support recovery housing, which is not compatible with Housing First principles required for state housing programs under SB 1380 (Mitchell), Chapter 847, Statutes of 2016. This bill would effectively exempt those programs from those Housing First principles, provided they also meet certain other requirements.

Staff Recommendation: Reject the proposed trailer bill language.

DEFERRALS

Issue 16: Payroll Deferral Trailer Bill Language and CalPERS Deferral

Background. The subcommittee heard this issue on April 25. The Governor proposes trailer bill language to repeal sections of the Government Code to eliminate the state payroll deferral. The Administration estimates the cost to undo this action will be $973 million for the General Fund. The state never recognized the deferral in other funds' budgetary statements and, as a result, undoing it would only have budgetary implications for the General Fund.

There is no trailer bill to undo the CalPERS deferral. This change is reflected in the Department of Finance's summary schedules. Specifically, this is reflected in Schedule 9 regarding comparative statements of expenditures. Undoing the deferral would eliminate these savings. The Administration estimates the cost to undo this action is $707 million General Fund (other funds' fourth quarter CalPERS payments are not deferred).

The Administration notes that the intent of the proposals is to reuse this tool in the future.

Staff Recommendation. Reject the Governor's proposal. Instead redirect funds to provide:

1. An additional $130 million in 2019-20, and $298 million in 2020-21 to reduce district contribution rates to CalSTRS, above the Governor's proposal;

2. $257 million in 2019-20 and $264 million in 2020-21 to reduce districts CalPERS contribution rates for classified employees;

   The actions above will provide school districts with approximately $1 billion in additional relief.

3. An additional $600 million payment to the Safety Net Reserve in 2019-20.

7910 CALIFORNIA STATE TEACHERS RETIREMENT SYSTEM (CALSTRS)

Issue 17: CalSTRS Supplemental Pension Payment and Contribution Rates

Background

On April 25th, the subcommittee heard the Governor's January budget proposal to provide a supplemental pension payment to address the CalSTRS unfunded liability and to reduce school employer contribution rates.

District's Share of Unfunded Pension Liabilities. The Governor proposes for the state to pay CalSTRS an additional $2.3 billion General Fund in 2018-19 to address the district's share of the unfunded liability.

CalSTRS District Contribution Rates. The Governor proposes providing $700 million over the next two years ($350 million per year) to provide school and community college districts with immediate budget relief. Specifically, the funds would reduce districts' CalSTRS rates in 2019-20 and 2020-21—freeing up resources for other parts of districts' operating budgets.

State Share of the Unfunded Pension Liability. The Governor proposes to pay $1.1 billion in Proposition 2 to CalSTRS in 2019-20 to address the state's share of the unfunded liability. Moreover, the Administration proposes an additional $1.8 billion in Proposition 2 funds through 2022-23, as follows: $802 million in 2020-21, $615 million in 2021-22, and $345 million in 2022-23, to be paid towards the state's share of the unfunded liability.

The Governor's proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the transfer of funds.

Estimated Savings from the Proposed Supplemental Payment for the Employer Liability Share to CalSTRS. The Administration estimates that the proposed investments would save school employers $6.9 billion ($3.9 net savings) over the next 30 years under current actuarial assumptions.

The Administration estimates that the $700 million to supplant the school employer contributions would result in a one percent reduction in the employer contribution for 2019-20 and 2020-21.

Moreover, the $2.3 billion supplemental payment to the employer share of the unfunded liability would reduce the employer contribution rate by approximately 0.5 percent starting in 2021-22, over the next three decades. The Administration's chart below displays the impact of the supplemental payment towards the employer's contribution rate.

Supplemental Pension Payments to CalSTRS—School Employer Liability Share Estimated Impact					
	Current		With Supplemental Pension Payment		
Fiscal Year	Employer Contribution Rate	Employer Contribution (in Millions)	Employer Contribution Rate	Employer Contribution (in Millions)	Savings from Supplemental Pension Payment (in Millions)
2019-20	18.13%	$ 6,277	17.10%	$ 5,927	$ 350
2020-21	19.10%	$ 6,844	18.10%	$ 6,494	$ 350
2021-22	18.40%	$ 6,837	17.90%	$ 6,641	$ 196
2022-23	18.40%	$ 7,047	17.90%	$ 6,883	$ 164
2023-24	18.40%	$ 7,301	17.90%	$ 7,131	$ 170
Total Savings—2019-20 through 2023-24					$ 1,230
Total Savings—2024-25 through 2045-46					$ 5,691
Total Savings—2019-20 through 2045-46					$ 6,921

Note: The employer contribution rate, with and without the impact of the supplemental pension payments, is projected to remain constant from 2023-24 through 2045-46. Unlike the state contribution rate, asset smoothing (smoothing the impact of investment volatility on the rate) does not have a material impact on the employer contribution rate over this period.

Estimated Savings from Supplemental Payment Proposal to the State Liability Share to CalSTRS. The Administration estimates a gross savings of $7.4 billion ($4.4 billion net), and will reduce the state contribution rates starting in 2022-23 by 0.5 to 0.6 percent over the next 30 years.

According to the Administration, the state's share of the CalSTRS defined benefit program is 85 percent funded as of June 30, 2017. The Administration's chart below displays the impact of the supplemental payment towards the state's contribution rate.

Supplemental Pension Payments to CalSTRS—State Liability Share Estimated Impact					
	Current		With Supplemental Pension Payments		
Fiscal Year	State Contribution Rate	State Contribution (in Millions)	State Contribution Rate	State Contribution (in Millions)	Savings from Supplemental Pension Payments (in Millions)
2019-20	7.83%	$ 2,569	7.83%	$ 2,569	$ -
2020-21	8.33%	$ 2,786	8.33%	$ 2,786	$ -
2021-22	8.83%	$ 3,057	8.83%	$ 3,057	$ -
2022-23	9.30%	$ 3,330	8.80%	$ 3,149	$ 181
2023-24	9.20%	$ 3,395	8.60%	$ 3,184	$ 211
Total Savings—2019-20 through 2023-24					$ 392
Total Savings—2024-25 through 2045-46					$ 7,057
Total Savings—2019-20 through 2045-46					$ 7,449

Note: It is projected that with the supplemental pension payments, the state contribution rate will continue to decrease slightly during the period from 2024-25 through 2045-46, to 8.2 percent. Absent the supplemental pension payments, it is projected that the state contribution rate will decrease to 8.8 percent by the end of this same period. The slight decrease in the state contribution rate over this time period can be attributed to asset smoothing (smoothing the impact of investment volatility on the rate).

2019-20 May Revision

The May Revision proposes an additional investment of $150 million General Fund to further reduce the school district employer contribution rates by an additional 0.43 percent. Under the administration's proposal, the state's total supplanting payment in 2019-20 would equal 1.43 percent of pay.

Legislative Analyst's Office Comments

Payment Has No Effect on CalSTRS Unfunded Liability. Under the administration's proposal, the state would assume responsibility for contributions to CalSTRS that the CalSTRS funding plan otherwise would require school districts to pay for two years. While providing school districts rate relief in 2019-20 and 2020-21 provides school districts greater flexibility to spend money on other one-time priorities, it has no effect on the CalSTRS unfunded liability. Using money to pay down the unfunded liability could have larger savings for school districts over the long-term.

Consider Setting Aside Funding For Future Rate Relief. The Governor proposes providing rate relief to school districts at a time when school district funding is at historic highs. Rather than providing districts' budget relief over the next two years, the Legislature could modify the Governor's proposal to provide rate relief during the next economic downturn. Under this alternative, the state would set aside funds for school district retirement costs, but not immediately adjust district contribution rates. Later, during a downturn, the Legislature could choose when to apply the additional funds and reduce district rates. Such an approach is beneficial because it mitigates the need for pension rate increases at a time when districts would have less funding and be facing even more difficult budget choices.

Staff Recommendation. Approve the Governor's January and May Revise budget proposal as well as take conforming action to the previous issue to:

Reduce District Contribution Rates

1. Provide an additional $130 million above the Governor's proposed $500 million, for total of $630 million in 2019-20 to reduce the district contribution rates for CalSTRS from 18.13 percent as specified in current law, to 16.33 percent;

2. Provide an additional $298 million above the Governor's proposed $350 million, for a total of $648 million in 2020-21 to reduce district contribution rates for CalSTRS from 23.60 percent as specified in current law, to 21.80 percent;

3. Provide $257 million in 2019-20 to reduce district contribution rates for CalPERS to reduce district contribution rates from 20.73 percent to 18.93 percent;

4. Provide $264 million in 2020-21 to reduce district contribution rates for CalPERS from 23.60 percent to 21.80 percent.

Comparing School District Rate Relief

	2019-20			**2020-21**		
	Current Law	Governor	Senate	Current Law	Governor	Senate
CalSTRS	18.13%	16.70%	16.33%	19.10%	18.10%	17.30%
CalPERS	20.73%	20.73%	18.93%	23.60%	23.60%	21.80%

State Costs Based on Actuarial Assumptions Regarding Payroll Growth
(Dollars in Millions)

	2019-20		2020-21		Total	
	Governor	Senate	Governor	Senate	Governor	Senate
CalSTRS	$500	$630	$350	$648	$850	$1,278
CalPERS		$257		$264		$521
Total	$500	$887	$350	$912	$850	$1,799

<u>Address the District's Share of the CalSTRS Unfunded Liability</u>

5. Approve the Governor's proposal to provide $2.3 billion General Fund in 2018-19 to address the district's share of the unfunded liability.

<u>Address the State's Share of the CalSTRS Unfunded Liability</u>

6. Approve the Governor's proposal to provide $1.1 billion in Proposition 2 to CalSTRS in 2019-20 to address the state's share of the unfunded liability,

7. Approve the Governor's proposal to provide $1.8 billion in Proposition 2 funds through 2022-23, as follows: $802 million in 2020-21, $615 million in 2021-22, and $345 million in 2022-23, to be paid towards the state's share of the unfunded liability, and

Issue 18: CalSTRS Creditable Compensation

<u>Background.</u> The May Revision requests that Item 7920-011-0001 be increased by $5.7 million to reflect an increase in the state's contributions to the CalSTRS Defined Benefit (DB) Program and Supplemental Benefit Maintenance Account (SBMA), as required in statute. The state's contributions to the DB program and SBMA are calculated using creditable compensation provided by the Teachers' Retirement Board (Board) for the fiscal year immediately preceding June 30; the report is published annually by the Board by October 25, and a subsequent report is due by April 15, that displays necessary revisions to creditable compensation. Based on the Board's April 8, 2019 creditable compensation report, the DB contribution will be increased by $4.3 million and the SBMA contribution will be increased by $1.4 million, as compared to the Governor's Budget.

<u>Staff Recommendation</u>. Approve the Governor's budget proposal.

7900 CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

Issue 19: CalPERS Supplemental Pension Payment

Governor's Budget Proposal

State's CalPERS Unfunded Liability. The Administration proposes a $3 billion supplemental payment to CalPERS in 201819, and payment to each state plan would be a proportionate share of the required General Fund contribution. The proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the fund transfer. Additionally, the trailer bill language specifies that of the funds, up to approximately $1.4 billion would be transferred to the state miscellaneous plan, $81.5 million to the state industrial plan, $178.3 million to safety plan, and $1.4 million to the state peace and firefighter plan. Since the highway patrol plan does not make General Fund contributions, it would not receive a payment under the proposal.

Savings Would Be Distributed Among All Funds That Make Pension Contributions to Plans. With the payment, the employer contribution rate is expected to be around one percent of pay lower each year until nearly 2040—representing an average of around $225 million in savings per year. In total, this investment would create net savings of $6.3 billion in net savings over about 30 years.

Legislative Analyst's Office Comments

Alternative Payment Options. The LAO offers a few alternative strategies for the supplemental payment.

1. **Keep DOF Distribution, but Require Other Funds to Repay General Fund.** Under this alternative, the $3 billion would still be distributed to only four of the five plans, but funds would repay $1 billion, over time, back to the General Fund for their shares of the contribution. (Many funds might not have the resources to repay the General Fund right away, but could use their accrued savings from lower pension payments over time to make these repayments.)

2. **Distribute the Payment Based on Unfunded Liability and Require Repayments.** To make a payment to all CalPERS plans, the Legislature could distribute the payment according to each plan's unfunded liability and require the benefiting funds to repay the General Fund in proportion to their benefit. Under this alternative, the $3 billion would be distributed among all five plans and other funds would repay $1.5 billion to the General Fund.

   In addition to proportionally allocating benefit among all employee types, this alternative would maximize potential savings for the MVA, somewhat reducing the fund's ongoing structural imbalance. Lower pension payments—and a net benefit of roughly $700 million over 30 years—could put the fund in a slightly better condition over the long-term.

3. **Make Full Payment to Peace Officers and Firefighters Plan.** One concern about administering the proposal using repayments is the administrative complexity involved. This alternative would maximize General Fund benefit without a complicated repayment system, and would make the entire supplemental payment to Peace Officers and Firefighters plan. This plan is nearly entirely General Fund supported and the vast majority of the benefit would still

accrue to the General Fund. The state could generate over $5 billion net savings, which is the most General Fund benefit of the proposals.

Staff Recommendation. Approve Governor's budget proposal.

Issue 20: SB 84 (Committee on Budget and Fiscal Review), Chapter 50, Statutes of 2017, Supplemental Pension Loan Repayment.

Background. The 2017-18 budget provided a $6 billion one-time from the Pooled Money Investment Account (PMIA) cash loan to pay down the CalPERS unfunded liability. Under SB84, all funds that make contributions to CalPERS are responsible for repaying the loan by June 30, 2030. SB 84 authorizes the Department of Finance to determine responsible funds' repayment amounts.

Governor's Budget Proposal. The Governor's January budget proposed $390 million in Proposition 2 debt funding to pay down the General Fund's share of the loan that funded the 2017-18 supplemental pension payment.

As for the special fund repayment, these items are non-Budget Act, the following amendments are being shared for informational purposes:

- Assessments to the Motor Vehicle Account (MVA) are being decreased by $59.2 million in 2018-19, and by $61.5 million in 2019-20, which is consistent with a recent Spring Finance Letter issued to delay repayment of the MVA's share of the SB 84 loan for five years beginning in 2018-19.

- Shift in assessments to funds administered by the California Department of Tax and Fee Administration for fiscal years 2019-20 through 2024-25, which results in a net zero dollar change. The changes in 2019-20 for these funds are summarized as follows:

    - Decrease Item 9892-501-0965 by $45,000
    - Increase Item 9892-501-3067 by $130,000
    - Decrease Item 9892-501-3251 by $63,000
    - Decrease Item 9892-501-3270 by $22,000

- Shift in assessments to funds administered by the Department of Justice are being made in 2018-19, which result in a net zero dollar change. The changes in 2018-19 for these funds are summarized as follows:

    - Increase Item 9892-501-0017 by $2.6 million
    - Decrease Item 9892-501-0460 $325,000
    - Decrease Item 9892-501-9731 by $2.3 million

- Increases in the following items under the Department of Toxic Substances Control to provide for loan repayments in 2019-20:

    - Increase Item 9892-501-0014 by $1.9 million
    - Increase Item 9892-501-0557 by $1.9 million

- Increase Item 9892-501-3301 by $61,000

The net effect of these adjustments is a $59.2 million decrease in 2018-19, and a $57.6 million decrease in 2019-20. According to the Administration, these changes do not have a material impact on the overall cost of the SB 84 loan.

Staff Recommendation. Approve the Governor's budget proposal.

CONTROL SECTION 3.60

Issue 21: Control Section 3.60

Background. The May Revision requests that Control Section 3.60 be amended to capture changes in state retirement contribution rates for state members of CalPERS and the Judges' Retirement System II (JRS II), adopted by the CalPERS Board on April 16, 2019 and February 21, 2019, respectively. The increase in state employer contribution is a result of normal progression of the existing amortization and smoothing policy, a reduction in the discount rate to seven percent, and increases in payroll.

The newly adopted state employer contribution rates result in additional state costs of $525.1 million, an increase of $3.5 million from the $521.5 million included in the Governor's Budget. The $3.5 million increase consists of an increase of $8.8 million General Fund, a decrease of $1.2 million special funds, and a decrease of $4.2 million in other nongovernmental cost funds.

The increase in the state employer contribution rate for JRS II members is attributed to the net effect of the most recent investment gain offset by a liability loss, as well as a change in actuarial method. The newly adopted rate results in General Fund costs of $85.2 million, a total increase of $6.4 million from the $78.8 million General Fund included in the Governor's Budget.

The aggregate effect of these changes on the General Fund is an increase of $15.3 million in fiscal year 2019-20 compared to Governor's Budget.

Staff Recommendation. Approve the Governor's budget proposal.

ITEM 9800 – EMPLOYEE COMPENSATION

Issue 22: Employee Compensation

Background. The May Revision requests that Item 9800-001-0001 be decreased by $961,000, Item 9800-001-0494 be decreased by $552,000, and Item 9800-001-0988 be decreased by $272,000 to reflect updated estimates to the dental and vision premium rates, natural changes to enrollment in health and dental plans, and updated employment information for salary increases and other post-employment benefit contributions. Additionally, while these figures include estimated health premium rates, the Administration notes that final health rates are not expected to be adopted by the CalPERS Board of Administration until June 2019.

It is also requested that provisional language in Item 9800-001-0001 be amended to ensure penalty assessments are applied to all employers (state agencies, departments, boards and the California State University) for their respective portion of penalties the state may face under the federal Patient Protection and Affordable Care Act. The IRS has been issuing penalties related to Penalty B (Employer Shared Responsibility), which are a result of part-time, temporary, and seasonal employees that may have been considered full-time for one or more months, were not offered or did not qualify for health benefits through the state, purchased health coverage from the Health Insurance Marketplace (known as Covered California), and received a premium tax credit or cost sharing reduction. The 2015 penalty was $347,100 and was paid October 10, 2018.

Staff Recommendation. Approve the Governor's budget proposal.

Issue 23: Excluded and Exempt Employer Contribution Formula for Annuitants

Background. Through the collective bargaining process, new employees are now subject to a lower employer contribution for future retiree health benefits (80/80 percent contribution formula vs. 100/90 percent contribution formula). Existing language specifies the 80/80 percent employer contribution for annuitants applies to all 21 bargaining unit rank-and-file employees, related excluded employees, and state employees of the judicial branch.

However, existing statute pertaining to the 80/80 percent employer contribution formula does not clearly or explicitly state that this provision of law applies to exempt or excluded employees not related to a bargaining unit.

The May Revision proposes trailer bill language to specify that new excluded or exempt employees not related to a bargaining unit, or an officer or employee of the executive branch who is not a member of state civil service is subject to a lower employer contribution rate for future retiree health benefits under the 80/80 percent employer contribution.

Staff Recommendation. Approve the Governor's trailer bill proposal.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

Issue 24: Subsequent Injury Benefit Trust Fund (SIBTF)

Background. On May 9th, the subcommittee heard the Governor's proposal to provide additional resources to address the SIBTF backlog. Specifically, the Governor proposes an increase of 30 positions and $4.8 million in 2019-20, 30 positions and $4.4 million in 2020-21 and 2021-22, 23.0 positions and $3.4 million in 2022-23, with 14 positions and $2.0 million in 2023-24 and ongoing from the Workers' Compensation Administration Revolving Fund to: 1) reduce caseload per claims examiner to a manageable level; and 2) provide sufficient claims examiners and attorneys to perform due diligence investigations and reduce the State's long-term liability from SIBTF claims. The resources requested by this proposal will reduce the caseload from 1,000 to 360 per examiner.

<u>Staff Recommendation</u>. Approve the Governor's budget proposal.

Issue 25: Sexual Harassment Training for the Janitorial Industry

Background. On May 9th, the subcommittee heard the Governor's trailer bill proposal to clarify sexual harassment training for the janitorial industry. The trailer bill proposal:

- Requires, effective January 1, 2020, that new applicants for registration and renewal submit a written attestation to the Labor Commissioner stating that the training has been provided.

- Amends the definition of a covered janitorial "employer" to close a loophole that excludes from the registration requirement janitorial contractors who provide janitorial services through independent contractors or franchisees, but do not have any employees.

- Requires employers to ensure sexual harassment training is provided to all covered workers (meaning janitorial employees, franchisees, and independent contractors), not just employees.

- Specifies that employers must keep records for janitorial employees and other covered workers, rather than all of a covered employer's employees.

- Amends the successor liability provision to provide that a successor employer is liable for any wages and penalties its predecessor employer owes to any of the predecessor employer's former workforce, not just to the predecessor employer's former employees.

- Allows the use of a Taxpayer Identification Number where a Social Security Number is required for registration purposes, including for all individuals associated with the business, because inability to provide this number may have the unintended consequence of forcing these businesses further into the underground economy because they are unable to meet the registration requirements.

- Specifies that a successor employer is liable for damages its processor employer owes to its former workforce.

- Clarifies that sexual violence and harassment prevention training requirements for workers and employers is consistent with Section 12950.1 of the Government Code, as prescribed under SB 1343.

- Requires that janitorial businesses with unsatisfied judgments under the FEHA or for failure to secure adequate workers' compensation coverage are not eligible to register or renew their registration.

Staff Recommendation. Approve the Governor's trailer bill budget proposal.

Issue 26: Garment Manufacturer's Special Account

Background. On May 9th, the subcommittee heard an information item regarding the Garment Manufacturer's Special Account (GMSA). As discussed during the hearing, on April 24, 2019, the Administration processed and approved an Executive Order to transfer $3.9 million from the Unpaid Wage Fund (UWF) to the GMSA to pay unpaid garment wage claims. While individual claims can vary significantly depending on the underlying factors, the Administration estimates that the cost of claims covered by this transfer is approximately $24,000 each, impacting 162 workers. However, this leaves approximately 311 workers with $7.3 million in unpaid wage claims.

While the 2018-19 budget bill language appears to have provided a short-term solution to the fund imbalance, the subcommittee may wish to consider whether a long-term solution is needed. Specifically, the subcommittee may wish to consider whether the current fee structure of the GMSA is appropriate in meeting the needs of the millions of dollars in unpaid wage claims, or if there are other reforms or changes to ensure that workers receive their owed back wages. The subcommittee may wish to direct the Administration to develop a plan to address this issue, and establish a timeline to execute it.

Staff Recommendation. Appropriate $7.3 million General Fund one-time to the Garment Manufacturer's Special Account to address the backlog. Additionally, adopt budget bill language to authorize the transfer of any remaining unencumbered balance of the UWF into the GMSA in 2019-20. Additionally, adopt supplemental reporting language directing the Department of Industrial Relations to report to the Legislature by February 1, 2020 regarding recommendations to address the solvency of the GMSA, including but not limited to changing the current fee and registration structure of the GMSA and a timeline to implement the recommendations.

Issue 27: Domestic Workers Outreach

Background. On March 28th, the subcommittee heard an informational item regarding domestic workers outreach.

In 1938, the U.S. Congress enacted the Fair Labor Standards Act introducing the forty-hour work week and establishing minimum wage and overtime protections for workers, with some exceptions including domestic workers and farmworkers. "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. According to a University of California, Los Angeles Labor Center report, 16 percent of all households in the state hire for housecleaning, childcare or homecare support, with as many as two million households in California hire domestic workers. About two-thirds reside in Southern California, 26 percent in the Northern California and 11 percent in Central California. Based on labor market information from the EDD, the report finds that by 2022, the number of personal care aides in California will increase by 52 percent to over half a million workers.

Staff Recommendation. Appropriate $5 million one-time General Fund to DLSE to conduct outreach to increase awareness of worker rights and enforcement.

Issue 28: Private Attorneys General Act

Background. The Private Attorneys Genera Act (PAGA) authorizes an aggrieved employee to bring a civil action to recover specified civil penalties that would otherwise be assessed and collected by the Labor Workforce Development Agency (LWDA), on behalf of the employee and other current or former employees for certain violations of the Labor Code. Existing law:

1. Requires the aggrieved employee to follow prescribed procedures before bringing an action under PAGA, including but not limited to, giving written notice to both the LWDA and the employer of the provisions of the Code allegedly violated as well as facts supporting the claim.

2. Requires that the LWDA provide written notice to the employer and the aggrieved employee or representative as to whether it intends to investigate the alleged violation within 60-65 calendar days of the postmark date of the written notice.

3. Provides that, in the event the LWDA decides to investigate the alleged violation, it has up to 180 calendar days to investigate and cite the employer.

4. Provides, with certain exceptions, the following distribution of civil penalties under PAGA: 75 percent to be distributed to the LWDA for enforcement of labor laws and for education of employers and employees about their rights and responsibilities, and 25 percent to be distributed to the aggrieved employees.

5. Requires superior court review and approval of any settlement under PAGA.

The 2016-17 budget provided ten positions and $1.6 million in resources from Labor and Workforce Development Fund (LWDF) for the 2016-17 fiscal year and $1.5 million ongoing to increase the number of staff to review notices and oversee the PAGA program.

Governor's Budget Proposal

The May Revision proposes 12 positions and $1.97 million in 2019-20, and $1.8 million ongoing from the LWDF to increase DIRs capacity to review PAGA cases. The positions are as follows:

- Two information technology specialists
- Four associate governmental program analysts
- Two attorneys
- Two deputy labor commissioner I
- Two deputy labor commissioner II

The Administration notes that the resources requested by this proposal will have investigatory impact by allowing the unit to carry out all necessary enforcement related activities within the 180-day statutory time frame to cite or sue an employer.

Workload Measure	2015/16	2016/17	2017/18	2018/9	2019/20	2020/21
PAGA Notices Filed	5,510	3,707	5,383	5,718	6,074	6,452
Notices Reviewed	N/A	1,694	1,339	244	366	488
Pre-Investigations	N/A	23	26	25	37	49
Case Investigations (cases retained)	N/A	14	16	16	23	30
Number of PAGA Notices in which one or more violations is curable	N/A	1,629	2,195	1,912	2,103	2,314
Number of Employer Responses/Cures filed	N/A	121	261	287	316	347
Number of Cure Disputes	N/A	24	53	58	64	71
Cure Decisions Issued	N/A	1	27	28	38	48
Settlements Reviewed	N/A	476	1,070	773	928	1,005
Court Comments Regarding Settlements				2	6	9
Amicus Briefs				1	4	6

DIR states that while they receive hundreds of notices each month, DIR chooses to prioritize cases that could potentially be the most impactful for employees. Specifically, PAGA notices have enabled DIR to identify serious violations that in many cases would otherwise have remained underground. Each PAGA notice is submitted by a private attorney after the attorney has done an initial investigation with workers, and it helpfully identifies alleged wrongdoing employers and contact information for potentially aggrieved employees. The effort the PAGA Unit put into its investigations and prosecutions resulted in several high impact results:

- The PAGA Unit settled a case in February 2019 with an employer it had cited for an intentional failure to pay employees overtime premium pay (1.5x) and systematic failure to provide sufficient or timely meal breaks. The settlement amount was $1.1 million, with $1 million to be paid to employees.

- The PAGA Unit issued citations exceeding $4 million for an employer's misclassifying as independent contractors its employees, who were paid a flat daily rate for up to 14 hours of work performing dangerous rodent, debris and insulation removal in hot, confined spaces in private homes. Based on the PAGA Unit's referral, the district attorney filed felony charges against the company owner, and is demanding full restitution for the workers.

- The PAGA Unit issued several citations totaling over $3 million to ten interconnected meat processing entities operating in the underground economy that jointly employed 100 employees, most of whom were intentionally misclassified.

If approved, the Administration believes that this BCP will help expand on these early results.

An attorney reviews each proposed court settlement submitted to the LWDA for specific criteria evidencing legality, fairness and robustness or lack thereof, such as over breadth, requiring a claim to receive money, or reversions of funds to the employer or settlements which favor the PAGA plaintiff to the detriment of other aggrieved employees. This review has revealed that the substantial majority of proposed settlement agreements proposed to superior courts and filed with the LWDA did not sufficiently protect the interest of workers and the state. Though current staffing provides some bandwidth to file comments in response to proposed settlement agreements, LWDA seeks additional staffing to augment this function.

Seventy-five percent of the 1,546 settlement agreements reviewed by the PAGA Unit in fiscal years 2016-17 and 2017-18 received a grade of fail or marginal pass, reflecting the failure of many private plaintiffs' attorney to fully protect the interests of the aggrieved employees and the state. It is natural for courts to approve settlement agreements when all the parties they have heard from – the plaintiff and defendant – advocate in favor of a particular outcome. LWDA has to date taken a cautious approach regarding submission of comments regarding proposed settlements of PAGA claims, only filing comments to proposed settlement agreements in four cases.

Staff Recommendation. Approve as proposed.

Issue 29: Lead Exposure Limits

Background. The subcommittee heard this issue on May 9th.

Status of Cal/OSHA's Occupational Lead Exposure Standards. Since 2011, Cal/OSHA has been working on revisions to the lead standards in the safety orders pertaining to construction and general industry. According to DIR, there were six advisory meetings with stakeholders, which resulted in six versions of draft regulations. Revisions to the lead standard were completed in 2016 but they have yet to be finalized.

According to Cal/OSHA "the revised standards are undergoing a standardized regulatory impact analysis (SRIA), as required by Government Code Sections 11346.3(c) and 11346.36. SRIAs are required for any regulations with an economic impact of $50 million or more.

DIR notes that the SRIA was informally submitted to DOF for input. The SRIA is currently undergoing a final internal review at DIR, and will be formally submitted to DOF for approval in early summer. The review will be included in the Initial Statement of Reasons, along with a summary and analysis of DOF's comments, as part of the package that will be submitted to the Office of Administrative Law to commence rulemaking.

Formal rulemaking can take up to one year from the date that the OSHSB is ready to issue the notice of proposed rulemaking. The Administration estimates that rules will be complete by mid-2020.

Staff Recommendation. Adopt placeholder trailer bill language, as follows:

> ***Section 105258 is added to the Health and Safety Code, to read:***
>
> ***(a) The Division of Occupational Safety and Health shall complete rulemaking to establish a revised permissible exposure limit for lead in the lead standards of the general industry safety orders (Section 5198 of Title 8 of the California Code of Regulations) and the construction safety orders (Section 1532.1 of Title 8 of the California Code of Regulations) by February 1, 2020.***
>
> ***(b) The division may promulgate emergency regulations as necessary to implement this section.***

7501 CALIFORNIA HUMAN RESOURCES DEPARTMENT (CALHR)

Issue 30: Nonindustrial Disability Insurance Program

Background. This issue was heard in subcommittee on April 25th. The Administration proposes trailer bill language to expand nonindustrial disability insurance (NDI) benefits for excluded state employees. Specifically, on July 1, 2019, excluded employees enrolled in the annual leave program will be able to take up to six weeks paid time off to care for a seriously ill family member or to bond with a new child. This new benefit would be approximately 50 percent of an excluded employee's salary, with the option to supplement with leave for full salary. On July 1, 2021, family care leave under the NDI program will be expanded to cover qualifying exigency leave related to the covered active duty or call to covered active duty of the employee's family member in the U.S. Armed Forces.

According to the Administration, this program is to provide excluded employees parity to what they might have been eligible to receive as rank-and-file employees under the SDI program for family care leave and bonding time with a new child. In 2018, there were approximately 41,600 excluded state employees, of which, 46.6 percent were enrolled in the annual leave program. This means that approximately 19,000 excluded state employees would be eligible for this new benefit. This additional benefit would cost approximately $4.3 million ($1.9 million General Fund); however, the Administration notes that the departments are expected to absorb this additional cost.

Staff Recommendation. Approve as proposed.

Issue 31: Statewide Human Resources Workload

Background. The Administration requests one position to provide human resources management over the Office of Digital Innovation at CalHR. The Governor's January budget proposal requested the creation of the Office of Digital Innovation with 50 civil service employees. The subcommittee earlier this week modified the Governor's proposal and only authorized the office to have 20 positions. As a result of this action, the staff recommendation is to reject the additional position.

Staff Recommendation. Reject.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Issue 32: Claimants Privacy Measure

Background

The EDD is responsible for administering the state's Disability Insurance Program, Unemployment Insurance Program, collecting payroll taxes, and providing employment services to millions of Californians. Due to the unique nature of each of these critical programs, EDD collects personal information for a variety of purposes. Currently, the Social Security Numbers (SSNs) is the primary way the EDD can uniquely identify a person and their associated wages and employment history to accurately pay benefits. The EDD has used the SSN as the unique identifier within its benefit systems and on accompanying program forms and correspondence since shortly after the enactment of the Social Security Act of 1935. As such, the existing system's dependency on SSNs is imbedded throughout millions of lines of legacy mainframe code.

The EDD has estimated that an effort to remove the SSN dependency from existing systems and the ten high volume forms could cost over $25 million and take nearly four years to complete. Due to the significant investment required, and the progress that the EDD has made to date in minimizing its usage of SSNs, the EDD's final solution to this issue is the Benefit Systems Modernization project, which will eliminate its dependency on SSN usage entirely. Ultimately, the Benefit Systems Modernization project will modernize the EDD benefit systems and implement a unique identifier for claimants that is not based on any personally identifiable information. The new unique identifier will be used as needed on print and online correspondence to ensure accurate traceability of claim information without compromising personal data. Until the Benefit Systems Modernization project is implemented, the EDD needs to utilize an alternative solution to ensure the privacy of claimants' information.

Governor's Budget Proposal

The May Revision proposes $1.8 million and 9.3 positions in 2019-20, $2.1 million and 10.5 positions in 2020-21, and $0.1 million and 0.6 positions in 2021-22 funded equally by the General Fund and the Disability Insurance Fund. These resources will enable EDD to replace SSN with a modified unique identifier on the top ten mailed documents with the highest volume that currently display an SSN.

According to the Administration, this proposal is consistent with the California State Auditor's audit that outlined recommendations for the EDD to eliminate the use of SSNs on mailed forms, including replacing full SSNs with a modified unique identifier.

EDD will be replacing the full SSNs on the ten highest volume forms with a modified unique identifier and will significantly reduce the number of forms mailed by EDD with full SSNs. EDD is evaluating the resources and timeline necessary to address the remaining documents containing SSNs.

Staff Recommendation. Approve as proposed

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD (CWDB)

Issue 33: Assembly Bill 1111 (E. Garcia), Chapter 824, Statutes of 2017

Background. This item was heard in subcommittee on April 25. The Governor requests six positions (one staff services manager I, one research analyst II, and four associate governmental program analysts) and redirection of $914,000 General Fund in 2019-20, and $1.2 million in 2020-21 and 2021-22 to administer and oversee the AB 1111 grant. This results in a total of $3.3 million or 22 percent redirection from the $15 million grant that was approved in the 2018-19 budget.

AB 1111 established the Breaking Barriers to Employment Initiative for the purpose of assisting individuals who have multiple barriers to employment to receive the remedial education and work readiness skills to help them to successfully participate in training, apprenticeship, or employment opportunities that will lead to self-sufficiency and economic stability.

CWDB notes that they plan to provide assistance to grantees and work closely with grantees through the life of the grant. They plan to provide frequent project check-ins, resolve issues, and offer technical support. Managers and analysts will develop community of practice for each program to build support network for grantees to learn from each other through meetings, webinars, and conference calls. Program managers oversee the development of materials from policy briefs to best practices, highlighting solutions.

Staff Recommendation. Approve as proposed.

Issue 34: Workforce Innovation Opportunity Act Discretionary Federal Funds

Summary. The Governor's May Revision proposes $57.2 million in state-level discretionary federal Workforce Innovation Opportunity Act (WIOA) funding in 2019-20, a $4.1 million decrease relative to 2018-19.

Background. Federal law provides that a certain portion of federal WIOA funding, up to 15 percent, may be held by the state for "statewide workforce investment activities," while the remainder of WIOA funds are passed on to Local Workforce development boards to provide services to unemployed or underemployed adults and youth. The statewide funds are sometimes referred to as "discretionary funds." The actual amount of discretionary funds that may be reserved at the state level, subject to the 15 percent cap, depends on congressional appropriations.

The May Revision decreases funding for some previously funded items while making offsetting increases in other previously funded items.

1. **Comprehensive Services in AJCC's - $4.7 million** (this represents a $900,000 decrease from 2018-19). This supports Unemployment Insurance (UI) trained staff at America's Job Center of California (AJCC) sites to perform UI activities. UI trained staff will provide in-person guidance to individuals, including individuals identified as having barriers, in filing a UI claim and using the EDD website.

2. **Audit, Compliance and Fraud Prevention - $6.1 million** (this represents an increase of $200,000). These funds are used to monitor state and local operations for reporting,

compliance, and performance requirements; provide oversight to ensure proper use of information; investigate potential fraudulent activity; and prevent fraud.

3. **Labor Market Information Program - $2.8 million** (this represents an increase of $100,000). Funds are used to analyze and calculate the funding level for each Local Workforce Investment Area based on the WIOA requirements, and to provide planning assistance and training to the Local Workforce Investment Boards and AJCCs.

4. **Local Program Oversight and Technical Assistance - $9.9 million** (this represents an increase of $400,000). Funds are used to administer the various federally mandated activities including policy development and dissemination; data collection and reporting; as well as providing technical assistance, project management and oversight of all WIOA programs

5. **Financial Management and Information Technology - $3.3 million** (this represents an increase of $100,000). Funds are used to manage and maintain the CalJOBS^{SM} system; develop and integrate the Eligible Training Provider Listing system; provide technical assistance for the CalJOBS^{SM} system; and conducts Feasibility Study Reports to support the upgrading and development of WIOA systems.

6. **CAAL-Skills: Performance and Participant Data Alignment - $1.5 million** (this represents a decrease of $500,000). Funds support the development and implementation of state-level and local data sharing to allow job seekers to more easily utilize multiple workforce education, training, and employment services without having to unnecessarily duplicate programs or services. A common data sharing system is also required for common WIOA performance reporting to the federal government.

7. **CWDB Administration, Policy Development and Program Partner Coordination - $4.8 million** (this represents an increase of $100,000). Funds are used to perform operational, administrative, policy and program coordination duties for CWDB.

8. **Regional Workforce Accelerator Program - $3.1 million** (this represents a decrease of $3.9 million). This program funds grants to community organizations, workforce boards, schools, labor organizations and other worker-centered programs to test, scale, and duplicate innovative approaches that accelerate employment for disadvantaged populations. Emphasis is on the development of new strategies that align community organizations, including worker centers, on projects that address job quality or with existing and new High Road Training Partnership for placements in quality jobs. Funds will also support technical assistance, intermediary training, and program assessment.

9. **CalJOBS^{SM} - $2.3 million** (this represents an increase of $700,000). Funds support CalJOBS^{SM} improvements that will help increase the number of job postings in the CalJOBS^{SM}, improve customers' ability to search and apply for jobs, modernize record keeping operations, enhance employment services tracking efforts, support collaboration and sharing of data, and amplify employer outreach efforts.

10. **CalJOBS^{SM} and AJCC Evaluations - $1.5 million** (this is a new appropriation). This will fund a 3rd party independent evaluation of California's case management and workforce performance data reporting system to ensure that the system is meeting the needs of the state and local workforce development boards, workforce agency partners, and job seekers.

11. **Regional Plan Implementation - $5.4 million** (this represents a $600,000 decrease). This supports grants to Regional Planning Units identified in the State Workforce Development Plan to support regional plan implementation (plans were submitted in March 2019), including establishing decision-making and governance agreements, administrative efficiencies, coordinated industry engagement work using the High Road Training Partnership model, co-enrollment of participants, and performance tracking and reporting across workforce agency and program jurisdictions. Funds will also support technical assistance, intermediary training, and program assessment.

12. **English Language Learner Navigator - $1.8 million** (this is a new appropriation). Funds grants to local initiatives that implement a navigator model to outreach, recruit, case manage, and support English Learners in the workforce system. This program is intended to improve services to English Learners, reduce/eliminate barriers to employment, build system wide capacity to serve this population, and increase alignment among WIOA partners and identify, develop, and share best practices. Partnerships will be composed of at a minimum a local workforce development board, an adult education partner, and a community organization partner. Partnerships with other WIOA partners including Health and Human Service Programs (CalFresh, CalWORKS etc.) as well as local organizations providing supportive services will be encouraged.

Staff Recommendation. Approve as proposed.

0911 CITIZEN'S REDISTRICTING INITIATIVE

Issue 35: Statewide Outreach Program for the Redistricting Process

Budget. The Budget proposes $17 million one-time General Fund for the Citizens Redistricting Initiative. These funds would be available for a three-year period. The funding will support efforts of the Citizen Redistricting Commission and the State Auditor throughout the redistricting process associated with the 2020 Census.

Background. Proposition 11, the Voters FIRST Act, was approved by the voters on the November 4, 2008 General Election Ballot. Proposition 11 changed the redistricting process by establishing a 14-member Citizens Redistricting Commission (Commission) to draw the new district boundaries for the State Assembly, State Senate, and Board of Equalization beginning with the 2010 Census. Pursuant to Government Code Section 8252, the State Auditor is responsible for administering the selection process for the Commission. Existing law specifies that a minimum of $3 million in funding be provided to the State Auditor and the Commission, or the amount appropriated for the previous redistricting plus CPI, whichever is greater. The total amount provided during the last redistricting cycle was $5.4 million. The minimum amount that must be provided pursuant to existing law is approximately $6.9 million.

Staff Recommendation. Decrease the appropriation by $189,000, and adopt placeholder budget bill language implementing the Citizens Redistricting Initiative. Appropriate $1,915,000 to the University of California to maintain the Statewide Database and provide public access to redistricting software.

7600 DEPARTMENT OF TAX AND FEE ADMINISTRATION

Issue 36: Wayfair Clean-Up TBL

Governor's Budget. The May Revision proposes trailer bill language to limit the California Department of Tax and Fee Administration (CDTFA) to 3-year look back for back taxes.

Background. The U.S. Supreme Court's ruling in *Wayfair v. South Dakota* in June 2018 gives states more authority to require out-of-state sellers to collect use tax. AB 147 (Burke), Chapter 5, Statutes of 2019, clarified the economic nexus thresholds that California will use to determine if out-of-state retailers are required to remit use tax to California, effective April 1, 2019. Additionally, AB 147 requires marketplace facilitators to collect and remit sales and use tax on behalf of their marketplace sellers, effective October 1, 2019. The Wayfair decision and AB 147 are expected to increase sales and use tax (SUT) revenues by $174 million in 2018-19 and $616 million in 2019-20. The May Revision proposes that CDTFA limit the look-back to 3 years of back taxes, and this is consistent with the revenue forecast.

The TBL would limit the SUT liability of certain out-of-state retailers under certain conditions. To qualify for this benefit, retailers must:

- Have been required to pay SUT solely because a marketplace facilitator (as defined in the recently passed AB 147) stored and facilitated delivery of the retailer's goods in California. (As we understand it, these taxes were owed under state law prior to Wayfair, so enforcement of them would not constitute retroactive enforcement of Wayfair.)
- Not have been registered to pay California SUT prior to December 1, 2018, and not have filed SUT returns or made SUT payments prior to being contacted by CDTFA.
- Must register to pay SUT within 90 days of the effective date of the new law and must pay all tax liabilities incurred since April 1, 2016.

Qualifying retailers would, in effect, have to pay roughly three years of taxes instead of the eight years for which they could be liable under current law. They also would be relieved of any associated penalties.

In addition to the Governor's proposal, the California Department of Tax and Fee Administration (CDTFA), tax practitioners, and other interested parties identified the following issues where changes to AB 147 are immediately needed:

1. AB 147 enacted the Marketplace Facilitator Act, which deems a marketplace facilitator as the retailer for each sale it facilitates on behalf of marketplace sellers for both sales and use taxes, thereby shifting the requirement to register with CDTFA, and collect and remit tax, from marketplace sellers onto marketplace facilitators. AB 147 provided that newspapers, internet websites, and other entities that advertise property for sale, but do not transmit or otherwise communicate the offer and acceptance for the sale, and do not process payments for third parties, are not facilitating a sale for purposes of the Act. However, some marketplace facilitators operate platforms where they connect a buyer with a seller, but do not participate any further in the sale, which would potentially trigger a tax collection responsibility for the platform when they are not actually aware of the sales prices because the buyer and seller complete the sale offline. Clarification is needed to these provisions to state that newspapers, internet websites, and other entities that advertise tangible personal property for sale; that refer purchasers to the marketplace seller by telephone, internet link, or other similar means to complete the sale; and do not participate further in the sale; are not facilitating a sale for purposes of the Act.

2. AB 147 exempts from the definition of marketplace facilitator, a person that is a "delivery network company," as defined. The exemption responded to concerns from firms who accept orders of taxable items from purchasers on their internet application, then arrange with a person who purchases the items and pays sales tax to a currently registered retailer, and subsequently delivers the items to the purchaser. But for the exemption, these firms would be considered marketplace facilitators despite tax being paid when the delivery driver purchases the items. However, some delivery network companies indicated that they may want to be considered a marketplace facilitator. Clean-up is needed that directs CDTFA to allow a delivery network company to elect to become a marketplace facilitator in a form, manner, and duration determined by CDTFA, and requires CDTFA to issue regulations allowing for such an election.

3. AB 147 changed the threshold for both in-state and out-of-state retailers to collect and remit district taxes, which are additional sales and use taxes approved by voters in some jurisdictions in the state on top of the current state sales and use tax rate of 7.25 percent. According to the CDTFA notice effective on April 1, 2019, retailers must collect district taxes in any of the

state's 317 jurisdictions with a district tax when it has total sales of more than $100,0000 or enters into more than 200 transactions in that district. AB 147 replaced this threshold with one that provides that whenever a retailer sells property with a cumulative sales price of more than $500,0000 in the current or previous calendar year statewide, it must also collect any applicable district tax regardless of the amount of its sales in that particular district, also effective on April, 1, 2019. The Governor signed AB 147 on April 25th, so some retailers are concerned that they did not collect the correct amount of district tax because of the change in the threshold. The clean-up would change the district tax threshold effective date consistent with the bills signing date.

Staff Recommendation. Approve placeholder trailer bill language.

ITEMS FOR DISCUSSION / VOTE

7730 FRANCHISE TAX BOARD (FTB)

Issue 37: Individual Health Mandate and Expanded Subsidies

Proposal. The May Revision includes $8.2 million General Fund and 50 positions ($8.1 million and 100 positions ongoing) to administer the penalty and subsidies associated with the proposed Minimum Essential Coverage Individual Mandate and the Affordable Care Access Plus Program.

Background. Title 24 (commencing with Section 100700) has been added to the Government Code for the Minimum Essential Coverage Individual Mandate. The individual mandate imposed by this title, and the penalty imposed by Part 32 (commencing with Section 61000) of the Revenue and Taxation Code, are necessary to protect the compelling state interests of:

1. Protecting the health and welfare of the state's residents.
2. Ensuring access to affordable health care coverage in this state.
3. Ensuring a stable and well-functioning health insurance market in this state.

For each month beginning on or after January 1, 2020, an applicable individual shall be enrolled in and maintain at least minimum essential coverage for that month. If an applicable individual fails to meet the requirements of Section 100705 of the Government Code for one or more months, then, except as provided in Section 61020, there is imposed a penalty on the applicable individual with respect to that failure in the amount determined under Section 61015. This penalty is referred to as the Individual Shared Responsibility Penalty. A penalty imposed by this section with respect to any month shall be included with an applicable individual's return.

FTB's civil authority and procedures for purposes of compliance with notice and other due process requirements imposed by law to collect income taxes shall be applicable to the collection of the Individual Shared Responsibility Penalty. Monies collected from the Individual Shared Responsibility Penalty shall be deposited into the General Fund.

Title 25 (commencing with Section 100801) has been added to the Government Code for the Affordable Care Access Plus Program. This program is being established to help low-income and middle-income Californians access affordable health care coverage through the California Health Benefit Exchange (Exchange). The program will provide financial assistance to California residents with household incomes at certain income levels compared to the Federal Poverty Level and may provide other appropriate subsidies designed to make health care coverage more accessible and affordable for individuals and households.

The FTB is requesting resources as follows:

Filing Division Contact Center – 18 permanent positions in 2020-21 (33 ongoing). The positions within the contact center will respond to increased calls, correspondence, and live chats. Reporting and reconciling healthcare penalties and subsidies at the state level is a new requirement for taxpayers and practitioners and will generate pre-filing questions which will result in additional contacts.

Filing Division Hiring and Training – Three one-year limited-term positions. The positions will provide support to the division's managers and act as a liaison to HR in regard to the hiring process and prepare training materials and provide the necessary training to staff.
Filing Division Fraud and Discovery – Eight permanent positions beginning in 2020-21. The positions will address the risk of fraud due to exploiting the subsidy.

Filing Division Processing – 14 permanent, eight temporary help, and 15 PI positions in 2020-21 (16 permanent positions ongoing). The Individual Healthcare Mandate will require intake and processing of the following information: paper and electronic third party data, calculation of penalty forms and waivers, and subsidy reconciliation forms.

Technology Services Division – 10 permanent and 36 three-year and 4 two-year limited-term positions in 2019-20. The work of the information technology staff includes the development, design, quality assurance and testing for the systems needed to execute the Health Care Mandate and Subsidy Reconciliation.

Accounts Receivable Management Division – Five permanent and one one-year limited term positions beginning in 2020-21 (eight permanent positions ongoing). These resources are for FTB to place one position each in a Southern California field office and a Northern California field office to provide public counter service to tax payers, add eight positions to answer additional calls, and create a new Installment Agreement notices for penalty and revise existing notices.

Finance and Executive Services Division – One permanent position in 2020-21. The position will research, monitor and validate sources of data, extract and analyze data, compile and distribute annual reports, respond to data and revenue requests, and work with third parties regarding data and coverage.

Staff Recommendation. Approved as budgeted.

7600 DEPARTMENT OF TAX AND FEE ADMINISTRATION

Issue 38: Sales and Use Tax Exemptions: Menstrual Hygiene Products and Diapers

Governor's Budget. The May Revision includes trailer bill language that, on and after January 1, 2020, and until January 1, 2022, would exempt from those taxes the gross receipts from the sale of, storage, use, or other consumption of, menstrual hygiene products and diapers for infants, toddlers, and children. The Administration estimates that these exemptions will reduce General Fund revenue by $17.5 million in 2019-20 and $35 million in subsequent years. Total state and local revenue losses are estimated to be $38 million in 2019-20 and $76 million in subsequent years.

Background. Existing law exempts a number of products from California's sales and use tax. Many types of food and prescription medicines, as well as utilities such as gas, water and electricity, are all exempt. These exemptions are typically referred to as "necessities of life," but this type of exemption is not applied consistently. For example, feminine hygiene products, toilet paper, clothing, shoes, soap and diapers are all subject to the sales tax.

Legislative Analyst's Office (LAO). The LAO provided the following comments regarding these proposals:

- **Diaper Exemption Less Targeted Than Alternatives.** The diaper exemption would provide a broad but limited benefit to parents. Alternatives could provide more substantial benefits to families with the greatest needs. For example, instead of providing the exemption for one year (estimated $24 million General Fund, $52 million total), the state could fund roughly 1,600 additional child care slots, provide $28 million to local programs, provide $9.2 million to schools through Proposition 98, and (counterintuitively) reduce required reserve deposits and debt payments by $1.5 million.

- **Consider Broad Range of Options for Addressing Equity Concern.** Some have raised an equity concern regarding the application of sales tax to menstrual products. One could raise similar equity concerns regarding the personal income tax and several other major programs. To the extent that addressing this equity concern is a policy priority, we encourage the Legislature to consider a broad range of options across these program areas.

- **Two Years Is Too Short.** Under the Governor's proposal, these exemptions would last just two years**.** In our view, if the Legislature wants to enact these exemptions, somewhere in the range of four to ten years is more reasonable. Given the different policy rationales for the two exemptions, the Legislature could consider an expiration date towards the earlier end of this range for the diaper exemption and towards the later end for the menstrual products exemption.

Staff Recommendation. Approve as budgeted.

0515 Business, Consumer Services, and Housing Agency

Issue 39: Homeless Coordinating and Financing Council

Governor's Budget. The budget requests $981,000 General Fund and 6.0 positions in 2019-20 and 2020-21, and $503,000 and 3.0 positions ongoing to expand the Homeless Coordinating and Financing Council (Council) staff and effectively carry out statutory mandates and Council goals to further reduce the growth and prevalence of homelessness in California.

Background. Current law establishes the Council and sets several statutory mandates and goals including: identifying and seeking funding opportunities; brokering agreements between state agencies, state departments, and local jurisdictions; serving as a statewide facilitator, coordinator, and policy development resource; and overseeing the state's implementation of the Housing First policy. The composition of the Council includes up to 17 appointments by the Governor, one stakeholder appointed by the Senate Committee on Rules, and one stakeholder appointed by the Speaker of the Assembly. In addition to implementing Housing First and administering the one-time Homeless Emergency Aid Program (HEAP) funding, the Council is working to effectively carry out these mandates and develop a strategic approach to address homelessness in California. Pursuant to Chapter 48, Statutes of 2018, (SB 850), the Council was moved from the Department of Housing and Community Development to the Business, Consumer Services and Housing Agency (Agency), staffed with three permanent staff - an Executive Officer, a Research Data Specialist II (RDS II), and an Associate Governmental Program Analyst (AGPA) - and tasked with the creation and administration of the $500 million Homeless Emergency Aid Program (HEAP). Through a $1 million carve-out, three one-year limited-term positions were established to implement HEAP - a Staff Services Manager III (SSM III) and two Staff Services Manager lis (SSM Ms). Subsequently, Chapter 841, Statutes of 2018, (SB 918), included a focus on homeless youth led to the expansion of the Council's policy mandate and an additional two full-time staff members - one SSM II focused on policy and an SSM I focused on local partnerships.

Staff Comments. HCFC has indicated that the three limited-term positions would provide ongoing support to HEAP and provide ongoing oversight, technical assistance and fiscal monitoring of grantees. The three permanent positions would support the creation of a new Deputy Secretary for Homelessness, as well as additional administrative support.

HCFC has done an effective job in implementing the original HEAP allocation. As homelessness continues to be a central issue in the state, HCFC is likely to remain centrally engaged. As such, the additional resources are generally reasonable.

Staff Recommendation. Approve as Budgeted.

Issue 40: Governor's Homelessness Proposal

Governor's Budget. The May Revision includes $650 million in one-time General Fund resources to fund grants to address homelessness, administered by the Homeless Coordinating and Financing Council (HCFC). This is a request of $150 million increase from the Governor's January budget, with accompanying changes to the proposed program structure.

The Administration has also requested trailer bill language to allow the use of CalTrans air space (space along the department's right of way) for emergency homeless shelters.

Background. The Budget Act of 2018 made a significant $500 million investment to support local approaches to addressing homelessness. These Homeless Emergency Aid Program (HEAP) funds provided flexible grants that could be used for emergency housing vouchers, rapid rehousing, and emergency shelter construction, among other uses. Jurisdictions were eligible if they declared a local shelter crisis and identified city-county coordination.

The Governor's January proposal included $500 million to address homelessness. This included resources to fund grants for regional planning ($300 million) and meeting milestones ($200 million). The January budget also proposed that this program be administered by the Homeless Coordinating and Financing Council (HCFC).

Staff Comments. This proposal updates and modifies the Administration's January budget proposal for homelessness in the following ways:

- ***Increases Grants to Communities Meant to Address Homelessness by $150 Million.*** The May Revision increases the homelessness proposal to $650 million one-time General Fund. These funds would be administered by the Homeless Coordinating and Financing Council as part of the Homeless Aid for Planning and Shelter Program. Communities would have through 2022-23 to use the funds.

- ***Expands Eligible Uses of Grants.*** The Governor offers communities significant flexibility on the use of these funds, including, emergency shelters, navigation centers, rapid rehousing, prevention, permanent supportive housing, job programs, and hotel/motel conversions.

- ***Repurposes General Purpose Grants Towards Services for the Homeless.*** In addition, the Governor's May Revision no longer includes any flexible incentive funding. Instead, all of the funding would be used directly by communities for various services for the homeless. Specifically, the state's 13 most populous cities would receive $275 million, counties would receive $275 million, and Continuums of Care—local entities that administer housing assistance programs within a particular area, often a county or group of counties—would receive $100 million. The allocations would be based on the 2019 homeless point-in-time counts.

Given the healthy General Fund projected in the May Revision, providing additional funds to address homelessness is appropriate. The programmatic changes proposed here generally align with the Senate homelessness framework adopted in Subcommittee No. 4 on May 9, 2019, but do differ in some key ways. Specifically, the Administration's proposal differs in the distribution of funds between cities, counties, and Continuums of Care, and in the creation of a new program instead of using an existing program. Because the Senate has already adopted a framework to address homelessness, the newly proposed trailer bill language is not necessary.

While the proposed trailer bill language on the use of Caltrans airspace has merit, it is a larger statewide policy change that should be reviewed through the policy process.

LAO Comments. In the LAO's analysis of the Governor's January budget, they noted that the proposals to reward communities for reaching milestones in developing shelters with flexible funding (incentives totalling $200 million General Fund) may not produce the desired results. The LAO urged the Legislature to consider alternative uses of these funds that would yield more certain benefits. The Governor's May Revision proposals to repurpose the flexible incentive funding towards various services for the homeless individuals would produce more certain outcomes in the state's efforts to address the housing shortage and homelessness.

Staff Recommendation. Adopt $650 million for Senate homelessness package. No action on the proposed homelessness trailer bill language. Reject the proposed language on Caltrans airspace without prejudice.

0650 GOVERNOR'S OFFICE OF PLANNING AND RESEARCH (OPR)

Issue 41: California For All Emergency Preparedness Campaign Administration

Governor's Budget. The budget requests $387,000 General Fund in 2019-20 and $191,000 General Fund in 2020-21 to support California Volunteers with the implementation of the California For All Emergency Preparedness Campaign and the administration of the local assistance grants over a period of one and a half years.

Background. Chapter 1, Statutes of 2019 (AB 72) allocated $30 million to the California Volunteers and $20 million to the California Governor's Office of Emergency Services (Cal OES) to empower and engage local communities in California in emergency preparedness. Focusing specifically on California's diverse and most vulnerable populations, the effort will invest directly in targeted regions and communities to help transform and improve how Californians get prepared. California Volunteers, in coordination with Cal OES, is in the process of releasing 10 grant funding opportunities (Requests for Proposals or RFPs), 7 of which will be directly administered by California Volunteers. These 7 RFPs represent a total investment of $30 million.

Staff Comments. Currently, California Volunteers oversees the management of over $40 million in total funds from the federal Corporation for National and Community Service (CNCS), as well as $30 million from AB 72 to support efforts to increase emergency preparedness throughout the State of California. OPR was not provided any administrative funds to oversee the California Volunteers portion of the AB 72 grants.

The Administration has indicated that the requested positions will include communications, grants, and contracts specialists, and will provide 18 months of support. The requested positions are intended to both support the administration of the AB 72 grant programs and provide outreach and communications to grantees or potential grantees. The requested resources seem generally reasonable, and are in-line with the intentions of AB 72.

Staff Recommendation. Approve as Budgeted.

0968 CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

Issue 42: Low Income Housing Tax Credits

Governor's Budget. The budget requests an additional $500 million for the state low-income housing tax credit (LIHTC) program, split into two components; $300 million for the existing LIHTC and $200 million for a new program that targets housing development for households with incomes between 60 to 80 percent of area median income (AMI). The Administration has proposed new trailer bill language guiding these funds as part of the May Revision.

Background. A major source of financial assistance for affordable housing is the federal Low Income Housing Tax Credit (LIHTC) program. The LIHTC is an indirect federal subsidy developed in 1986 to encourage the private development of affordable rental housing for low-income households. The federal LIHTC program enables affordable housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. Taxpayers claim LIHTCs approximately equal to a specified percentage of the project's "basis"—essentially project costs minus land acquisition and transaction costs—over a certain number of years, and start claiming the credit in the taxable year in which the project is placed in service. Projects must remain affordable to residents for 55 years.

In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTCs. The amount of state LIHTC that may be annually allocated by TCAC is limited to $70 million, adjusted for inflation. This year, the total credit amount available for allocation was about $99 million.

Staff Comments. The low-income housing tax credit program is one of the most successful programs the State has to offer to fund affordable housing construction. The Legislature attempted to expand the State LIHTC through AB 35 (Chiu) (2015); however, Governor Brown vetoed the bill. That proposal and subsequent bills proposed to expand the program by $300 million,modify the state credit percentages augmenting the federal 4% credit, and create a larger credit for older affordable housing projects with limited equity to allow for the preservation of those units. The intent was to encourage greater utilization of the 4% credit, which historically have been undersubscribed and free up the 9 percent credits. As noted above, the 9 percent federal credits are oversubscribed; in the last round of 9percent, funding 37 projects were funded out of 79 that applied. These 42 projects are ready to build and just need the additional credits.

Historically, the LIHTC has been limited to households at or below 60 percent of AMI. In 2018, the 4% and 9% federal tax credit programs were changed to allow for "income averaging." Income averaging allows LIHTC-qualified units to serve households earning as much as 80 percent of the area median income (AMI) as long as the average income limit at the property is no more than 60 percent of the AMI. A project using the income averaging option must make at least 40 percent of its units affordable to eligible households.

The Administration has indicated that the expanded LIHTC is intended to bolster the federal four percent tax credit, which is currently underutilized. While the LIHTC is a valuable tool for encouraging affordable housing development, it has limitations. The rates used to determine the total amount of the state tax credit (representing all four years of allocation) are 30 percent of the eligible cost of a project that is not federally subsidized and 13 percent of the eligible cost of a project that is. Combining federal four percent credits (which amounts to roughly 30 percent) with state credits (which amounts to 13 percent) only covers 43 percent of a project's eligible cost. While this is a necessary support for many affordable housing developments, it may not be enough to make certain projects financially viable if they require more than 43 percent of their eligible cost to be subsidized. Simply expanding the supply of state LIHTC does not address this fact, and therefore may not result in an expansion of LIHTC-supported affordable housing development. The Legislature should consider whether this proposal is the best approach to expanding affordable housing development, or if policy changes, expanding available loan funding programs, or another approach would better meet the state's policy goals.

The Senate adopted $500 million for the LIHTC program as part of its overall housing and homelessness package on May 9, 2019, and adopted placeholder trailer bill language. As such, action on the proposed trailer bill language is unneccessary.

LAO Comments. ***Housing Tax Credit Proposal Continues to Raise Questions About How to Prioritize Some Funds.*** In January, the LAO raised concerns with how the Governor chose to prioritize populations for some of the housing funding. Specifically, the LAO was concerned by the new state housing tax credit program targeting relatively higher-income households. Because current resources only assist roughly one-quarter of eligible low-income households, we suggested the Legislature consider prioritizing General Fund resources towards programs that assist low-income households. The Governor's May Revision does not change these January proposals. Instead, the administration continues to target relatively higher-income households. The LAO notes that the Legislature will need to decide if it agrees with the Governor's approach to spread the state's housing resources among broader income levels—including middle-income households—or whether it prefers to target the state's resources toward the Californians most in need of housing assistance.

Staff Recommendation: No action.

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 43: Housing Planning and Production Grants

Governor's Budget. The budget requests $750 million General Fund in 2019-20 housing Planning and Production Grants at HCD.

Background. California is in the midst of a serious housing crisis. Homeownership rates in the state have fallen to the lowest rate since the 1940s. California is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. A person earning minimum wage must work three jobs on average to pay the rent for a two-bedroom unit. Housing units affordable to low-income earners, if available, are often in serious states of disrepair.

In 2017, the Legislature passed a package of 15 bills aimed at increasing the affordability of housing in California. The package included enact a variety of regulatory reforms to speed up development and construction of new housing. It also placed a general obligation bond on the November 2018 ballot (which was subsequently passed by voters). Additionally, SB 2 (Atkins), Chapter 364, Statutes of 2017, provided an ongoing source of revenue for affordable housing and homelessness programs, providing an estimated $289 million per year for a variety of programs.

Staff Comments. The Administration's January proposal included $750 million split into two components: $250 million for short-term planning grants to help local governments plan for short term housing production goals, and $500 million in general purpose incentive funds once those goals are hit.

The May Revision modifies this by directing $250 million to local entities to assist in meeting their RHNA 6th-cycle requirements, and $500 million to the Infill Infrastructure Grant (IIG) program for housing-related infrastructure. It also makes local school districts and county offices of education eligible for planning funds to assist in planning for teacher housing.

These changes are broadly consistent with the Senate housing and homelessness framework passed by Subcommittee No. 4 on May 9, 2019. That framework also allocates $250 million for RHNA 6th cycle planning and $500 million for housing-related infrastructure. It also included placeholder trailer bill language to implement these programs. As such, action on this proposal is unnecessary.

Legislative Analyst's Office Comments

Proposed Repurposing of General Purpose Housing Grants Will Yield More Certain Benefits. In their analysis of the Governor's January budget, the LAO noted that the proposals to reward communities for reaching milestones in their new short-term housing goals with $500 million in flexible funding may not produce the desired results. The LAO urged the Legislature to consider alternative uses of these funds that would yield more certain benefits. The Governor's May Revision proposals to repurpose the flexible incentive funding towards housing-related infrastructure and various services for the homeless individuals would produce more certain outcomes in the state's efforts to address the housing shortage and homelessness.

Some Improvements With Proposed Linkage of Transportation Funding and Compliance With Housing Element Process. In their analysis of the Governor's January budget, the LAO raised concerns with tying transportation funding with housing production. The LAO noted the problems involved with holding communities entirely responsible for housing production when many factors are outside of their control. The health of the state's economy, lending conditions, and decisions by builders and landowners are all beyond the control of local governments but significantly affect home building. While it is reasonable for the state to ask cities and counties to do all they can do to plan for and facilitate a particular amount of home building, holding them entirely accountable for outcomes that they do not completely control may be unreasonable. To address this issue, the Governor's May Revision links SB 1 transportation funding with *compliance* with the housing element process, rather than housing *production*. As a result, the Governor proposes holding local governments accountable for something over which they have much more control. This approach mitigates some of the LAO's concerns with this proposal. The LAO remains concerned, however, that tying transportation funding to housing could undermine the state's transportation goals. Allocations that best facilitate the maintenance of local streets and roads may be different than the allocation that would result if funds were tied to compliance with the housing element process.

Rethinking Long-Term Planning Remains Worthwhile. The Governor's plan to revamp state policies on long-term planning is worthwhile. While the Legislature has taken important steps in this area in recent years, opportunities remain for further improvement. The LAO offered a package of changes to long-term planning that they think should be considered in their February 20, 2019 report, *The 2019-20 Budget: What Can Be Done to Improve Local Planning for Housing?*. In that report the LAO recommended: (1) better incorporating measures of housing demand into the calculation of housing goals, (2) lengthening the planning horizon, (3) further enhancing state oversight and enforcement, (4) preempting local land use rules if communities do not faithfully participate in long-term planning, and (5) increasing financial incentives for locals to approve housing.

Finally, given the importance of revamping the state's long-term planning process, the LAO notes that the Legislature should be aware of the trade-off between continued investment in planning for immediate housing production ($250 million proposed by the Governor) and helping local governments prepare for the new long-term planning process. The state may be better off focusing resources and efforts on boosting home building over the long term.

Staff Recommendation. No action.

Issue 44: Excess Sites Executive Order

Governor's Budget. The budget requests $3.4 million General Fund in 2019-20, including $842,000 for 4.0 positions and $2.5 million for consulting contracts, and $782,000 on-going in state operations to implement the development of affordable housing on state-owned land.

Background. Efforts to increase housing construction depend largely on local land use decisions and market influences. While the state has made numerous strides to foster the development of affordable housing, the state faces an increasing number of persons who overpay for housing, as well as people who are experiencing homelessness. As part of the Administration's strategy to address the state's housing shortage and affordability pressures, the Governor issued an Executive Order (EG) in January 2019. EG N-06-19 requires HCD to work in collaboration with Department of General Services (DGS) to 1) develop an inventory of state-owned property that is suitable for development of affordable housing, 2) issue a request for proposals offering long-term leases to developers, 3) assess proposed leases for compliance with the executive order criteria, and 4) ensure the goals of the executive order are accomplished.

As part of the Executive Order, DGS has reviewed 44,370 state owned parcels. Of that amount, approximately 3 percent appear to be potentially viable for housing. DGS is in the process of refining and prioritizing that 3 percent and are initially estimating approximately 21 percent of that amount as particularly viable. Further, DGS estimates only 20 percent of those sites as potentially being declared excess by departments after we factor out future needs, joint-state ownership, bond encumbrances, statutory limitations on use, etc. This leaves approximately 50 sites (rounding down) where the state may develop affordable housing.

Staff Comments. Assessing state-owned land available for housing development expedites the development of affordable housing opportunities to aid underserved communities, as local land use regulations would not apply. The Administration is arguing that adequate funding, staffing, and subject matter expertise are needed to effectively deploy this new housing option.

This request includes four positions to provide housing expertise, administrative oversight, coordination and collaboration with DGS, assist in development of the Request for Proposals offering the excess sites, evaluate the proposed housing developments, monitor construction milestones to ensure the housing is developed in the timely manner, and to establish long-term monitoring programs if projects are developed without HCD funding.

It also includes $2.5 million for external real estate consultants. DGS will be the lead in contracting out for these services, and it is anticipated that HCD will also request the services of the consultant as needed. HCD will utilize the consultant to assist with the RFP development, evaluate the housing proposals, conduct site analysis, due diligence, and preliminary financial feasibility, and other related services. These services will help minimize the state's risk and better prepare developers to submit successful proposals in the RFP process informed by the consultant's analysis. HCD is requesting $2.5 million for all DGS and HCD consulting services. HCD will establish an Architectural Revolving Fund (ARF) account and transfer approximately $2.3 million for DGS-procured real estate consultant work, leaving approximately $200,000 for HCD contracting costs.

This is an innovative approach to addressing the state's housing crisis. However, the novelty of the approach, and it's heavy reliance on external real estate consultant, raises questions as to how exactly

HCD and DGS will deliver on the goals of the program. Reporting language is appropriate to ensure the Legislature exercises appropriate oversight over this effort.

Staff Recommendation. Approve as budgeted. Adopt supplemental reporting language requiring HCD to report on the scope of its real estate contracts, the number of parcels reviewed, an estimation of the number of units that could be created through this program, and the timeline for creating those units.

Issue 45: State Housing Law Enforcement

Governor's Budget. The budget requests $1,440,000 in General Fund budget authority to compensate the Attorney General's (AG's) office for costs incurred as a result of additional workload created by operation of AB 72 (Santiago) Chapter 370, Statutes of 2017.

Background. Prior to passage of AB 72, the process for enforcing housing element law and other housing-related laws was dependent on the resources of third-party organizations to challenge local government actions in the courts. HCD's certification of a housing element afforded the locality a statutory presumption of validity and affirmative defense in legal challenges to subsequent land-use decisions and activities - so long as they were putatively in accord with the terms of the HCD-certified element. HCD had no authority to bring legal actions for non-compliance. Now, AB 72 allows HCD to revoke its finding that a jurisdiction is in substantial compliance with its previously approved housing element and refer the non-compliant jurisdiction to the AG for legal action. A local government may be found in violation of state law if the HCD determines that the local government has not complied with housing element law, or other existing housing laws.

Staff Comments. The Administration has indicated that HCD's new authority to refer cases to the AG will result in additional workload for AG staff attorneys. HCD is therefore requesting to be made a billable client of the AG along with budget authority to fund potential AG costs.

Preliminary information suggests that 12 cases may be referred to the AG annually with the anticipation that 3-4 cases would result in lawsuits to enforce the State's housing element requirements. The requested resources are based on three Attorneys and two Paralegals multiplied by the annual billable rate for those positions. Specifically, $979,200 for attorneys and $460,800 for paralegals annually for a total of $1.4 million annually.

Staff Recommendation. Approve as Budgeted.

Issue 46: Disaster Preparedness, Response, and Recovery

Governor's Budget. The budget requests $2 million in General Fund budget authority and four positions for the following:

- $950,000 to establish a Grants Management System
- $802,000 for 4.0 positions for a permanent Disaster Response and Recovery (DRR) Unit, and
- $250,000 for a consultant contract to perform local needs assessment and data compilation related to the 2018 Camp and Woolsey wildfires.

Background. The State of California has experienced severe wildfire, drought, and flooding events that are becoming more frequent and severe. Since 2014, HCD has engaged in ongoing disaster recovery operations through the Drought Task Force, the application and implementation of the United States Department of Housing and Urban Development (HUD) award for the National Disaster Resilience Competition to address unmet recovery need from the 2013 Rim Fire in Tuolumne County, the Valley and Butte Fires in 2015, flooding in winter 2016, and wildfires in October and December 2017. In all of these disasters, the state and its communities have faced destruction and damage to housing and infrastructure, as well as significant negative economic impacts, and complex and multifaceted environmental damage. During the last three years alone, the State experienced historic droughts, floods, and fires affecting more than 25,000 households.

For the 2017 Northern and Southern fires, a Congressional continuing resolution to extend the 2017 Supplemental Appropriations for Disaster Relief Requirements (Appropriations Act) [approved February 9, 2018], made available $28 billion in Community Development Block Grant - Disaster Recovery (CDBG-DR) funds for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.). On April 10, 2018, HUD announced the State of California will receive $212,374,000 of available funding from the $28 billion approved in the Appropriations Act to support long-term recovery and mitigation efforts. Funds were appropriated for both unmet recovery needs and mitigation funds

Staff Comments. Undertaking disaster recovery work is consistent with HCD's mission of creating resilient communities. HCD, however, is not adequately resourced to participate in the activities it is mandated to perform. To be effective in delivering effective planning, policy and programmatic responses to meet the needs of the 2017 and 2018 fires, floods and mudflows along with future disasters, HCD is seeking funding to stand up a DRR Unit that will, among other things, develop and implement a response and recovery strategy that is scalable, flexible, efficient and effective at addressing appropriate response and long-term recovery needs. The proposed DRR Unit will play a role in designing collection methods and obtaining disaster recovery needs assessments and data, assisting in the development and execution of state and local recovery plans, and recommending courses of action, which in federally declared disasters, will include assisting with or directly requesting assistance from the federal government including delivery of critical disaster-related federal program dollars through the CDBG-DR Unmet Need and Mitigation Programs.

The Grant Management System will be utilized for the Department's current Community Development Block Grant (CDBG) and pending CDBG-Disaster Recovery funds and must be able to track all financial transactions based upon Generally Accepted Accounting Principles (GAAP) and have an external online portal for clients to submit information. This is in response to HUD designating California as a High Risk Grantee. equires all grantees to account for each federal grant separately. The

HCD currently does not have a method or system to accomplish this and significant IT infrastructure improvements are needed to comply, including an accounting system that can take the expenditure data from Fi$Cal and match it with allocation dollars, at both the program and contract level, and a grants management system for DR that provides compliance, reporting, and document management, in addition to the accounting needs.

HCD has indicated that additional consultant services will be utilized to perform local needs assessment and data compilation related to the 2018 Camp and Woolsey wildfires. These consultant services will also produce local long-term recovery plan frameworks that will assist HCD in prioritizing and distributing funds to impacted jurisdictions for any future funding that becomes available from HUD through a Congressional appropriation.

Staff Recommendation. Approve as Budgeted.

0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY

Issue 47: Future of Work Commission and Labor Agency Operations

Background. The Administration submitted a May Revision BCP requesting positions and funding to create a new state commission, the "Future of Work Commission," as well as additional positions to support Labor Agency. The budget requests are as follows:

- $2.5 million General Fund and 9 positions in 2019-20 (of these positions, three positions are to support the Future Work Commission),
- $2.0 million and 9 positions in 2020-21 (of these positions, three positions are to support the Future Work Commission),
- $1.5 million and 6 positions ongoing to support Labor Agency, and
- Of these amounts, $36,000 will annually to support per diem of 18 board members

Commission Board Members. On May 1, 2019, the Governor signed an executive order to establish an Future of Work Commission comprised of 18 board members to prepare the state's workforce and state government for changes in the economy.

Commission responsibilities and duties. Based on the description in the BCP, the Commission will evaluate the state's economy to understand and forecast how technological and economic developments will impact workers, workforce needs, regional economies and industries within our state's economy. The Commission will make recommendations to help state leaders think through how to create inclusive, long-term economic growth and ensure workers and their families share in that success.

The commission will produce a progress report in February 2020, which will:

1. Compile available data regarding projected job growth by industry and region and upcoming changes to the labor market and projected impacts and will also reflect changes in outcomes based on the interventions and ideas developed by the Commission. As necessary, the Commission may contract with experts in the field to fill data gaps.

2. Establish goals and visions for state's future labor and the workforce.

3. Propose an action plan for each of the three major stakeholders: (1) government, (2) private sector (as employers and technology), and (3) labor. The action plan propose new programs and structural reforms that are necessary to achieve the goals.

To support the Commission, the BCP requests three staff over two years: a Deputy Secretary, a Staff Services Manager II (Specialist), and a Staff Services Analyst to help produce the report and convene meetings and testimony.

Labor Agency Operations. In addition to the resources requested for the Commission, the BCP also requests six ongoing positions is requested to support the Labor Agency's work, as follows:

- Chief Deputy Secretary – The Chief Deputy Secretary of Enforcement will directly oversee the Assistant Secretary Enforcement and Services and coordinate with the Associate Secretary for Farmworker and Immigrant Services.

- Career Executive Assignment (CEA) B, Future of Work Department Reorganization – The CEA B will oversee the development and implementation of a plan for the consolidation of the workforce programs in the Agency that will ultimately form the Future of Work Department. The CEA will lead multiple workgroups comprised of programmatic experts from the various units of the EDD, DIR, the Employment Training Panel, and the California Workforce Development Board to develop and align the functional divisions of the new department and defining the entire organizational structure of the Future of Work Department.

- Assistant Secretary, Enforcement and Services – The Assistant Secretary, Enforcement and Services will evaluate all Agency programs and services rendered to the public and recommend changes to programs to improve proactive enforcement, increase program access, and reduce backlogs or delays. They will also devise strategies to educate workers, worker organizations, community groups, and employers regarding current and new policies that affect the communities of low-wage workers. There is significant change management work necessary to shift the approach from reactive and transactional to impact through more strategic deployment of resources; the Assistant Secretary will work with Agency Departments and Boards to implement these changes, including through the creation of strike teams.

- Assistant General Counsel (Attorney IV) – The Assistant General Counsel will review and advise on personnel matters, including equal employment issues, harassment, retaliation, compliance with civil service requirements. The Assistant General Counsel will also provide legal advice to Agency departments' legal and executive teams, and serve as the principal contact for regulatory issues involving the departments or the Office of Administrative Law, coordinate Public Records Act responses.

- Agency's Information Security Officer (Information Technology Manager II) – The Agency Information Security Officer will be responsible for developing, implementing, and maintaining all necessary security policies, standards and procedures required for a comprehensive Agency Information Security Program, overseeing departmental risk management assessments and the remediation of information security risks across all departments under the Agency, and providing direct Information Security Officer support to the Agency's smaller departments.

- Associate Governmental Program Analyst – The Associate Governmental Program Analyst will provide direct program support to Labor Agency's Policy, Research & Legislation Unit, assigning, tracking, coordinating, reporting on the preparation and submission of legislative proposals, and drafting legislative recommendations and identifying the impact to the Agency's Departments.

Staff Comments. As currently proposed, there is no trailer bill to establish the commission.

Legislative Oversight. As currently proposed, it is unclear who the members of the board will be, what entity is charged in selecting the members of the board, nor is there a process for the Legislature to weigh in or approve the board members. Additionally, while the BCP states that the intent is to help make recommendations to state leaders, as currently proposed there is not a method to seek legislative input regarding policy priorities.

Existing Plans and Work. California Workforce Development Board (CWDB), whose members are appointed by the Governor and are representative of the areas of business, labor, public education, higher education, economic development, youth activities, employment and training, as well as the Legislature.

Existing law also directs the CWDB to assist the Governor in the development, oversight, and continuous improvement of California's workforce investment system to promote the development of a well-educated and highly skilled 21st century workforce by developing, implementing, and modifying the State Plan coordinating and aligning all federal and state workforce training and employment services funding streams and programs.

Existing law also directs the CWDB to develop strategies for meeting the needs of employers, workers, and jobseekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations, including policies targeting resources to competitive and emerging industry sectors and industry clusters that provide economic security and are either high-growth sectors or critical to California's economy, or both

Under the Workforce Innovation and Opportunity Act (WIOA), the Governor of each State must submit a Unified or Combined State Plan to the Secretary of the U.S. Department of Labor that outlines a four-year strategy for the State's workforce development system. These plans promote an understanding of the workforce needs within each State and fosters development of more comprehensive and integrated approaches, such as career pathways and sector strategies, for addressing the needs of businesses and workers. The State's most recent state plan was adopted in 2018.

In addition, the Centers of Excellence through the Community College Chancellor's Office study the regional economies of California, support the community colleges by providing customized data on high growth, emerging, and economically-critical industries and occupations and their related workforce needs. Moreover, the community colleges, through the Strong Workforce Program, provides career technical education and training aligned on regional priorities and emerging sectors and industries and workforce needs. Each region must develop a plan that identifies priority and emerging sectors and industries, regional market analysis, identify needs, and develop a plan to implement and address these needs.

EDD also has a Labor Market Information Division, which collect, analyze, and publish statistical data and reports on California's labor force, industries, occupations, employment projections, wages and other important labor market and economic data.

Recent Legislative Actions. On May 15th, the Senate Budget Subcommittee on Education Finance approved a proposal to provide $1.5 million one-time General Fund to the University of California, Berkeley's Labor Center to conduct research, which is also regarding the state's workforce and labor issues.

Additionally, in March 2018, the Legislature held a joint information hearing by the Senate Labor and Industrial Relations Committee and the Assembly Committee on Labor and Employment to explore the impacts of automation and technology on job losses and the labor market.

Given these variety of existing plans and work that is in place, the subcommittee may wish to ask how this commission and their work is different and not duplicative of previous or current work that is in place.

Other Issues for Consideration. In January, the Administration proposed to use Greenhouse Gas Reduction Funds (GGRF) to create a Workgroup on the Future of Work made up of labor, industry, community, and state partners to study and make policy and program recommendations to the Governor. This workgroup would provide policy and program recommendations to address worker and labor market impacts of climate change and automation. Collaboration and buy-in through Workgroup process among selected community, labor and industry leaders, implementation planning will ensure integration with climate-based just transition investments.

The Administration has informed staff that they are no longer pursuing this request through the Cap and Trade expenditure plan, and that the intent is to fold the goals of the workgroup into the proposed Commission. However, based on the language of the BCP and the language of the executive order, it appears the priority of the Commission is related to technology rather than achieving carbon-neutral economy.

Moreover, the Senate Budget Subcommittee on Resources, Environmental Projection, Energy and Transportation, voted on May 15, 2019 to reject the January proposal.

Additionally, it is unclear whether the Commission is ongoing, or if once the report is complete the Commission will dissolve.

Staff Recommendation. Approve, contingent upon legislation to specify:

1. The entities to serve on the commission, including labor, employers, industry, workforce education, and Legislative appointments, with relevant experience,

2. The responsibilities and duties of the commission,

3. The components of the report shall include findings and recommendations regarding the impact of technology on workers, employers and the economy. Including, but not limited to, findings and recommendations on the following:

    - The impact of technology and automation on workers and the workplace;
    - The impact of an aging workforce in the public sector;
    - The impact of technology on the economy;
    - A framework to manage the development, deployment, regulation, taxation, and fair distribution of the benefits of technology that advances the interests of workers and the public.

4. The Commission is authorized to seek information, research, and analysis from outside experts, practitioners, and researchers, including those from other states.

5. That the Commission shall review and build upon prior reports and work, including those produced by the Chancellor's Office, Employment Development Department, and research reports.

6. That meetings are open to the public, and would allow for stakeholder input.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Issue 48: Paid Family Leave

Background. On March 28th, the subcommittee heard this issue. At the time, the Administration did not have details regarding their proposal. The Governor's budget summary indicated that the Administration sought to expand the PFL program to allow a child to receive six months of bonding time to be split between parents or close relative. In the short-term, the Administration proposes to adjust the reserve requirement for the DI fund, which supports the PFL program. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections.

<u>Trailer Bill Language</u>

Since the hearing, on April 11th, the Administration released trailer bill language that proposed the following:

1. Findings and declaration that the Administration, through consultation with a taskforce, will develop a proposal by November 2019 to increase paid family leave to six months by 2021-22 for parents to care for and bond with their newborn or newly adopted child.

   Reduces the required reserve balance requirement from approximately 45 percent to 30 percent starting on July 1, 2019.

2. Starting on July 1, 2020 through July 1, 2021, an eligible employee may take up to eight weeks off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, or to bond with a minor child within one year of birth or placement of the child in connection with foster care or adoption. Existing law provides up to six weeks of leave.

3. Starting on July 1, 2021, the trailer bill proposes to provide up to eight weeks off of work for eligible employees to participate in qualifying exigency related to the covered active duty or call to covered active duty of individual's spouse, domestic partner, child or parent in the Armed Forces of the United States. Existing law provides up to six weeks of leave for this purpose starting on July 1, 2021.

4. Authorizes EDD to enter into contracts to implement these changes. The trailer bill language specifies that these contracts are exempt from specified provisions of the Public Contract Code and from Department of General Services review and approval.

5. Specifies that for the purposes of implementing this trailer bill, the EDD is exempt from the Department of Technology's Project Approval Lifecycle requirements for technology projects.

   The Administration notes that this exemption from the PAL process is necessary to implement an enhancement with such a short turn-around timeframe. If the exemption is not approved, then the timeline and costs for implementing this PFL expansion effort will need to be extended beyond the July 1, 2020 implementation date.

The Administration estimates that increasing the maximum duration of PFL benefits to eight weeks would result in additional benefit payments of $800 million to $900 million annually. The projected increase in utilization is a conservative estimate.

The EDD estimates that reducing the reserve balance to 30 percent would slow the impact of the projected increase in benefits. EDD estimates that in the first couple of years that lowering the reserve factor will reduce contributions over $1 billion. The Administration notes that the increase in benefits will ultimately cause the contribution rate tin increase slightly over current estimates, however, under current law, the Director of EDD has the discretion to adjust the rate, as specified. Existing law caps the maximum payroll withholding rate at 1.5 percent. In 2019, the payroll withholding rate is one percent with a maximum taxable wage limit of $118,371 per employee, and the maximum to withhold for each employee is $1,183.71.

Budget Change Proposals

In addition to the trailer bill language, the Administration is also requesting budget change proposals to implement these changes. These include:

1. $12 million (special funds) and 35 positions to continue EDD's IT project, the Benefit System Modernization (BSM),

2. $2.7 million (special funds) and 13 positions to make additional changes to the paid family leave system to expand leave benefits to family members preparing for military deployment.

3. $3.3 million (special funds) and 13.3 positions in 2019-20, 7.5 positions in 2020-21, seven positions in 2021-22, six positions in 2022-23, and five positions 2023-24 ongoing related to technology changes to update the BSM pursuant to the TBL, and also to establish an outreach unit within EDD to work with all counties on raising awareness of the program.

   The BCP also requests $4 million in 2020-21 and $4 million in 2021-22 for vendor services, ad buys, and additional resources for in-house staff to develop and implement a two-year, statewide paid media campaign that targets California's diverse population and informs them about the availability of PFL. The campaign will target caregivers, new parents, English and non-English speakers, and hard-to-reach communities. These strategies will target diverse audiences including Lesbian, Gay, Bisexual, Transgender, and Questioning, African Americans, and ethnic media outlets in the following languages: Spanish, Armenian, Cantonese, Mandarin, Vietnamese, Tagalog, and Punjabi.

Staff Comments

Staff does not have concerns with the first two BCPs, regarding BSM and exigency leave, as described above.

As currently proposed, the trailer bill does include legislative oversight, nor does it provide additional specificity on who will serve on the taskforce or other topics that the taskforce may review with regards to paid family leave. As discussed in the March 28th hearing, the Legislature may wish to consider if the current wage replacement rate is appropriate to increase participation in PFL, or if it adequate amount for people to make ends meet, particularly for low-wage workers. Additionally, often times labor laws are difficult to navigate for employees, the Legislature may also wish to consider whether or not it is feasible to align job protections.

Staff Recommendation. Approve budget proposal, and adopt placeholder trailer bill language as follows:

1. The Taskforce membership shall be comprised of the following:

    - Two (2) participants from each of the following entities: employer representatives, worker representatives, early education representatives, Department of Technology, and the Employment Development Department.
    - One (1) designee selected by the Senate President pro tempore.
    - One (1) designee selected by the Speaker of the Assembly.
    - The Secretary of the Labor and Workforce Development Agency, who shall perform the duties of Chair of the Paid Family Leave Taskforce.

2. The Taskforce may seek information, research, and analysis from outside experts, practitioners, and researchers, including those from other states.

3. The Taskforce shall submit a report to the Department of Finance and the policy and fiscal committees of the Legislature by January 1, 2020 regarding options and recommendations on:

    - A path towards providing six months of baby bonding;
    - An increase to the wage replacement rate for low-wage workers and all workers;
    - An alignment of the California Family Rights Act, which provides job protections during leave periods, with the Paid Family Leave program.

4. The report shall also include:

    - A timeline for implementing the recommended actions;
    - A plan to fund expanded benefits, which shall consider how paid family leave benefits are funded in other states; and,
    - Other findings and recommendations of interest.

5. It is the intention of the Legislature that the Taskforce review and build upon prior reports, including those produced by the Legislative Analyst's Office and Employment Development Department's supplemental reporting requirements regarding PFL outreach

7900 California Public Employees Retirement System

Issue 49: Operational Budget

Background. The May Revision requests that various budget bill items be amended to reflect the changes to CalPERS' 2019-20 operational budget proposed at the CalPERS Board meeting on April 16, 2019, and anticipated to be approved at the May 2019 Board meeting. The request is comprised of the following changes:

- Item 7900-003-0830 be increased by $159.8 million
- Item 7900-015-0815 be decreased by $552,000
- Item 7900-015-0820 be decreased by $74,000
- Item 7900-015-0830 be increased by $27.4 million
- Item 7900-015-0833 be increased by $962,000
- Item 7900-015-0849 be increased by $37,000
- Item 7900-015-0884 be decreased by $708,000

The budget proposed by CalPERS reflects a net increase of $186.84 million primarily attributed to an increase in external investment management fees, salaries and benefits, and investment operating costs. The Budget Bill items noted above are display items for informational purposes to reflect the corresponding changes in CalPERS' continuous appropriation authority.

Staff Recommendation. Approve as proposed.

Issue 50: Social Security Administration Trailer Bill Language

Background

Since 1955, CalPERS has been designated as the State Social Security Administrator (SSSA) for California and acts as the state's liaison between the Social Security Administration and approximately 2,300 public agencies and schools. Of these, only one third are employers with whom CalPERS contracts for pension benefits (CalPERS-covered employers). According to the Social Security Administration, each State Administrator:

- Serves as a bridge between State and local public employers and the Social Security Administration and the Internal Revenue Service (IRS).
- Prepares modifications to the original agreement to include additional coverage groups, correct errors in other modifications, identify political subdivisions that join a retirement system already covered under the agreement, obtain Medicare-only coverage for certain retirement system employees.
- Sends SSA notice and evidence of legal name changes and dissolutions of covered entities.
- Advises State's public employers on Social Security and Medicare coverage and reporting issues, among other responsibilities.

Between 1955 and 1987, CalPERS collected and deposited Social Security contributions from public employers into the Old Age and Survivor Insurance (OASI) Fund, then later transferred the Social Security contributions to the Internal Revenue Service (IRS). The OASI Fund accrued interest earnings on those Social Security contributions between the time of collection and remittance to the IRS, which was used to support CalPERS' administrative costs associated with the SSSA program.

However, federal legislation in 1986 transferred the responsibility for collecting Social Security contributions from SSSAs to the IRS, and in 1987 the OASI Fund stopped receiving contributions directly from public agencies, which eliminated the OASI fund's ability to accrue interest. Since 1987, SSSA program costs have been charged against the remaining fund balance, which consists of previously accrued interest.

Currently, administrative costs associated with the SSSA program are funded by the OASI Fund, which is continuously appropriated to CalPERS. Additionally, existing law provides CalPERS, with Department of Finance approval, the authority to charge administrative assessments to employers to cover the cost of administrative expenses incurred to serve as the SSSA. However, CalPERS has never charged employers assessments due to the ability to utilize residual interest earnings in the OASI Fund to cover costs.

Beginning in 2019-20, there will be insufficient reserves ($1.8 million as of October 2018) in the OASI Fund to cover expenses (approximately $1 million per year) and allow CalPERS to continue serving as California's SSSA. Therefore, CalPERS will begin assessing two types of administrative fees to recover its annual expenses: (1) annual maintenance fees charged to all Social Security-covered public employers ranging from $200/year for employers with four or less employees to $2,500/year for employers with 1,000 or more employees; and (2) one-time assessments between $600 and $700 to establish or modify an existing contract with the Social Security Administration.

Employers with CalPERS Retirement Contracts Only (Excluding State of CA, CSU and UC)

Tier	% of Total Employees	Employer Count	Fee	Revenue
1-4	10.1%	233	$ 200	$ 46,600
5-9	12.0%	277	$ 250	$ 69,208
10-19	12.1%	279	$ 300	$ 83,741
20-49	18.2%	418	$ 400	$ 167,021
50-99	15.1%	348	$ 500	$ 208,776
100-249	13.0%	300	$ 1,000	$ 299,900
250-499	7.8%	180	$ 1,500	$ 269,910
500-999	4.5%	104	$ 2,000	$ 207,623
1,000+	7.0%	159	$ 2,500	$ 398,711
Total	**100.0%**	**2,298**	-	**$1,751,489**

Individual State of CA, CSU and UC Agencies

Tier	Employer Count	Fee	Revenue
1-4	12	$ 200	$ 2,400
5-9	12	$ 250	$ 3,000
10-19	10	$ 300	$ 3,000
20-49	15	$ 400	$ 6,000
50-99	17	$ 500	$ 8,500
100-249	18	$ 1,000	$ 18,000
250-499	11	$ 1,500	$ 16,500
500-999	14	$ 2,000	$ 28,000
1,000+	66	$ 2,500	$ 165,000
Total	**175**	-	**$ 250,400**
		State of CA	*$ 163,400*
		CSU	*$ 57,500*
		UC	*$ 29,500*

Governor's Budget Proposal

The Governor's May Revision trailer bill proposal seeks to bring the OASI Fund under the budget-approval process to ensure administrative oversight and provide better insight and transparency into the SSSA program and OASI Fund reserves.

Additionally, because CalPERS has not previously charged administrative fees and lacks collections data, it is uncertain whether employers, particularly those that are not CalPERS-covered employers, will pay assessments in a timely manner. To encourage payment, the penalties are proposed to be increased and interest is proposed to be charged for all amounts unpaid after 120 days. Specifically, the trailer bill language seeks increase the penalty for late payment from 10 percent of the amount owed for delinquent payments to 50 percent. Additionally, any assessments or penalty that is unpaid after 120 days will accrue an interested rate of seven percent, compared to the six percent that was previously required. Furthermore, this language will remove the continuous appropriation authority and require annual Budget appropriation of funds to allow for evaluation of the fee structure if the fund balance exceeds 100 percent of budgeted expenditures.

Staff Comments

Staff agrees with the Administration's recommendation to put this fund on budget, which will provide greater transparency regarding CalPERS administrative activities, and has no concerns regarding this.

Based on conversations with the Administration regarding the collection of fees, the Administration notes that the objective of the 50 percent penalty is to encourage employers to pay in a timely manner. Some of the fees are quite low, and the 10 percent currently authorized in statute equaled insignificant, one-time penalties ranging from $20 to $50. The Administration notes that the seven percent interest is comparable to the interest that CalPERS pays for certain delayed payments under California Code of Regulations, title2, section 555.5 (d).

Staff Recommendation. Approve as proposed.

0511 SECRETARY OF THE GOVERNMENT OPERATIONS AGENCY

Issue 51: Census Outreach

Governor's Budget. The Administration requests $50 million General Fund in 2019-20 to augment current statewide outreach and communication efforts related to the Census 2020, and $4 million General Fund to conduct the California Housing and Population Sample Enumeration (CHPSE).

The subcommittee heard this request at its April 4, 2019 hearing.

May Revision. The Administration requests $2.931 million General Fund and $1 million in reimbursements to strengthen current statewide outreach and communication coordination and increase Native American outreach efforts. The Administration is also proposing provisional language that would allow the Department of Finance to augment the Census office budget by $22.5 million. Lastly, the Administration requests trailer bill language to prohibit disclosure of personal information by the Department of Finance's Demographic Research Unit if requested under the Public Records Act.

Background. The 2017 Budget Act provided up to $10 million for initial census preparation activities, of which $7 million was provided for local governments participating in the federal Census Bureau's Local Update of Census Address (LUCA) program. The 2018 Budget Act provided $90.3 million for communications and outreach efforts for this purpose. As part of these outreach efforts, the state Census office is developing language and communication access standards to be used for counties and CBOs when they are putting together their language and communication access plans. Currently, the Census office is still in the process of finalizing language access requirements for the CBOs and counties.

Staff Recommendation. Approve $54 million proposed at Governor's Budget for additional outreach and for the California Housing Population Sample Enumeration efforts. Approve the $2.9 million proposed for Native American outreach efforts, and the $22.5 million that would be appropriated upon approval from the Department of Finance.

Additionally, augment outreach efforts including, but not limited to, language access support and partnerships with parents and schools, by $30 million for community-based organizations and local governments, of which a minimum of $2.4 million be dedicated to the County of Los Angeles, which has the highest rate of hard-to-count populations in the state.