

**Senator Bob Wieckowski, Chair**  
**Senator Brian W. Jones**  
**Senator Mike McGuire**  
**Senator William W. Monning**  
**Senator Henry I. Stern**



**Tuesday, May 14, 2019**  
**1:30 p.m.**  
**State Capitol - Room 112**

Consultant: Joanne Roy

## **PART B**

| <b><u>Item</u></b>                                                                 | <b><u>Department</u></b> | <b><u>Page</u></b> |
|------------------------------------------------------------------------------------|--------------------------|--------------------|
| <b>VOTE-ONLY CALENDAR</b>                                                          |                          |                    |
| <b>0540 CALIFORNIA NATURAL RESOURCES AGENCY (CNRA)</b>                             |                          | <b>4</b>           |
| <b>0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)</b>                    |                          | <b>4</b>           |
| Issue 1: Proposition 99 Technical Adjustments (May Revision (MR))                  |                          | 4                  |
| <b>0540 CALIFORNIA NATURAL RESOURCES AGENCY (CNRA)</b>                             |                          | <b>5</b>           |
| Issue 2: Local Assistance (MR)                                                     |                          | 5                  |
| <b>0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)</b>                    |                          | <b>6</b>           |
| Issue 3: Aligning Expenditures with Revenues (MR)                                  |                          | 6                  |
| <b>3340 CALIFORNIA CONSERVATION CORPS (CCC)</b>                                    |                          | <b>7</b>           |
| Issue 4: Tahoe Base Center: Equipment Storage Relocation (MR)                      |                          | 7                  |
| <b>3340 CALIFORNIA CONSERVATION CORPS (CCC)</b>                                    |                          | <b>8</b>           |
| <b>5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION</b>                |                          | <b>8</b>           |
| Issue 5: Division of Juvenile Justice (DJJ) Apprenticeship Conservation Corps (MR) |                          | 8                  |
| <b>3480 DEPARTMENT OF CONSERVATION (DOC)</b>                                       |                          | <b>10</b>          |
| Issue 6: Technical Bond Adjustments (MR)                                           |                          | 10                 |
| Issue 7: Well Statewide Tracking and Reporting System (WellSTAR) (MR)              |                          | 10                 |
| <b>3600 DEPARTMENT OF FISH AND WILDLIFE (DFW)</b>                                  |                          | <b>12</b>          |
| Issue 8: Erskine Land Restoration (MR)                                             |                          | 12                 |

|                                                                                                           |           |
|-----------------------------------------------------------------------------------------------------------|-----------|
| Issue 9: Salton Sea Restoration Fund (MR) .....                                                           | 14        |
| <b>3790 DEPARTMENT OF PARKS AND RECREATION (PARKS).....</b>                                               | <b>15</b> |
| Issue 10: Credit Card Processing Contract (MR) .....                                                      | 15        |
| Issue 11: Public Beach Restoration Projects (MR).....                                                     | 16        |
| Issue 12: Reappropriation of Deferred Maintenance and 2017 Public Beach Restoration Funding (MR)<br>..... | 16        |
| <b>3840 DELTA PROTECTION COMMISSION .....</b>                                                             | <b>17</b> |
| Issue 13: Federal Fund Item Establishment (MR).....                                                       | 17        |
| <b>3860 DEPARTMENT OF WATER RESOURCES (DWR) .....</b>                                                     | <b>18</b> |
| Issue 14: Salton Sea Reappropriation (MR) .....                                                           | 18        |
| <b>3940 STATE WATER RESOURCES CONTROL BOARD (SWRCB).....</b>                                              | <b>19</b> |
| Issue 15: Technical Adjustment: Safe Drinking Water Acceleration (MR).....                                | 19        |
| Issue 16: Emergency Response Program (MR).....                                                            | 19        |
| Issue 17: Inyo County Primacy Delegation Revocation (MR).....                                             | 21        |
| <b>3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) .....</b>                             | <b>23</b> |
| Issue 18: Emergency Debris Cleanup and Recovery (MR).....                                                 | 23        |
| <b>3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL.....</b>                                                   | <b>25</b> |
| Issue 19: Information Technology Security Software (MR) .....                                             | 25        |
| <b>8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA) .....</b>                                    | <b>26</b> |
| Issue 20: Technical Adjustment: Reappropriation (MR).....                                                 | 26        |
| Issue 21: Farm Animal Confinement (Proposition 12) (MR).....                                              | 26        |
| <b>ADULT USE OF MARIJUANA ACT (PROPOSITION 64) (CNRA, DFW &amp; PARKS) .....</b>                          | <b>28</b> |
| Issue 22: Cannabis Tax Fund (MR).....                                                                     | 28        |

## ISSUES FOR DISCUSSION

|                                                                                                                                                       |           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA).....</b>                                                                                  | <b>31</b> |
| Issue 23: Process Improvement Positions (MR).....                                                                                                     | 31        |
| <b>3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CALFIRE).....</b>                                                                                 | <b>33</b> |
| Issue 24: Professional Forester Registration Program (MR) .....                                                                                       | 33        |
| Issue 25: Enhanced Fire Protection May Revision Update: C-130 Federal Air Tankers (MR) .....                                                          | 34        |
| Issue 26: Innovation Procurement Sprint (MR).....                                                                                                     | 35        |
| Issue 27: Community Wildfire Prevention and Mitigation Report: California Vegetation Treatment<br>Program Environmental Impact Report (EIR) (MR)..... | 38        |
| Issue 28: Office of the State Fire Marshal, Fire and Life Safety Division (BCP and TBL) (MR).....                                                     | 39        |
| Issue 29: Office of the State Fire Marshal: Licensing and Certification Fund Program (MR) .....                                                       | 41        |

|                                                                                                                                                           |           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>3790 DEPARTMENT OF PARKS AND RECREATION (PARKS)</b> .....                                                                                              | <b>42</b> |
| Issue 30: Public Safety Emergency Response (MR) .....                                                                                                     | 42        |
| Issue 31: Wildfire Repair and Reimbursement (MR).....                                                                                                     | 43        |
| Issue 32: Harbors and Watercraft Revolving Fund and State Parks and Recreation Fund Stabilization (MR) .....                                              | 44        |
| <b>3810 SANTA MONICA MOUNTAINS CONSERVANCY</b> .....                                                                                                      | <b>45</b> |
| Issue 33: Woolsey Fire Restoration and Recovery (MR) .....                                                                                                | 45        |
| <b>3860 DEPARTMENT OF WATER RESOURCES (DWR)</b> .....                                                                                                     | <b>46</b> |
| Issue 34: Dam Safety Risk Management (MR).....                                                                                                            | 46        |
| Issue 35: Open and Transparent Water Data Act (AB 1755) (MR) .....                                                                                        | 48        |
| Issue 36: Urban Flood Risk Reduction (Project Adjustment) (MR) .....                                                                                      | 50        |
| <b>3900 AIR RESOURCES BOARD (ARB)</b> .....                                                                                                               | <b>51</b> |
| Issue 37: Evaluation and Approval of Innovative Freight Technologies (MR) .....                                                                           | 51        |
| Issue 38: Heavy-Duty Phase 2 Greenhouse Gas Implementation and Audit Program (BCP and TBL) (MR) .....                                                     | 53        |
| <b>3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)</b> .....                                                                                           | <b>54</b> |
| Issue 39: Cost Recovery Management System Information Technology Project (MR) .....                                                                       | 54        |
| Issue 40: Base Funding to Maintain Operations (MR).....                                                                                                   | 56        |
| <b>8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)</b> .....                                                                                    | <b>59</b> |
| Issue 41: Catastrophic Livestock Disease Prevention and Emergency Response – Virulent Newcastle Disease and Natural Disasters Impacting Animals (MR)..... | 59        |
| Issue 42: Produce Safety Technical Assistance (MR).....                                                                                                   | 61        |
| <b>3930 DEPARTMENT OF PESTICIDE REGULATION (DPR)</b> .....                                                                                                | <b>62</b> |
| <b>8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)</b> .....                                                                                    | <b>62</b> |
| Issue 43: Transitioning to Safer, More Sustainable Pest Management Solutions (Pest Management Research Grants) (MR).....                                  | 62        |

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## VOTE-ONLY CALENDAR

**0540 CALIFORNIA NATURAL RESOURCES AGENCY (CNRA)**

**0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)**

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| <b>Issue 1: Proposition 99 Technical Adjustments (May Revision (MR))</b> |
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**Governor's Proposal.** The May Revision proposes that various Budget Bill items be amended to reflect a technical baseline budget adjustment for various departments within the Natural Resources Agency and Environmental Protection Agency to reflect additional tobacco tax revenue for the Public Resources Account. Revenue and Tax Code section 30124(b)(5) specifies that five percent of Cigarette and Tobacco Products Surtax Fund revenue shall be deposited into the Public Resources Account for programs that protect, restore, enhance, or maintain fish, waterfowl, and wildlife habitat, and enhance state and local parks and recreational resources. The May Revision proposes the following items be amended to reflect this change:

- Increase Item 0555-001-0235 by \$7,000 (CalEPA)
- Increase Item 3600-001-0235 by \$167,000 (Department of Fish and Wildlife)
- Increase Item 3790-001-0235 by \$468,000 (Department of Parks and Recreation)
- Increase Item 3940-001-0235 by \$27,000 (State Water Resources Control Board)

It is also proposed that Item 3640-311-0001 (Wildlife Conservation Board) be decreased by \$256,000. This adjustment is associated with corresponding increased May Revision revenues from the Unallocated Account Cigarette and Tobacco Products Surtax fund that offset General fund expenditures pursuant to Fish and Game Code Section 2796.

**Staff Recommendation.** Approve as proposed.

**0540 CALIFORNIA NATURAL RESOURCES AGENCY (CNRA)****Issue 2: Local Assistance (MR)**

**Governor's Proposal.** The May Revision proposes that Item 0540-101-0001 be decreased by \$1 million and Item 8260-103-0001 be added in the amount of \$5 million to support the development of the Armenian American Museum and Cultural Center of California in Glendale, California. The Armenian American Museum's mission is to promote understanding and appreciation of America's ethnic and cultural diversity by sharing the Armenian American experience.

It is also proposed that provisional language for Item 8260-103-0001 be added to specify funding be made available to the Armenian American Museum and to provide for an extended encumbrance until June 30, 2022.

**Staff Recommendation. Approve as proposed.**

**0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)****Issue 3: Aligning Expenditures with Revenues (MR)**

**Governor's Proposal.** The May Revision proposes that Item 0555-001-0028 be decreased by \$1 million to reflect updated revenue projections for the Unified Program Account. This one-time reduction in expenditure authority is necessary given a delay in the collection of planned fee increased. Once fees are fully implemented, revenues are expected to fully cover the cost of the program by 2020-2021. This one-time reduction will allow Agency to control its expenditure levels to match current revenues.

**Staff Recommendation.** Approve as proposed.

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**3340 CALIFORNIA CONSERVATION CORPS (CCC)**

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| <b>Issue 4: Tahoe Base Center: Equipment Storage Relocation (MR)</b> |
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**Governor's Proposal.** The May Revision proposes reappropriation of \$279,000 from the Public Buildings Construction Fund for the acquisition phase of the Tahoe Base Center: Equipment Storage Relocation project.

**Background.** The Storage Warehouse Relocation project at Tahoe Base Center consists of the acquisition of land and renovation of an existing storage facility near the Tahoe Residential Center located in El Dorado County. The Legislature has appropriated \$4.038 million Public Buildings Construction Fund in prior years for this project.

This project has had a number of delays related to completion of the acquisition of the site due to real estate due diligence issues pertaining to easements on the site, multiple appraisals, and negotiations with the property owner who splits residence between Hawaii and California. Given that these issues have been resolved and the property owner recently has agreed to sell, CCC anticipates completion of the acquisition phase by the end of the current calendar year. The reappropriation is intended to ensure that adequate acquisition authority is available to complete this phase of the project.

**Staff Recommendation.** Approve as proposed.

**3340 CALIFORNIA CONSERVATION CORPS (CCC)****5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION****Issue 5: Division of Juvenile Justice (DJJ) Apprenticeship Conservation Corps (MR)**

**Governor's Proposal.** The May Revision proposes the following:

- **DJJ:** 2.4 positions and associated General Fund totaling \$344,000 beginning in fiscal year 2019-20 and ongoing.
- **CCC:** 2.0 ongoing positions and \$1.085 million one-time General Fund in 2019-20 and \$581,000 ongoing General Fund beginning in 2020-21, which includes \$876,000 in 2019-20 and \$376,000 ongoing for certified local conservation corps.

Requested resources are intended to support the implementation of the DJJ Apprenticeship Conservation Corps pilot program to present DJJ youth with skill-building and job-readiness opportunities that are intended to provide pathways to conservation careers upon returning to their communities.

Specifically, the proposed ACC would have three tiers of involvement, differentiated by size of the participating cohorts, the training to be offered, the length of each session, and the amount of coaching and feedback that participants would receive:

**Tier 1.** The base tier would serve up to 80 youths and last three to six months. ACC staff will focus on basic soft skills employment training, and provide monthly coaching and performance feedback for work completed as DJJ-employed youth workers. Tier 1 participants will obtain industry certifications in Serve Safe Food Handling, Customer Service Level 1, and OSHA 10 General Industry.

**Tier 2.** The mid-level tier would serve up to 48 youths for three to six months. This tier will provide intensive soft skills employment training, provide weekly coaching and performance feedback, incorporate social emotional learning, and feature transitional life-skills training (e.g., mentorship, financial literacy, and career pathways planning). Tier 2 participants will obtain certifications in First Aid and CPR, Customer Service Level 2 (Managerial), and OSHA 10 Construction Industry.

**Tier 3.** The first two tiers serve as a preparatory training experience and feeder on a rolling basis for the third tier comprised of 12 youth who are in a 3-4 month window prior to release. Tier 3 will include rigorous soft skills employment training, daily coaching, social and emotional learning, transitional life skills training, community service training, and basic conservation corps job skills development. Tier 3 participants would serve in leadership, mentorship, and supervisory roles within program, supporting cultural continuity and programmatic esprit de corps. DJJ also envisions providing these elite ACC participants with in-community, on-the-job training at actual community conservation projects secured through Local Corps contracts. In addition to the inherent value of on-the-job training and work experience, this feature enables participants to take their first steps toward community reintegration, while still being supported by considerable resources, structure, and opportunity. This work experience would serve as a critical bridge, which guides and supports participants through the transition from a secure custodial

environment to life in the community and life in the corps. Tier 3 certifications will include Wildland First Aid & CPR, Hazardous Waste Operations and Emergency Response 40, American Traffic Safety Services Flagger & Traffic Control, Forklift Operator Warehouse, and Forklift Operator Construction.

Potential annual performance measures include:

- The number of DJJ youth who successfully complete ACC curriculum
- The number of youth who go on to complete a Local Corps or CCC placement after release from DJJ
- The number of ACC alumni who go on to receive an honorable discharge

Creation of the proposal would allow DJJ to collect and evaluate improved data related to:

- Comparative recidivism data among program participants
- Comparative employment statistics among program participants

**Background. *Post-Secondary and Career Technical Education at DJJ.*** In recent years, DJJ has worked to expand its post-secondary educational and career technical education (CTE) offerings. Additional opportunities are needed, especially those that directly connect youth to post-release employment opportunities. Programs are limited by facility, staffing, and resource considerations, such that not all offerings are available at each DJJ site. As a result, different locations offer youth different CTE training opportunities.

CCC and Local Conservation Corps (LCCs) are environmental, conservation, and resource management project-based career opportunities with proven ability to help youth transition back into society and return to their community safely and successfully.

The proposed pilot program is intended to further diversify DJJ's career technical education offerings. The program focuses on practical and social-emotional skill building so that youth are well-prepared to enter into such career opportunities and can more easily adjust back into a community-based environment.

**Staff Comments.** A pilot program is typically considered a small-scale and short-term experiment – a preliminary study to evaluate the feasibility, study the design, and analyze the effectiveness of the project to determine whether the program should be carried out on a larger scale. The proposed pilot program in the May Revision would be ongoing. As a pilot program, it would be reasonable to limit the term of the program and assess it towards the end of that term.

**Staff Recommendation. Approve the following:**

- **DJJ: 2.4 positions and associated General Fund totaling \$344,000 beginning in fiscal year 2019-20 for five years.**
- **CCC: Two positions and \$1.085 million one-time General Fund in 2019-20 and \$581,000 General Fund for four years beginning in 2020-21, which includes \$876,000 in 2019-20 and \$376,000 for four years thereafter for certified local conservation corps.**

**3480 DEPARTMENT OF CONSERVATION (DOC)****Issue 6: Technical Bond Adjustments (MR)**

**Governor's Proposal.** The May Revision proposes to revert \$1.142 million in Proposition 40 that was allocated in the Budget Act of 2016 and to revert \$180,000 in Proposition 84 that was allocated in the Budget Act of 2016. Reversion of both of these items of appropriation will prevent over allocation of bond funds since the liquidation period is still valid for an additional two years.

On March 29, 2019, the Administration submitted a Spring Finance Letter to the Legislature requesting Proposition 40 and Proposition 84 bond funds for DOC's Division of Land Resources Protection Unit for Agricultural Land Preservation. Since that time, it was discovered that without a forced reversion of the liquidation period of these items of appropriation, which still have two more years before the funding naturally reverts on June 30, 2021, the bond funds would be over allocated.

**Staff Recommendation.** Approve as proposed.

**Issue 7: Well Statewide Tracking and Reporting System (WellSTAR) (MR)**

**Governor's Proposal.** The May Revision proposes \$3.17 million from the Oil, Gas, and Geothermal Administrative Fund to expand the scope and functionality of the Well Statewide Tracking and Reporting (WellSTAR) System.

This proposal also requests the reappropriation of a portion of Item 3480-001-3046, Budget Act of 2018, for the continued development and implementation of the WellSTAR

**Background. *Well Statewide Tracking and Reporting System (WellSTAR).*** WellSTAR is a comprehensive electronic database currently under development to better handle data collection and analysis, streamline operations and processes, and adhere to requirements prescribed by legislation. WellSTAR is designed to give Division of Oil, Gas, and Geothermal Resources (DOGGR), other state agencies, industry, and the public an integrated information system that provides centralized information on oil and gas production operations. Also, WellSTAR is meant to address many of the systematic problems within DOGGR, including poor recordkeeping and the lack of modern data tools and systems.

***WellSTAR Project is On Schedule and On Budget.*** According to the December 2018 Independent Project Oversight Report (IPOR) prepared by California Department of Technology, the overall health of the WellSTAR project is "satisfactory," meaning no corrective action is necessary at this time. For example, the project is operating: (1) on schedule; (2) within the approved budget; and, (3) within the approved scope. The project is also meeting other requirements for a satisfactory rating in seven other areas tracked on IPOR's independent project oversight dashboard (such as having an approved staff management plan in place).

***Recent Legislation and Regulations Necessitates Changes to WellSTAR Design.*** SB 1493 (Committee on Natural Resources), Chapter 742, Statutes of 2018, revised the due date of Idle Well Fees to allow operators time to report production for the prior year to ensure a more accurate idle well inventory. According to DOGGR, these changes are substantial enough that they have resulted in a rewrite of the

Idle Well program and associated business processes, and therefore the current WellSTAR designs no longer meet the current needs of the program.

AB 1420 (Salas), Chapter 272, Statutes of 2016, increased the department's authority over pipelines and facilities. AB 2729 (Williams), Chapter 272, Statutes of 2016, expanded the Idle Well Program within DOC making significant changes. SB 724 (Lara), Chapter 652, Statutes of 2017, added additional responsibilities for the department in the areas of pipelines, facilities, and idle wells. According to DOC, these changes requires the expansion of scope and functionality of WellSTAR.

In addition to the legislative change, DOC also promulgated regulations needed to implement legislative changes relating to the Idle Wells program, Underground Injection Control program, Well Stem, Underground Gas Storage program, and Pipelines and Facilities programs. According to DOC, these changes continued to evolve after the initial WellSTAR design and scope and has resulted in the need for additional functionality to WellSTAR.

**Staff Recommendation. Approve as proposed.**

**3600 DEPARTMENT OF FISH AND WILDLIFE (DFW)****Issue 8: Erskine Land Restoration (MR)**

**Governor's Proposal.** The May Revision proposes \$325,000 General Fund one-time to fulfill its contractual obligation to the United States Department of the Interior, Bureau of Land Management (BLM) under an existing Recreation or Public Purposes Lease. The funding would be used to conduct remediation of the site and remove DFW from further involvement in the site, which was impacted by a destructive wildfire in 2016.

**Background.** In 1987, DFW entered into a Recreation or Public Purposes Lease (43 U.S.C. 869, et seq.) with the BLM for a property located near Lake Isabella, Kern County, California. At approximately the same time, DFW entered into a cooperative agreement with the Mountain Valley Bowhunters dba Kern River Archers (Archers) for the development and management of an archery range. The parties subsequently renewed both agreements. DFW renewed its lease with BLM on May 11, 2007, for a period of 25 years subject to all the original terms and conditions. DFW last renewed the cooperative agreement with the Archers in 1992. Although it states a term of five years, the parties continued to operate under the 1992 terms and agreement.

Federal rules allow BLM to lease property under a Recreation or Public Purposes Lease to government entities without imposing rent. With Department of General Services (DGS) approval, DFW entered into the cooperative agreement with the Archers in an in-lieu of rent arrangement whereby the consideration by the Archers was to develop and maintain an archery range opened to the public. All three parties entered into these agreements with the understanding that DFW's role was passive. It did not develop, manage, or maintain the site.

One of the provisions of the BLM lease agreement states: "(that upon the termination of this lease by expiration, surrender, or cancellation thereof, the lessee [DFW], shall surrender the possession of the premises to the United States in good condition and shall comply with such provisions and conditions respecting the removal of the improvements of and equipment on the property as may be made by an authorized officer..."

On June 23, 2016, a wildfire occurred in the Lake Isabella area, known as the Erskine Fire, which destroyed over 300 structures and killed two individuals. The Kern County Fire report determined that the source of the fire originated when an electrical line rubbed against a tree located on the archery property. The Archers installed the line as a drop line from the main utility line to bring power to an outbuilding. Numerous claims were filed with the California Government Claims Program and parties are currently trying to resolve the claims as part of a complex mediation.

In April 2017, DFW sent notice to both BLM and the Archers that it wanted to terminate the agreements. DFW partially extended the termination date of the cooperative agreement with Archers numerous times to prevent evidentiary issues with spoliation of evidence and to allow the Archers and BLM to explore a direct contractual relationship. BLM notified DFW that it would not accept DFW's surrender of the property until restoration of the property occurs. In April 2018, DGS provided an estimate cost of removal of the improvements and restoration of the property in the amount of \$320,600.

The Archers and BLM have made no progress toward reaching a direct contractual relationship over

the nearly two years since DFW provided them with notice of its desire to terminate the agreements. Therefore, DFW did not extend the termination date of the cooperative agreement beyond March 31, 2019. DFW remains obligated to BLM for the restoration of the property and is not able to dissolve the lease and reduce future liability until the property is restored.

The Archers is a nonprofit organization and has minimal financial resources. As such, individuals affected by the 2016 Erskine Fire filed claims against the State of California and DFW seeking to recover damages. DFW seeks to limit its liability exposure in the event of any subsequent wildfire. The most effective way to limit liability is to terminate the cooperative agreement with the Archers and surrender the property back to BLM. BLM requires the property to be restored to its pre-lease condition before it will accept DFW's surrender.

DFW also seeks to limit any exposure due to injuries should the Archers, as volunteers, attempt to remove the buildings and other fixtures, electrical lines, plumbing and septic tank. Moreover, it is likely that Archers could not restore the property to the satisfaction of BLM and it would look to DFW to complete or remedy an incomplete restoration attempt by the Archers. DFW intends to work with DGS to enter into contracts with appropriate contractors licensed to do this type of work.

**Staff Recommendation. Approve as proposed.**

**Issue 9: Salton Sea Restoration Fund (MR)**

**Governor's Proposal.** The May Revision proposes an ongoing increased spending authority of \$324,000 from Salton Sea Restoration Fund (SSRF).

Annual payments to the SSRF from the Imperial Irrigation District are scheduled through 2047 and are expected to increase annually. The increased spending authority will enable DFW to continue implementation of Salton Sea Restoration Actions described in Fish and Game Code Section 2932.

**Background.** The Salton Sea, located in Imperial and Riverside counties, is the largest lake in California. It was created by a levee break along the Colorado River in 1905. It supports a dynamic fishery and a multitude of avian species. However, the Salton Sea is continually changing due to the lack of a natural outlet, evaporation, and the quality of inflows. These changes now threaten the ability of the Salton Sea to continue to support fish, avian, and other wildlife species.

The annual payment to the SSRF from the Imperial Irrigation District in December 2017, covering Calendar Year 2017, was \$448,301. The annual payment in Calendar Year 2018 was \$600,275; Calendar Year 2019 will be \$760,965, and Calendar Year 2020 will be \$930,755. Beginning in Calendar Year 2021, all future payments will exceed \$1 million annually. Increasing the SSRF authority is intended to aid in the achievement of restoration actions and timelines specified in the Salton Sea Management Program Phase I, 10-year plan.

The proposed increased spending authority is intended to enable full utilization of funds in the SSRF and enable DFW to implement the following:

- Environmental and engineering studies related to restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea.
- Implementation of conservation measures necessary to protect fish and wildlife, including adaptive management measures pursuant Fish and Game Code Section 2081.7.
- Implementation of preferred Salton Sea restoration alternative.

If spending authority is not increased, DFW will lack the ability to meet the State's obligation required by the Stipulated Water Order; therefore, DFW would need to rely on other funding appropriated by the Legislature in order to carry out its obligations.

**Staff Recommendation.** Approve as proposed.

**3790 DEPARTMENT OF PARKS AND RECREATION (PARKS)****Issue 10: Credit Card Processing Contract (MR)**

**Governor's Proposal.** The May Revision proposes \$4 million State Parks and Recreation Fund ongoing to support operating expenses associated with the department's credit card processing service contract.

**Background.** These contract costs are currently deducted from the revenues collected from credit cards. This proposal would end that process and instead all of the revenue would come directly to Parks and the department would pay vendors for their operating costs through an appropriation. This change in methodology would result in a net zero impact to the fund.

Parks currently pay the credit card processing service contract through deducting the cost of services from collected revenues. These dollars are calculated based on an average percentage per credit card transaction. However, each transaction percentage varies depending on the credit card and/or dollar amount, so the actual percentage charged is not a one-for-one match which slows down the approval of each revenue debit transactions, delays cash availability, then delays payment of invoices. This can make it difficult for reconciliation and review purposes internally and externally.

**Staff Recommendation.** Approve as proposed.

**Issue 11: Public Beach Restoration Projects (MR)**

**Governor's Proposal.** The May Revision proposes the following:

- \$231,000 one-time from the Public Beach Restoration Fund for a local assistance grant to the City of San Clemente. This grant will fund preconstruction, engineering, and design activities for the U.S. Army Corps of Engineers' Beach Sand Replenishment Project.
- \$500,000 in reimbursement authority for contributions toward public beach restoration projects by local governments.
- A net-zero programmatic adjustment for local assistance from the Harbors and Watercraft Revolving Fund.

**Background.** The widening of the City of San Clemente's beach near the San Clemente Pier is intended to improve protection against storm surges for non-retreatable public infrastructures nearby, including a railroad segment behind the project area that the federal government considers strategically important. To reverse past erosion of the city's shoreline that has persisted for several decades, the project will add 251,000 cubic yards of sand to the city beach, widening a 3,400-foot long section of beach by about 50 feet. The U.S. Army Corps of Engineers (Corps) has prepared a detailed draft outline of the pre-construction, engineering, and design work to be completed, but work has not yet started. The pre-construction, engineering, and design phase is expected to last two years, with construction following shortly thereafter if federal funding is available.

Further, Parks receives an annual local assistance appropriation from the Harbors and Watercraft Revolving Fund. Currently, there are three programs with appropriations under this item: Boating Facilities, Reimbursements, and Boating Operations. This proposal will shift available authority from the Boating Facilities program to the Beach Erosion Control program on a one-time basis for the Pacifica Shoreline Erosion Study project.

**Staff Recommendation.** Approve as proposed.

**Issue 12: Reappropriation of Deferred Maintenance and 2017 Public Beach Restoration Funding (MR)**

**Governor's Proposal.** The May Revision proposes reappropriation of the unencumbered balance of Control Section 6.10 deferred maintenance funding and local assistance grant funding from the Public Beach Restoration Fund.

**Staff Recommendation.** Approve as proposed.

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**3840 DELTA PROTECTION COMMISSION****Issue 13: Federal Fund Item Establishment (MR)**

**Governor's Proposal.** The May Revision proposes \$1,000 to establish a federal fund item to facilitate potential receipt of future federal funds. In order to make adjustments to accommodate potential future federal funds, a federal fund item is needed in the Budget Act.

**Staff Recommendation.** Approve as proposed.

**3860 DEPARTMENT OF WATER RESOURCES (DWR)****Issue 14: Salton Sea Reappropriation (MR)**

**Governor's Proposal.** The May Revision proposes reappropriation of Proposition 1 funding for Salton Sea Management Plan state operations and capital outlay.

Specifically, the requested reappropriation of approximately \$12.5 million from Proposition 1, Section 79736 will continue to support CNRA's efforts to complete programmatic permitting and planning for the Salton Sea Management Plan. The funds to be reappropriated have not been fully expended or committed due to continued efforts to receive land access rights and other delays. It is estimated that the land access will be granted to DWR in 2019. DWR is anticipating giving the order to proceed to its contractor for design and construction in May of 2020. Projected completion of fund liquidation is June 2022.

This request also includes the reappropriation of \$60 million from Proposition 1, Section 79736 to continue support of CNRA's process to design and build projects included in the Salton Sea Management Plan. DWR will support construction of ongoing and new restoration projects included in the plan. The funds to be reappropriated have not yet been committed due to project delays and land access efforts needed for construction. A Request for Qualifications was submitted in December 2018. It is estimated that the land access will be granted to DWR in 2019 allowing the construction process to proceed. Commitment and liquidation of funds is predicted to be complete by June 2022.

**Staff Recommendation.** Approve as proposed.

**3940 STATE WATER RESOURCES CONTROL BOARD (SWRCB)****Issue 15: Technical Adjustment: Safe Drinking Water Acceleration (MR)**

**Governor's Proposal.** The May Revision proposes that Item 3940-101-0001 be decreased by \$20 million to reflect the changes made in AB 72 (Committee on Budget), Chapter 1, Statutes of 2019, which accelerated local assistance funding into the current year to address emergency drinking water needs.

**Staff Recommendation.** Approve as proposed.

**Issue 16: Emergency Response Program (MR)**

**Governor's Proposal.** The May Revision proposes \$1.052 million General fund ongoing and six permanent positions to establish an emergency preparedness and response unit needed to improve the capabilities of SWRCB and the nine regional water quality control boards (RWQCBs) to prepare for and respond to disasters.

The proposal includes: one Senior Environmental Scientist (Supervisory), two Environmental Scientists, one Engineering Geologist, one Water Resource Control Engineer, and one Associate Governmental Program Analyst.

These additional resources are intended to allow SWRCB to support ongoing disaster recovery efforts without diverting staff away from other aspects of SWRCB's mission.

**Background. *SWRCB's Role in Disaster Recovery Efforts.*** The 2017 California State Emergency Plan identifies SWRCB as the appropriate entity to assist public water systems to provide a reliable, adequate, and safe drinking water source, advise water systems and the public of emergency situations (including issuing unsafe water notices), and monitor water quality.

SWRCB's most critical role is to protect human health and safety by coordinating efforts to meet drinking water needs during and after a disaster. Working with water systems to maintain pressure and supply can be key for firefighters' ability to respond during fires. In disasters, drinking water systems and waste water systems can lose power, infrastructure, and staff, and water supplies can be degraded or destroyed. Recent fires (including the Tubbs Fire and the Camp Fire), for example, contaminated drinking water distribution pipes with benzene and other volatile organic compounds and complicated recovery efforts.

Erosion of disaster debris and sediments after an initial disaster can itself constitute an additional disaster. The first rains after a wildfire destroys the vegetation that stabilizes hillsides, for example, can cause huge debris flows or mudslides that kill people or destroy infrastructure, or, less dramatically but still harmfully, increase erosion and clog and degrade waterways—with the potential to degrade community water supplies.

Currently, SWRCB's emergency efforts are carried out by a decentralized group of staff. Over the last two years, SWRCB temporarily assigned staff to respond to simultaneous wildfires in Northern and

Southern California. SWRCB faces increased planning, coordination, and response emergency-related workload, as the frequency, severity, and length of wildfires increase.

Between July 2018 and February 2019, SWRCB staff were temporarily reassigned and deployed with emergency response duties for a total of 103 days to respond to eight wildfires, some concurrently. More than 30 staff were temporarily reassigned and are active on debris task forces; these task forces are cleaning up residential hazardous waste and debris and are supporting environmental restoration efforts in the areas impacted by the November 2018 wildfires. As of February 2019, SWRCB staff had reported 6,378 regular hours and 1,718 overtime hours associated with fire recovery efforts. In addition, SWRCB staff are temporarily reassigned to support longer-term recovery efforts. SWRCB also continued to monitor water quality impacts, perform site inspections of burned areas, and support local recovery from the 2017 Northern and Southern California fires and environmental restoration efforts throughout the State while simultaneously responding to 2018 wildfires.

***Emergency Preparedness and Response Program.*** The proposed new program is intended to increase overall efficiency and effectiveness by centralizing SWRCB's coordinated statewide emergency planning and response efforts.

The emergency preparedness and response program is intended to conduct activities to protect public health and the environment. These include:

*Plans, reports, and evaluations*

- Annually review and update plans (including SWRCB's Emergency Response Plan and the Emergency Response Plans of SWRCB Divisions and Regional Water Quality Control Boards (RWQCBs) and associated procedures and resources (e.g., administrative and health and safety protocols).
- After each emergency, submit after-action reports to CalEPA and California Office of Emergency Services detailing SWRCB and RWQCBs activities. After-action reports are critical for identifying and learning the lessons that will improve responses to the next disasters.
- Annually conduct an emergency response lessons learned session for SWRCB and RWQCBs staff.

*Outreach and training*

- Support and provide technical services to State and local partners.
- Conduct drills and table-top simulation exercises to assess and improve staff preparedness.
- Train federal, state, and local response partners in developing and exercising plans to respond to significant environmental incidents.
- Conduct public outreach and education to increase public awareness of drinking water and waste water systems operational status.
- Make public presentations to SWRCB upon request.

*Coordination and statewide consistency*

- Staff emergency operation centers with people experienced with water-sector issues, including

issues unique to small utilities and meet their needs or answer questions.

- Appoint emergency response liaisons in each RWQCB office to improve coordination with partners.

#### *Watershed protection*

- Develop and implement best management practices (BMPs) to reduce water quality impacts.
- Grant waivers of policies to regulated parties to balance water resource protection and the urgent needs that arise in emergencies.
- Increase the number of water quality monitoring sites and frequency of water quality sampling and analysis to determine the efficiency of BMPs to protect water quality.
- Increase RWQCBs' participation in local Watershed Emergency Response Teams (WERT), Burned Area Emergency Response (BAER) teams, and other local response efforts to evaluate changes to impacted watersheds following a disaster. A successful outcome will include early and ongoing engagement with local teams throughout the state that leads to inclusion of actionable items in improved emergency response or recovery plans and mitigation actions to address water quality issues.

**Staff Recommendation. Approve as proposed.**

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|-----------------------------------------------------------------|
| <b>Issue 17: Inyo County Primacy Delegation Revocation (MR)</b> |
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**Governor's Proposal.** The May Revision proposes \$386,000 Safe Drinking Water Account ongoing and two permanent positions, for SWRCB to assume regulatory responsibility for federal Safe Drinking Water Act requirements in Inyo County.

This funding is intended to enable the state to provide regulatory oversight of public small water systems in Inyo County. Providing regulatory oversight is essential to avoid incidents of bacteriological and chemical contamination that could lead to waterborne illness.

**Background.** SWRCB's Division of Drinking Water (DDW) is the designated primacy agency for implementing the federal Safe Drinking Water Act by the US Environmental Protection Agency (USEPA). DDW further delegates primacy to 30 Counties to regulate small public water systems below 200 service connections known as Local Primacy Agreements (LPAs).

SWRCB has evaluated Inyo County LPA program annually prior to 2018, and quarterly since January 2018 for compliance with the delegation agreement. Quarterly reports submitted to the county have described inadequacies in the program in multiple areas of water quality monitoring review, permitting, surveillance and enforcement of the Safe Drinking Water Act for the county's small water systems. In July 2018, SWRCB notified the county that improvements needed to be made in 12 specific program areas or the delegation agreement would be revoked. The county submitted a corrective action plan in August 2018; however, the county has failed to complete 11 of the 12 improvements identified in its corrective action plan.

In February 2019, SWRCB informed the county it failed to meet requirements under its delegation agreement and has been revoked.

Starting July 1, 2019, the San Bernardino District office will be the regulatory authority over the 89 public water systems which serves a permanent population of 10,726 people in Inyo County. DDW has assessed the workload of the county water systems and determined that two positions are needed to conduct regulatory oversight of the 89 public water systems.

SWRCB is mandated to establish and maintain a minimum regulatory program for all public water systems that is adequate to ensure that consumers are reasonably protected from waterborne diseases and chemical contamination. This mandate may be partially carried out through delegation to LPAs that apply for delegation. However, under state law and the US EPA primacy delegation to SWRCB to operate a drinking water program, SWRCB is also responsible for the Public Water System Supervision program in California. If the state does not adequately fulfill its mandate to protect public health in this area, including those systems delegated to the counties, the federal government may withdraw primacy from California. This could jeopardize federal funding for the Drinking Water Program in California.

**Staff Recommendation. Approve as proposed.**

**3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)****Issue 18: Emergency Debris Cleanup and Recovery (MR)**

**Governor's Proposal.** The May Revision proposes \$2.782 million 2019-20 and \$3.414 million ongoing thereafter to support 21.5 permanent positions for dedicated staffing resources and department infrastructure to provide emergency debris removal services upon request from the Governor's Office of Emergency Services.

The requested positions would be used to formally establish a team to respond to local government requests for technical assistance, provide guidance when developing disaster recovery plans, and support CalRecycle's response to emergency mission tasking for state-operated disaster removal programs.

This proposal is part of the Administration's larger Disaster Preparedness, Response, and Recovery May Revision package. The May Revision includes resources for various departments to enhance the state's disaster response preparedness and support the continuity of state government during disasters.

**Background. Disaster Debris Management.** California experiences a wide range of natural and man-made disasters that often create significant quantities of debris, which can include ash, metal, concrete, building materials, soils, and hazardous materials. Debris generated by a disaster incident must be removed, recycled, or disposed of expeditiously in order to reduce threats to public health and safety and the environment, and assist communities impacted by these disasters efficiently recover and rebuild.

Debris management poses challenges for state, local, and tribal agencies and governments in terms of available resources for debris management operations, appropriate procurement and management of contractors, reduction of debris volume, disposal and segregation, handling and disposal of household hazardous waste, and other hazardous materials. There are also legal requirements to recycle applicable material into appropriate waste streams, and specific environmental issues that need to be evaluated for compliance.

Debris management operations are the responsibility of the affected jurisdiction. Affected jurisdictions are responsible for organizing recovery operations from disasters, including debris removal operations, in accordance with a debris management plan. However, at the request of the state, the federal government may provide assistance for debris management following a Presidential declaration of emergency or major disaster, in response to a Governor's declared State of Emergency and an assistance request from a local government, Cal OES has regularly tasked CalRecycle to organize, manage, implement and oversee debris removal operations in support of a local government.

CalRecycle has conducted debris removal operations for 22 incidents since 2007, and eight of the 22 incidents occurred in 2018 alone. The majority of incidents CalRecycle has responded to are the result of destructive wildfires. These wildfires have increased significantly in magnitude, cost, duration and frequency. The Camp Fire is the most deadly and destructive wildfire in California history to date, over 18,000 structures were destroyed and 86 people died in the fire. At an initial estimate of \$2 billion, the Camp Fire debris removal project will be the most expensive disaster cleanup in California history.

CalRecycle has limited staff and no formalized program, division, structure or processes to organize

and oversee debris removal operations. CalRecycle has implemented its disaster debris removal operations by drawing from personnel dedicated to non-emergency mandated programs within CalRecycle. These operations have utilized staff resources from within every CalRecycle division and office. Wildfires and subsequent debris removal projects are no longer abnormal, and are occurring with more frequency and intensity every year. CalRecycle workload has increased significantly as a result of multiple, large, and simultaneous disaster incidents. There is little or no CalRecycle resources available to provide adequate opportunities to train, and otherwise support, local governments to implement their own independent efforts to remove debris.

The work of staff redirected to debris projects must be delegated to others, delayed until staff return to their original duties, and is sometimes not completed. This work includes jurisdiction compliance reviews, inspections of facilities, landfill closures, and successful implementation of many other core CalRecycle programs.

The May Revision proposes to provide additional resources to enable CalRecycle to continue to provide debris removal services and assistance to local governments in order to facilitate timely, safe, and effective debris removal operations, as well as assist local governments in the preparation of Debris Removal plans for future incidents. This will not only provide for efficient operations in the event of a future incident, it may also entitle the state or local jurisdiction to additional FEMA reimbursements, as well as decrease costs overall by having pre-approved private public partnerships, Master Services Agreements, and a directory of local resources and infrastructure that may be utilized in a cleanup.

**Staff Recommendation. Approve as proposed.**

**3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL****Issue 19: Information Technology Security Software (MR)**

**Governor's Proposal.** The May Revision proposes \$452,000 split evenly between the Hazardous Waste Control Account (HWCA) and Toxic Substances Control Account (TSCA) (\$226,000 each) in 2019-20 and \$555,000 HWCA and TSCA (\$277,500 each) ongoing thereafter to purchase and install security software to remain compliant with the Department of Technology and state regulations and remediate information security risks.

**Background.** According to DTSC's independent security assessment conducted in 2016 and 2018, DTSC is currently out of compliance in several security controls including Configuration Management, Identity Management, Access Control, Network Security and Architecture, FIPS 199 Data Classification, Privilege Management, and Incident Response.

As automation becomes more prevalent, additional security measures are necessary to protect information from threats including unauthorized access or use. To help safeguard DTSC's information and have countermeasures to increasingly complex and sophisticated cyberattacks, security tools are required to effectively combat the attempted breaches on security and privacy.

DTSC has recently started an effort to classify all electronic data and has been focused on high risk and confidential information controls, along with enhancing internal security practices to maintain data integrity.

**Staff Recommendation.** Approve as proposed.

**8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)****Issue 20: Technical Adjustment: Reappropriation (MR)**

**Governor's Proposal.** The May Revision proposes that Item 8570-491 be added to reappropriate funding included in the 2018 Budget Act to suppress diseases associated with the Shot Hole Borer Invasive Beetle. CDFA engaged stakeholders on a plan to utilize these funds and a reappropriation is necessary to provide sufficient time to develop and issue a request for proposal and award contracts in fiscal year 2019-20.

**Staff Recommendation.** Approve as proposed.

**Issue 21: Farm Animal Confinement (Proposition 12) (MR)**

**Governor's Proposal.** The May Revision proposes \$4.513 million General Fund in 2019-20, \$2.022 million General Fund in 2020-21 ongoing, and 14 permanent positions for the Animal Health and Food Safety Services (AHFSS) Division within CDFA to establish an Animal Care Program in order to implement the Farm Animal Confinement Initiative of 2018 (Proposition 12). Proposition 12 established new standards for confinement space for specified classes of food-producing livestock including calves raised for veal, breeding pigs, and egg-laying hens.

These resources will support registration and certification activities, compliance activities, program administration, and information technology consultant services for project planning and system development.

**Background. Proposition 2.** In 2008, California voters approved Proposition 2, which added Chapter 13.8, *Farm Animal Cruelty*, to the Health and Safety Code. The statute prohibited egg-laying hens, breeding pigs and calves raised for veal from being housed in areas that do not allow freedom to turn around, lie down, stand up or fully extend their limbs. The animal housing requirements in Proposition 2 did not apply to out-of-state producers who shipped affected products into California, nor did the measure specify enforcement authority or a compliance activity mandate to CDFA.

**Proposition 12.** On November 6, 2018, California voters approved Proposition 12, which expanded the animal housing requirements in Chapter 13.8, *Farm Animal Cruelty*, of the Health and Safety Code. The revisions to state law established new and more stringent minimum space standards on housing for calves raised for veal, breeding pigs and egg-laying hens that will go into effect in a phased approach over the next three years. The ballot measure also makes it illegal for businesses in California to knowingly sell eggs (including liquid eggs) or uncooked pork or veal that came from animals housed in a manner that does not comply with the new confinement requirements, including products from animals raised and maintained at facilities located in California and out-of-state. The provisions are broad-sweeping and apply to the entire production and marketing systems for the specified animal products, encompassing both in-state and out-of-state livestock production facilities, as well as the extensive and diverse retail food sectors they supply in California.

**Comprehensive, System-Wide Animal Care Program.** Efficient and effective enforcement of a mandate of this scope requires a comprehensive system-wide Animal Care Program, which consists of regulatory components extending from farm to shelf, including all of the following:

- A registration program for establishing a regulatory inventory of production facilities both in-state and out-of-state that ship covered animal products into California commerce;
- A certification program for documenting compliance with California animal housing and confinement standards;
- A compliance audit program for verifying conformance with animal cruelty and confinement provisions of the Health and Safety Code at both in-state and out-of-state facilities that house veal calves, breeding pigs and egg-laying hens;
- An investigative unit for enforcing violations of the animal cruelty provisions of Proposition 12, including criminal case development for submission to appropriate prosecutorial authorities under the Health and Safety Code and the Business and Professions Code;
- Border surveillance by monitoring shipments entering California through existing CDFA Border Protection Stations;
- Information management utilizing a database that would provide accurate, secure and up-to-date program information to properly track facility locations, animal confinement system information, compliance status on registrations and certifications, as well as enforcement actions.

Proposition 12 mandates enforcement by CDFA and the California Department of Public Health (CDPH) through joint promulgation of regulations to implement its requirements. AHFSS is responsible for the safety and security of meat, poultry and dairy products, along with other foods of animal origin. AHFSS coordinates with various local and federal government agencies and stakeholders to provide services to protect the public and animal health. Due to the farm expertise of AHFSS in relation to livestock and poultry, when CDPH and CDFA executive management teams met in December 2018 to initiate implementation, they mutually agreed that CDFA will take the lead on regulatory development and enforcement in continuing consultation with CDPH.

**Staff Recommendation. Approve as proposed.**

**ADULT USE OF MARIJUANA ACT (PROPOSITION 64) (CNRA, DFW & PARKS)****Issue 22: Cannabis Tax Fund (MR)**

**Governor's Proposal.** The May Revision proposes the following:

- **CNRA: Youth Community Access Grants.** \$5.3 million Cannabis Tax Fund for CNRA to support youth community access grants. These grants will fund programs to support youth access to natural or cultural resources, with a focus on low-income and disadvantaged communities.
- **DFW: Watershed Mitigation.** \$23.9 million Cannabis Tax Fund and 79 positions, as follows:
  1. \$13.8 million of that amount will be used to support clean-up, remediation, and restoration of damage in watersheds affected by illegal cannabis cultivation.
    1. Continue to provide funding through the Cannabis Restoration Grant Program for cleanup, remediation, and restoration projects to address statewide environmental impacts from cannabis cultivation.
    2. Develop and implement a pilot monitoring and assessment program to evaluate cannabis cultivation impacts on fish and wildlife throughout the state to help inform where to prioritize DFW cannabis activities.
    3. Add scientific staff to assess environmental damage from cannabis cultivation.
    4. Add resources to implement and coordinate with other state and local agencies on data efforts.
    5. Assess, clean up, remediate, and restore affected DFW properties from illegal cultivation throughout the state.
    6. Secure property boundaries and increase staff patrols to discourage illegal trespass cultivation.
  2. \$10.1 million of the amount will be used to support enforcement activities aimed at preventing further environmental degradation of public lands. DFW works collaboratively with SWRCB and other federal, state, and local agencies to address statewide environmental impacts from illegal cannabis cultivation. These resources will enable DFW to:
    1. Add law enforcement to respond to illegal cultivation on DFW and public lands.
    2. Add additional law enforcement to address cleanup and remediation on private properties.

3. Add support positions for more efficient enforcement operations, including minimizing risks to DFW and allied agency personnel.
- **Parks: Survey, Enforcement, Remediation, and Restoration.** \$15.9 million Cannabis Tax Fund and 53 positions for Parks, as follows:
    1. ***Assessment and Program Development.*** \$7.1 million of that amount will be used to survey the impacts of cannabis cultivation and identify unknown areas to assist with prioritizing resources for effective enforcement. Parks will develop a multi-disciplinary task force to assess the environmental impacts of illegal cannabis cultivation in the state park system, develop and implement methods of better identifying illegal grows and establish staffing requirements necessary to meet program needs in future years.
    2. ***Remediation and Restoration.*** \$5.6 million will be used for remediation and restoration due to illegal activities on state park land. Parks has identified over 240 individual remediation and restoration projects in districts affected by illegal grows with an estimated total completion price of \$50 million. Parks estimates the resources dedicated to this category will be sufficient to complete 20 to 25 projects. Parks estimates the average remediation projects will take two years to complete based on the complexity of conducting restoration projects in environmentally sensitive locations. It is estimated that the total number of remediation and restoration projects in the state park system will grow as the assessment program is implemented.
    3. ***Ingress and Egress.*** \$3.2 million to make roads and trails accessible for peace officer patrol and program assessment and development. Illegal grows in the state park system are largely conducted in areas with the least accessibility. Resources dedicated to ingress and egress will be used to develop methods of entry for park rangers and remediation teams who cannot currently access areas in order to patrol them and provide cleanup activity at identified grow sites. These resources will provide for brush removal, downed tree removal, drainage maintenance, and both foot and vehicle access.

**Background.** The Medical Marijuana Regulation and Safety Act enacted in 2015 created a regulatory framework for medical cannabis in California, and distributed the responsibility for state licensing between three state entities—the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health. In November 2016, voters approved Proposition 64, the Adult-Use of Marijuana Act, which legalized the recreational sale and use of cannabis to people over the age of 21 and levied new excise taxes on the cultivation and retail sale of all state-regulated cannabis. SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017, integrated medicinal and adult-use regulations to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act, establishing a single regulatory system to govern the commercial cannabis industry in California.

**Cannabis Excise Tax.** As approved in Proposition 64, effective January 1, 2018, excise taxes are levied on the cultivation and retail sale of both adult-use and medicinal cannabis with tax revenues being deposited into the Cannabis Tax Fund. The cannabis excise tax is forecast to generate \$288 million in 2018-19 and \$359 million in 2019-20, a reduction of \$67 million and \$156 million, respectively, from the Governor’s Budget forecast. The forecast assumes continued growth of more than 15 percent a year as new businesses continue to enter the marketplace and local jurisdictions adjust to the state’s legal framework. It is important to note that for the near term, revenue estimates

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will be subject to significant uncertainty because the market has only recently been established.

***Cannabis Tax Fund.*** Proposition 64 specified the allocation of resources in the Cannabis Tax Fund, which are continuously appropriated. After Allocation 1 and 2 program costs have been covered, 20 percent of the remaining funds go DFW and Parks for cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation. As well as for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cannabis activities on public lands, in addition to other enforcement efforts. The funding will be split 60 percent to DFW and 40 percent to Parks.

**Staff Comment.** Because these funds are continuously appropriated, there is no BCP. No legislative action is required on the expenditures.

The subcommittee may wish to ask how the departments intend to use the positions and how they are coordinating with other departments as it relates to environmental protection and enforcement as a result of illegal cannabis cultivation.

**Staff Recommendation.** No action required.

## ISSUES FOR DISCUSSION

### 0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)

#### Issue 23: Process Improvement Positions (MR)

**Governor's Proposal.** The May Revision proposes \$985,000 General Fund ongoing and six positions to provide a wide variety of process improvements that will benefit the CalEPA boards, departments, and offices. These positions are intended to provide strategic planning leadership, improve internal and external communications, and enhance the coordination of departmental policies at the Agency level.

**Background.** The Office of the Secretary heads CalEPA, overseeing and coordinating the activities of one office, two boards, and three departments (collectively referred to as BDOs). The Office of the Secretary currently lacks sufficient support in the following areas: strategic planning, training, contract law, communications, and enforcement coordination.

Presently, there are a variety of strategic plans throughout CalEPA and those plans are not consistent across BDOs. None of these plans provide a single overall mission or vision for the agency. In addition, there is no agency-wide staff development and training program. As a result, CalEPA lacks necessary institutional infrastructure.

In looking at models for these needed improvements, CalEPA notes that the Lean Six Sigma process has been utilized for decades in the manufacturing and service sectors. It is supported and sponsored by the California Department of Human Resources. It is a model that is meant to improve all areas of an organization using the expertise of the organization's own employees.

With regard to legal needs, CalEPA has found that contract law is a complex discipline in the state, especially in the environmental area. No such expertise exists within the agency currently.

Additionally, CalEPA needs more planning and coordination of partnerships with internal and external organizations, including other state agencies and key stakeholder groups. CalEPA proposes hiring a position that can assist its Communications Unit with developing social media strategies to promote the goals and mission of the agency and effectively communicate with disadvantaged communities.

Lastly, CalEPA proposes more coordination of all BDO environmental enforcement programs and requests a position to work under the CalEPA Chief Counsel and provide oversight on inspections, violations, and development and execution of enforcement actions. This proposed position would oversee implementation and compliance with environmental laws and regulatory requirements.

**Legislative Analyst's Office (LAO) Comments.** The broad goals described in this proposal have merit. However, the proposal does not include a detailed description of specific problems being addressed, activities that would be undertaken, or measurable outcomes that CalEPA intends to achieve if the request is approved.

For example, the proposal requests a position to provide leadership in preparing a training program, but does not identify (1) the type(s) of training that would be provided, (2) the number of state employees in need of specific types of training, or (3) a time frame for when trainings would commence and be completed.

**LAO Recommendation.** Before approving this proposal, LAO recommends CalEPA be required to testify in budget subcommittee hearings to provide more details on the existing shortcomings being addressed, activities that would be undertaken, and measurable outcomes that would be established for each of the components of this proposal. This information would better ensure that the Legislature could hold the agency accountable for its implementation of this proposal.

**Staff Recommendation.** Approve as proposed and require supplemental reporting language to require CalEPA to provide details on the existing shortcomings being addressed, activities that would be undertaken, and measurable outcomes that would be established for each of the components of this proposal.

**3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CALFIRE)****Issue 24: Professional Forester Registration Program (MR)**

**Governor's Proposal.** The May Revision proposes a one-time transfer of \$100,000 from the California Environmental License Plate Fund to support the Office of Professional Foresters Registration. This is a short-term solution while the Board of Forestry (Board) and the Administration continue development of a longer term solution to address the increase in operating costs and decline in revenue, which has led to the structural imbalance of the Professional Forester Registration Fund (PFRF).

**Background.** There has not been a fee increase for Registered Professional Foresters (RPFs) and Certified Rangeland Managers since the mid-1980s. While operating cost increases associated have been nominal, increasing by less than 2.3 percent per year, revenue from renewals has declined by nearly one-third during this same period. The increase in operating costs and the decline in revenue has led to the structural imbalance of PFRF.

The Board is exploring long-term solution to address the PFRF's structural imbalance. One approach is to increase outreach efforts. Outreach increases awareness of California's forestry licensing program, and helps address the various requirements for becoming qualified to take the RPF exam. Another approach is to increase revenues into the fund. The Professional Foresters Examining Committee (PFEC) is an advisory committee to the Board on matters of regulations related to the licensing of RPFs and CRMs. Currently, there are discussions at the PFEC supporting increasing renewal fees for RPFs and CRMs.

**Staff Recommendation. Approve as proposed.**

**Issue 25: Enhanced Fire Protection May Revision Update: C-130 Federal Air Tankers (MR)**

**Governor's Proposal.** The May Revision proposes \$4.6 million in 2019-20, \$4.6 million in 2020-21, and \$2.2 million in 2021-22 to fund an Exclusive Use C-130 Contract-Training Platform to support CalFire's Large Air Tanker (LAT) C-130 Program.

This proposal is additive to the \$13.1 million proposed in the Governor's Budget to begin implementation of the C-130 program. The funding requested will partially offset Emergency Fund expenditures and enable the state to avoid future costs as the contract will be obtained at a lower rate than if CalFire were to seek the contract during the peak season.

**Background.** *The National Defense Authorization Act of 2019.* The NDAA of 2019 passed in August of 2018, which allocated seven C-130 aircrafts from the United States Coast Guard to CalFire. These C-130s will be modified for firefighting purposes and equipped with a retardant drop system.

**Governor's Budget Proposed Resources to Support the Deployment of Seven C-130s.** The Governor's Budget included \$13.1 million and six positions to support the deployment of the seven C-130s allocated to CalFire by the federal government. The BCP noted that the ongoing training needs identified were based on the assumption that CalFire would receive one C-130 in 2019-20. According to CalFire, discussions with the federal government concluded in March 2019, and the schedule acceleration did not occur as anticipated, resulting in a need for a May Revision budget request.

**Exclusive Use Contract for a C-130 Training Platform.** According to CalFire, they need access to the training platform in 2019-20 to have flight crews fully trained and prepared in anticipation of the first C-130 being delivered in 2020-21. Not having access to this training will result in delivered C-130 without properly trained crews, delaying operations for up to two years. The training platform will be provided by a third-party vendor, and includes C-130 flight instructors to provide training for new and existing pilots, C-130 qualified mechanics to work with existing mechanics to gain C-130 familiarization training, and an on call 4,000-gallon LAT for actual wildfire firefighting missions.

**LAO Comments.** The May Revision includes \$4.6 million in 2019-20, \$4.6 million in 2020-21 and \$2.2 million in 2021-22 to enter into an exclusive use contract for a C-130 aircraft to be used as a training platform for the new C-130 air tanker program proposed in the January budget. The aircraft would also be available for fire response needs during peak fire season.

CalFire asserts that the proposal is cost neutral since the department would likely contract for a similar air tanker for use during the peak fire season. However, the backup data to support the concept of this proposal being cost neutral is inconclusive. While the cost of the C-130 training aircraft is likely to be offset to some degree by savings from reduced emergency fire suppression expenditures, the amount of offsetting savings is unknown and will depend on the severity and fire response needs in the upcoming fire seasons.

The Legislature will likely want to align its actions on this proposal with actions on the broader proposed C-130 air tanker program. LAO continues to think that the Legislature will want to weigh the costs and potential benefits of the proposed enhanced fire protection resources, including the C-130 air tanker program, against other options for addressing wildfires.

**Staff Recommendation.** Hold open.

**Issue 26: Innovation Procurement Sprint (MR)**

**Governor's Proposal.** The May Revision proposes \$15 million to enable CalFire to procure innovative solutions to combat the state's wildfire crisis consistent with Executive Order N-04-19 and provisional language be added to allow for augmentations of this amount as necessary under specified conditions.

**Proposed Budget Bill Language Provisions:**

1. Of the amount appropriated in this item, \$5,000,000 shall be available for Proof of Concept solution vendors to meet the objectives in Executive Order N-04-19. Notwithstanding any other provision of law, upon request from the Department of Forestry and Fire Protection, the Department of Finance may augment this item based on the final contract amount(s) and anticipated need not sooner than 30 days after written notification of the necessity of the increase to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or such lesser time as the chairpersons of the committees, or their designees, may in each instance jointly determine.
2. Of the amount appropriated in this item, \$10,000,000 shall be available, upon approval from the Department of Finance, for the scope and estimated cost of the selected solution vendor(s) authorized by Executive Order N-04-19, including staffing costs to Implement and support the projects. Within 10 days after approval, the Department of Finance shall notify the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee of the approved projects, including the scope and estimated cost of each project.
3. Notwithstanding any other provision of law, upon request from the Department of Forestry and Fire Protection, the Department of Finance may augment this item consistent with the pending contract(s) and staff costs not sooner than 15 days after written notification of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or such lesser time as the chairpersons of the committees, or their designees, may in each instance jointly determine. If an augmentation is determined necessary, notification of the approved project(s) may be combined with notification of the necessity for an augmentation.

**Background. *Executive Order (EO) N-04-19.*** The EO directed CalFire, in collaboration with the California Department of Technology (CDT) and Department of General Services (DGS), to engage in a modified procurement process to identify solutions to the state's wildfire crisis. This approach would grant broad authority to CDT and DGS to utilize flexible approaches on behalf of the state and other state agencies. The first innovative solutions procurement process will be executed by CDT and DGS on behalf of CalFire to identify innovative solutions to the threat of catastrophic wildfires.

***The Request for Innovative Ideas was Issued on March 22, 2019.*** The Request for Innovative Ideas (RFI2), requesting solutions to the following problem statement:

*If not immediately notified by a 9-1-1 caller, first responders and decision makers are faced with challenges related to early wildfire detection, ability to adequately dispatch the most appropriate emergency resources to the scene of an emergency, and the ability to make appropriate public notifications.*

*Those decision makers are further challenged to make a definitive prediction of the path of travel of a wildfire based on the materials or fuels burning, the current and predicted weather factors based on California's climate zones and micro climates, and the topography in which a fire is burning.*

Interested innovators with solutions to all or part of the problem statement were encouraged to submit their proposals to DGS by April 24, 2019. Innovative ideas that pass an initial evaluation by the state will be invited to demonstrate their proposed solutions with a prototype deployment between July and October 2019. Based on those prototype evaluations by the state, one or more contracts will be awarded in spring 2020.

***Requested Funding Represents a Starting Appropriation for Proof of Concept As Well As For Awarding the Contract.*** This proposal for \$15 million and provisional language are intended to address two components of this procurement process:

- 1) ***Prototype Stipend.*** This proposal requests authority of up to \$5 million to innovators to support the proof of concept phase with provisional language to augment this amount as necessary after the required 30-day legislative notification process has occurred. The Administration anticipates that one or more contracts may be awarded to innovators with identified solutions to the problem statement that were successful during the prototype evaluation phase as early as spring 2020.

The total cost of the innovative solutions have not been finalized.

- 2) ***Contract Award.*** The request for \$10 million for CalFire to enter into contracts with successful innovators is a starting point. This request includes provisional language to augment this amount, as needed, based on the number of contracts and total cost. Augmentation will require Department of Finance approval and legislative notification. It should be noted that it is possible that the innovative solutions identified could require staff resources to support implementation. If this is the case, CalFire will utilize a portion of the \$15 million to hire temporary help staff, as applicable, in fiscal year 2019-20.

Any ongoing resources needed to implement the innovative solutions would be requested in a future budget proposal.

**LAO Comments.** While LAO recognizes the potential benefits of piloting a new procurement approach, the proposed provisional language raises two major concerns. First, the provisional language allows the Administration to augment the funding by an unlimited amount upon notification to JLBC (in some cases with only a 15-day notification). Given the uncertainty around the types of technologies or solutions that might result from the innovative procurement approach, some flexibility in funding may be reasonable. However, providing an unlimited potential augmentation of funds outside of the traditional budget process significantly limits the Legislature's role.

Second, given the confidential nature of the ongoing procurement process, the Administration has not provided any details on the types of technologies or solutions it might select with these funds, and the proposed provisional language does not include a requirement to report on these details. Without details on how the funds might be spent it will be difficult for the Legislature to weigh the potential benefits against other budgetary priorities.

**LAO Recommendation.** Based on the concerns raised above, LAO recommends modifying the proposed provisional language as follows:

1. Specify a cap on the total level of augmentations that can be authorized.
2. Require 30 days notification and review periods, rather than a 15-day period.
3. Require CalFire to provide an update to the JLBC on the procurement process and the number and types of technologies being considered upon conclusion of the initial evaluation of proposals.
4. Require CalFire to provide a description of the outcomes of field testing of any technologies or solutions before entering into any contracts beyond the initial proof of concept.

**Staff Recommendation.** Hold open.

**Issue 27: Community Wildfire Prevention and Mitigation Report: California Vegetation Treatment Program Environmental Impact Report (EIR) (MR)**

**Governor's Proposal.** The May Revision proposes \$730,000 General Fund one-time to complete the revision and certification of the California Vegetation Treatment Program Environmental Impact Report (EIR).

The EIR is intended to enable CalFire and other partner agencies to increase the pace and scale of fire prevention activities and help achieve statewide forest management targets as recommended in the Forest Carbon Plan.

**Background.** *California Vegetation Treatment Program Environmental Impact Report (CalVTP).* The Board of Forestry and Fire Protection (Board) has been working on the CalVTP for over a decade. The CalVTP represents more than a decade of work analyzing potential environmental effects associated with vegetation management aimed at reducing wildland fire risk across the state. The CalVTP plays a critical role in assisting CalFire in increasing the pace and scale of vegetation management while also maintaining California's diverse vegetation and habitats.

Upon certification, the CalVTP will facilitate timely implementation of wildland urban interface vegetation reduction projects, fuel breaks to assist in wildland fire suppression efforts, and support ecological restoration projects.

The requested funds are intended to enable the Board to continue contracts with outside legal counsel and environmental experts to complete the revision and certification of the CalVTP. The CalVTP will enable CalFire and other partner agencies to increase the pace and scale of fire prevention activities and help achieve statewide forest management targets as recommended in the Forest Carbon Plan.

**Staff Recommendation.** Approve as proposed.

**Issue 28: Office of the State Fire Marshal, Fire and Life Safety Division (BCP and TBL) (MR)**

**Governor's Proposal.** The May Revision proposes:

- \$2.2 million (\$531,000 General Fund, \$133,000 Special Fund, and \$1.5 million reimbursements) ongoing and eight positions to support the Office of the State Fire Marshal's (OSFM's) Fire and Life Safety Division's increased workload.
- \$500,000 one-time General Fund for an analysis of the Division's fee structure and a contract with the California Attorney General's office to analyze and provide clarity for specific statutory issues that relate to and impact the OSFM's jurisdiction.
- Trailer Bill Language to help define and clarify the Division's mission and responsibilities.
- Various technical changes included in the 2018-19 Budget.

**Background. *Office of the State Fire Marshal's Fire and Life Safety Division's (Division).*** The Division enforces laws and regulations related to fire prevention, life safety, fire protection systems, building construction, and protection. As such, the Division is responsible for the approval of construction, repair, remodel, addition, or change of occupancy of most state-owned and occupied buildings in California. The Division is responsible for periodically inspecting state-owned and occupied buildings, providing fire and life safety oversight at large special events on state property, providing training on state regulations to local jurisdictions, and doing damage inspection reports, which provide an evaluation of the fire damage to structures within a specific fire perimeter. The largest proportion of the Division's workload is dedicated to plan reviews and construction inspections.

***The Division's Inspection Duties are Extensive.*** In addition to inspection of state-owned buildings, the Division is also responsible for inspecting buildings in which the state leases space. This includes the points of entry and paths of ingress and egress to the space leased by the state to ensure they are compliant with the state's fire and life safety laws and regulations. The Division is also responsible for inspecting all trial court facilities. Many of the trial court facilities are considered high-rise structures, which triggers more rigorous annual inspections.

All of the airspace under the highways and freeways in California are state-owned and are frequently used to operate facilities to support Caltrans' operations, which includes storage of equipment and utility vehicles. Through delegated authority, Caltrans also leases some airspace to external entities for a variety of purposes, including for business and commercial use. The Division maintains the responsibility to conduct regular inspections of the Caltrans airspace despite the existence of the lease agreements because the ownership of the airspace still ultimately lies with the state. The Division has the responsibility to enforce fire and life safety standards at special events that occur on state-owned property. For some events, the Division's involvement is limited to review of the event permit application materials and approval or denial of the event permit based on the information provided. However, many events occur on state-owned property that involve significant infrastructure or special features, such as fireworks displays and concerts. These require a more intensive review, as well as site inspections by Division staff. Additionally, Division staff frequently attend the special events and fireworks displays to support the event operator in maintaining compliance with applicable laws and regulations and to respond to any fire and life safety risks that present during the course of the events.

***Mission-Based Review Process.*** The Division is currently undergoing a mission-based review process with the Department of Finance. The goal of this review is to determine the appropriate level of resources needed to implement OSFM Division's services and programs. The mission-based review process has identified a significant amount of management time was spent addressing administrative issues, thus decreasing the amount of time available for program implementation. The mission-based review process also conducted an analysis of the fee structures of other outside entities performing similar services and activities was conducted and found that the Division's approach of applying a single hourly rate to all billable services and activities is inconsistent with standard industry practice. This has led to significantly disparate costs for comparable work on similar projects in terms of scope, and has also resulted in budgeting difficulties related to Division's costs on individual projects.

**Staff Recommendation. Reject without prejudice.**

**Issue 29: Office of the State Fire Marshal: Licensing and Certification Fund Program (MR)**

**Governor's Proposal.** The May Revision proposes \$1.098 million and four positions in 2019-20 and \$1.1 million L&C Fund and five positions ongoing to support the Office of the State Fire Marshal (OSFM) Fire Engineering and Investigations Division's Licensing and Certification Program.

**Background.** *OSFM's Fire and Life Safety Division's (Division) oversees 11 licensing programs.* The Division enforces laws and regulations related to fire prevention, life safety, fire protection systems, building construction, and protection. The Division is responsible for overseeing 11 licensing and certification programs. This includes the Building Materials Listing Program, the Flame Retardant Program, Automatic Extinguishing Systems, Fire Extinguishers, Pyrotechnics, Laboratory Accreditations, Motion Picture and Entertainment, and Vapor Recovery. Each program either licenses an individual to perform a related service or certifies the safety of a product that the citizens of California will use. The programs are funded by the collection of fees associated with the licensing and certification of related products and services.

**Building Materials Listing (BML) Program.** The BML Program ensures that fire alarm systems and fire alarm devices are tested and approved before any marketing or sale of the product occurs in California. The program has expanded to include several other materials such as roof coverings, wall finish materials, insulating products, and fire doors and dampers. The approval and listing of each product is based on an evaluation of test results that include an analysis of required performance and reliability features. California law requires these products, and other related products, be tested by an OSFM accredited laboratory before any company may begin to sell or market the products.

**Flame Retardant (FR) Program.** The FR Program issues certificates of registration for flame-retardant chemicals, nonflammable materials, fabrics that have been treated with flame-retardant chemicals, and individuals or companies that apply flame-retardant chemicals. All approved and registered flame-retardant chemicals, nonflammable materials, and treated fabrics are first subjected to testing by an OSFM accredited laboratory where they must satisfactorily demonstrate flame-retardant capabilities.

**Current Fee Structure No Longer Supports Operational Costs.** Over the years, both operational costs and workload have increased while revenue has failed to increase commensurately due to the static fee structures. To help offset this imbalance between workload and revenue, the Division has left positions vacant while also reducing operating expenditures. The Division is currently engaged in a collaborative mission-based budget review with the Department of Finance. This process identified the need for the additional resources to address urgent programmatic challenges resulting from critical staffing deficiencies and increases in workload.

**Staff Recommendation.** Approve as proposed.

**3790 DEPARTMENT OF PARKS AND RECREATION (PARKS)****Issue 30: Public Safety Emergency Response (MR)**

**Governor's Proposal.** The May Revision proposes \$3.873 million General Fund one-time to enhance its emergency response efforts. This funding is intended to provide multi-band portable radios, two incident command trailers with tow-vehicles, two inflatable rescue boats and rescue paddleboards with a cargo trailer, and flame-retardant clothing.

**Background. *Parks Fleet of Public Safety Equipment.*** Parks operates a fleet of marine vessels, aircraft, fire apparatus and other public safety equipment to protect the natural and cultural resources at more than 280 park units, which provide direct service millions of visitors, and the surrounding communities. These are specialized equipment and apparatus and are part of the State's Office of Emergency Services response plan.

***Parks Participates in the Statewide Mutual Aid System.*** Parks provides mutual aid response in the form of search and rescue, law enforcement, emergency management and incident management. The department's Law Enforcement and Emergency Services Division's current resources do not allow for a significant response to natural disasters, including extreme weather or rescue events.

**Staff Comments.** This request is similar to several other requests that this subcommittee has approved relating to radio interoperability and emergency response equipment.

**Staff Recommendation. Approve as proposed.**

**Issue 31: Wildfire Repair and Reimbursement (MR)**

**Governor's Proposal.** The May Revision proposes \$7.9 million General Fund one-time and \$2.8 million in reimbursement authority from the State Parks and Recreation Fund to begin addressing the wildlife repair costs due to the severe fire damage incurred over the last year.

The Federal Emergency Management Agency (FEMA) has announced that federal funding is available for eligible parties on a cost-sharing basis for emergency work and the repair or replacement of facilities damaged during the wildfires. The anticipated FEMA funding will be the source of the reimbursements for this proposal.

**Background. *Parks Affected by Recent Wildfires.*** Wildfires throughout California in the past year have affected the State park system. In particular, the Woolsey Fire in Southern California, named the worst wildfire in modern history, affected Leo Carrillo State Park and Malibu Creek State Park. The Woolsey Fire began November 8, 2018, and ravaged Southern California for 13 days, destroying over 150 square miles of land, 70,000 homes and businesses, and dozens of historic park structures. The fire also destroyed Parks field offices, trails, equipment storage facilities, and visitor centers. Parks continues to assess the damage to the State park system's park unit facilities. Certain hazards have been identified that jeopardize public safety. In these instances, affected park units or areas have been closed to the public. Once the hazards are addressed to ensure public safety and resource protection, the closures can be lifted.

***Federal Funding is Available on a Cost-Sharing Basis.*** FEMA has announced that federal funding is available for eligible parties on a cost-sharing basis for emergency work and the repair or replacement of facilities damaged during the wildfires. The federal funds available, which pays for 75 percent of the cost, requires a 25 percent match from the state.

***Future Costs Anticipated.*** According to Parks, this proposal's request for resources is for the most critical repair and replacement projects as well as the planning funding needed to assess the comprehensive damage to the state park system. Parks anticipates a future proposal for the balance of the work that is needed to restore the state park system once the planning efforts have been completed and is able to quantify the total resource needs.

**LAO Recommendation.** LAO's key concern with the proposal is that the proposal lacks detail regarding the specific parks and projects that will be funded. LAO recommends that the Legislature require Parks to provide details on how the funds will be spent, including identifying specific parks and projects that will receive this funding before taking action on this proposal. Doing so will allow the Legislature to consider whether the list of projects aligns with its priorities and better ensure that in the future the Legislature can hold the department accountable for implementing these projects.

**Staff Recommendation.** Approve as proposed and adopt supplemental reporting language to require Parks to provide details on how the funds will be spent, including identifying specific parks and projects that will receive this funding.

**Issue 32: Harbors and Watercraft Revolving Fund and State Parks and Recreation Fund Stabilization (MR)**

**Governor's Proposal.** The May Revision proposes \$35.747 million General Fund one-time and \$9.747 million ongoing in General Fund to offset the below estimate Motor Vehicle Fuel Account (MVFA) transfers to the State Parks and Recreation Fund (SPRF). This proposal also requests a reversion of \$16.41 million from the unencumbered balance of Harbors and Watercrafts Revolving Fund (HWRF) local assistance appropriations and the transfer of \$6 million from the Public Beach Restoration Fund to HWRF to offset the reduced Motor Vehicle Fuel Account (MVFA) transfers.

**Background. *Portion of Motor Vehicle Fuel Goes to Parks.*** Parks receives funding from MVFA for the portion of taxes attributable to the sale of motor vehicle fuel for use in boating and off-highway motor vehicle recreation. The base excise tax, currently \$0.18 of the total per gallon rate, on each gallon sold for these purposes is transferred to HWRF or the Off-Highway Vehicle Trust Fund.

***SB 1 Increased the Motor Vehicle Fuel Tax.*** SB 1 increased the gas tax by \$0.12 per gallon and transfers the revenues attributable to boating and off-highway vehicle use to SPRF. This creates a recurring transfer of \$26.649 million in boating related motor vehicle fuel tax revenues from the MVFA to SPRF for boating related purposes within the state park system.

***Discrepancy Between Parks and State Controller's Office.*** According to Parks, it was the Administration's intent that the entirety of this transfer be made from the base excise tax revenues that would otherwise be transferred to HWRF. However, the State Controller's Office is transferring from the entire per gallon rate, resulting in revenues otherwise transferred to the General Fund and SPRF being included in the transfers. This discrepancy in understanding between Parks and the State Controller's Office is the result of ambiguous provisional language included.

This proposal is intended to allow Parks to maintain projected resource levels by adjusting down the appropriations from SPRF and providing General Fund to compensate for reduced revenues. The one-time appropriation will account for revenues received below estimate in 2017-18 and 2018-19. The proposed reversion of, and transfer to, HWRF is intended to establish a balance in the fund and allow Parks the time to develop a long-term solution for inclusion in the 2020 Budget.

**LAO Comments.** The key issue is that the budget plan for Parks includes ongoing funding commitments from SPRF and HWRF that are higher than these funds can actually support because of a miscalculation of the amount of new SB 1 revenues that are supposed to be deposited into these funds. As with any fund shortfall, there are a few types of strategies that can resolve the shortfall.

In this case, the May Revision proposes to address the SPRF shortfall with one-time and ongoing General Fund transfers to maintain previously committed and planned spending levels. However, given how recently these new funding commitments were made, another option is for the Legislature to consider modifying planned expenditures downward to address the shortfalls, or approving a combination of General Fund transfers and expenditure reductions.

**Staff Recommendation. Approve as proposed.**

**3810 SANTA MONICA MOUNTAINS CONSERVANCY****Issue 33: Woolsey Fire Restoration and Recovery (MR)**

**Governor's Proposal.** The May Revision proposes \$15 million General Fund one-time and two positions (five-year limited-term) to cover the costs of the Woolsey Fire. The requested funding would allow the Conservancy to address safety concerns, assess the damage, and implement a restoration and recovery plan. The requested positions would be abolished at the end of the five-year period.

**Background. *Impacts of Woolsey Fire on the Conservancy Property.*** The Woolsey Fire damaged tens of thousands of acres of Conservancy property including buildings, trails, trailheads, and public amenities. Soon after the fire, the rainy season compounded the damage with mudflows and slides. Several properties owned by the Conservancy were, and continue to be, evacuated while an assessment of the damage continues and utilities remain cut off.

There are several safety concerns that must be addressed immediately and regular and frequent protective actions are necessary to prevent further damage and protect the public and employees. The Conservancy has begun to assess the damage and will develop a recovery and restoration plan. The plan will include the replacement, rebuilding, and repair of capital assets such as buildings and visitor serving amenities, as well as restoration activities for parkland and open space. Examples include culvert repair and/or replacement, fire break road repair, sign and kiosk replacement, soil testing, active and passive restoration.

**Priority Locations.** The following park locations have already been identified as priorities for this request, and more will be added as additional locations are assessed:

- Ramirez Canyon Park (Conservancy Headquarters)
- Cameron Nature Preserve at Puerco Canyon
- Charmlee Wildness Park
- Corral Canyon Park - Sara Wan Trailhead
- Escondido Canyon Park
- Fran Pavley Meadow
- Las Virgenes View Trail
- Liberty Canyon Trailhead
- Triunfo Creek Park
- Upper Las Virgenes Canyon Open Space Preserve (formerly Ahmanson Ranch)
- Zev Yaroslavsky Las Virgenes Highlands Park

The requested funding will be for new and necessary projects to be implemented in coordination with the ongoing capital outlay and local assistance projects and the implementation of the Conservancy work program that are already in process. In general, the complexity of any Conservancy-funded project requires extensive planning and monitoring work over a long period of time and additional post-project monitoring. The Conservancy does not have the support budget or staff on hand to fund the sustained development of dozens of these complex fire related multi-year projects.

**Staff Recommendation. Approve as proposed.**

**3860 DEPARTMENT OF WATER RESOURCES (DWR)****Issue 34: Dam Safety Risk Management (MR)**

**Governor's Proposal.** The May Revision proposes \$1.625 million Dam Safety Fund ongoing and six positions to incorporate Risk Informed Decision Making (RIDM) into the California Dam Safety Program.

This proposal also requests that the remaining three years of \$1.625 million annual payback of the General Fund loan made in 2017-18 (total balance of \$4.875 million from the original \$6.5 million loan) be forgiven to offset dam safety fee impacts to dam owners.

**Background. California Dam Safety Program.** The Division of Safety of Dams (DSOD) regulates approximately 1,250 non-federal dams, of which about 650 dams are classified as high- or extremely-high hazard. This program is the only State-level regulatory program with respect to dam safety. The hazard classification indicates the potential for life and property loss downstream of the dam if it were to fail. Because hazard classification is not an indicator of dam condition or likelihood of failure, DSOD conducts inspections and reevaluations to make needed assessments with respect to dam safety and to support its mission of protecting life and property from dam failures.

**Dam Safety Reevaluation Program.** DSOD began conducting reevaluations in the late 1960's to identify potential dam safety deficiencies at jurisdictional dams in support of its mission. Reevaluation programs have used a traditional standards based assessment approach focused on specific failure modes and maximum loading conditions (e.g. extreme floods, maximum earthquakes). Thus, DSOD has historically focused on earthquake-related risks at dams given the statewide seismic regime. Other focused reevaluation efforts have been initiated in response to lessons learned from incidents such as the radial gate reviews (Folsom Dam, 1995) and the recent spillway reevaluations (Oroville Dam, 2017). Generally, 10 to 20 dams are reevaluated annually by DSOD. Until 2017-18, DSOD did not have dedicated resources for reevaluation studies. The number of reevaluation reviews was largely governed on an annual basis by the workload associated with time sensitive application reviews that included design and construction reviews of new dam construction and the repair, alterations, enlargements, and removals of existing dams.

**Dam Fees.** Annual fees paid by dam owners fully support the Dam Safety Program. Dam fees have increased recently by about 55 percent because of recent dam safety mandates and requirements (e.g. inundation maps, spillway reevaluations, etc.), and some owners are also financing other DSOD directives, such as necessary investigative field studies, engineering analyses, and repair work related to spillways.

**Industry Development of RIDM.** Various organizations, including the US Army Corp of Engineers, observed that the traditional standards-based approaches to dam safety reevaluations are inefficient and slow in identifying deficiencies. They found that dam safety incidents often occur from deficiencies that were not identified through focused reviews. They needed an efficient and consistent method to comprehensively review dams, identify all potential failure modes, and rank dams by their risk. RIDM was developed as a method to solve these needs and to formalize a process for repeatability and consistency. Risk is the product of the following three components: 1) likelihood of a loading condition; 2) likelihood of failure occurring for the load (e.g. dam performance); and 3) the downstream consequence of that failure in terms of lives and property losses. RIDM uses the evaluated

risks to prioritize additional detailed analyses. Additionally, RIDM facilitates communication of the risks across a portfolio of dams to increase awareness, inform risk reduction measures or repairs, and aid owners in securing funding for repairs.

***RIDM Recognized as a Best Practice in Dam Safety Organizations.*** The U.S. Bureau of Reclamation and U.S. Army Corps of Engineers have adopted RIDM within the last 20 years and have acknowledged this significant effort has tremendous benefits. The USBR has a portfolio of 366 high hazard dams, and it has taken nearly 20 years to mature its RIDM program using dedicated staffing and funding resources. These 366 high hazard dams have now been comprehensively reviewed three times, with an expectation that each dam is periodically assessed once every six to eight years. Their process informs the decision of detailed evaluations needed, helps prioritize funding for repairs, and provides confidence that they are identifying and addressing the critical risks associated with their dams.

***Cumulative Impacts to Dam Owners.*** In addition to the recent 55 percent annual dam fee increase, some owners are also financing other DSOD directives, such as necessary investigative field studies, engineering analyses, and repair work related to spillways. Funding the proposed initiative would require an additional 10 percent fee increase in 2019-20, which would equate to an overall 30 percent fee increase in 2019-20. Given the cumulative fiscal impacts on dam owners, DWR is proposing to offset the additional 10 percent fee increase by forgiving the 2017-18 General Fund loan balance of \$4.875 million. Revenue collected through fees for the loan payback of \$1.625 million annually for the next three years would be used to fund this request without any additional impacts to owners.

**Staff Recommendation. Approve as proposed.**

**Issue 35: Open and Transparent Water Data Act (AB 1755) (MR)**

**Governor’s Proposal.** The May Revision proposes \$1.058 million from the Environmental License Plate Fund annually for four years to implement the Open and Transparent Water Data Act (AB 1755 (Dodd), Chapter 506, Statutes of 2016).

The requested operating expense and equipment (OE&E) funding would cover the following:

- General Expenses (\$5,000)
- Overhead (\$312,000) (Administration Staff – e.g. accounting, budgets, contract; and facilities, utilities, printing, internal tech services, etc.)
- Consulting and Professional Services (\$200,000) – e.g. communications, facilitation, data architecture.

Requested funding will support collaboration on and periodic update of protocols for data sharing, documentation, quality control, and public access; coordinated operation, maintenance, and federation of existing portals and addition of new portals; and work with stakeholders to produce usable and useful data to inform water management decisions.

**Background.** *Open and Transparent Water Data Act.* AB 1755 established the Open and Transparent Water Data Act. AB 1755 required DWR, in consultation with the State Water Resources Control Board (SWRCB), the Department of Fish and Wildlife (DFW), and the California Water Quality Monitoring Council to create and maintain a statewide, integrated water data platform by August 1, 2020, based on a specified schedule.

AB 1755 included a September 1, 2019 deadline to make state statute-compliant datasets available and an August 1, 2020 deadline to make federal statute compliant datasets available. Achieving these statutory deadlines requires coordination with the state agency partners, federal agencies, and stakeholders to iteratively develop and improve water data publication practices and standards for use across California to support the discoverability and interoperability of water data. DWR is requesting funding to support collaboration on and periodic update of protocols for data sharing, documentation, quality control, and public access; coordinated operation, maintenance, and federation of existing portals and addition of new portals; and work with stakeholders to produce usable and useful data to inform water management decisions.

Funding for this effort was provided in the Budget Act of 2017 and 2018. DWR had anticipated philanthropic donations to support this effort, which has not materialized. This request is made to enable DWR to fulfill the two statutory deadlines prescribed in AB 1755 and allow the SWRCB, DWR, and DFW to continue building the database and maintenance of the information technology system.

DWR states that its proposal is not an expansion of the program or a “new need”. This request is intended to fund the gap in funding due to the lack of revenues in the Water Data Administration Fund. The 2017 Budget Act appropriated \$1.6 million to DWR from the Water Data Administration Fund. There is substantial programming needed to develop the data portal, and significant work to be done in developing protocols that lay out how entities should gather information in a way that makes it conducive to sharing on the portal. DWR must also inform and involve State and federal agencies, since the project relies on them to collect and share their information on the portal. The request is for

two Information Technology (IT) positions to do programming and IT support for the portal, and two positions in program to develop and finalize the protocols in collaboration with the State agencies involved in the project, and to engage State and federal agencies about this project over the next four years.

DWR states that what has been completed so far is a strategic plan for the project and initial draft protocols, which was done by the mandated January 2018 deadline. Linking the two existing state-hosted open data portals is nearly complete, but additional metadata needs transferred and descriptive text needs to be added. In addition, an online user interface, such as a webpage, needs to be developed so the data can be accessed. The draft protocols were developed at the beginning of the project. Beta testing has begun and those results, as well as continuous user feedback, will inform updates and additions to the protocols.

There is also a Water Data Consortium being developed as a part of this project. It is funded by external sources and would serve as a complimentary data collaborative that incentivizes the development of end user dashboards, visualization, and analytical tools.

**Staff Recommendation. Approve as proposed.**

**Issue 36: Urban Flood Risk Reduction (Project Adjustment) (MR)**

**Governor's Proposal.** The May Revision proposes to redirect the \$25 million from Proposition 68 (PRC 80145 (a)(1)(A)) included in the Governor's Budget for a number of multi-benefit urban flood risk reduction improvement projects to instead fund the weir improvements and associated ecosystem restoration for the Oroville Wildlife Area (OWA) Project. The various multi-benefit urban flood risk reduction improvement projects will be instead funded by other available bond funds. The following changes to the provisional language are requested:

3860-301-6088—For capital outlay, Department of Water Resources, payable from the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For  
All Fund.....98,000,000

**Schedule:**

|                                                          |                                  |
|----------------------------------------------------------|----------------------------------|
| (1) 0000743-Urban Flood Risk Reduction Program.....      | 25,000,000                       |
| (a) Study.....                                           | 410,000                          |
| (b) Acquisition.....                                     | 2,640,000                        |
| (c) Preliminary plans.....                               | 890,000                          |
| (d) Working drawings.....                                | 1,130,000                        |
| (e) Performance criteria.....                            | 1,100,000                        |
| (f) (a) Construction.....                                | <del>18,860,000</del> 25,000,000 |
| (2) 0000745-Systemwide Flood Risk Reduction Program..... | 73,000,000                       |
| (a) Construction.....                                    | 62,000,000                       |
| (b) Design-build.....                                    | 11,000,000                       |

**Provisions:**

- The funds appropriated in this item shall be available for multibenefit capital outlay projects that achieve public safety improvements and measurable fish and wildlife enhancement, consistent with paragraph (1) of subdivision (a) of Section 80145 of the Public Resources Code.
- The amounts appropriated in Schedule (1) are provided for the following purposes:
  - ~~\$420,000 for Bushy Lake and Woodlake Restoration.~~
  - ~~\$4,200,000 for the Sacramento Area Flood Control Agency Habitat Berm project.~~
  - ~~\$9,100,000~~ \$8,520,000 for the multi-benefit reclamation district 17 flood project.
  - ~~\$7,880,000~~ for the Southport Setback Levee project.
  - ~~\$3,400,000~~ \$8,600,000 for the Oroville Wildlife Area Weir Enhancement.
- The amounts appropriated in Schedule (2) are provided for the following purposes:
  - \$55,000,000 for Yolo Bypass Phase I Implementation.
  - \$3,000,000 for the Paradise Cut flood project.
  - \$15,000,000 for the Butte Slough Outfall Gates project.
- Notwithstanding existing law, the funds appropriated in this item shall be available for encumbrance or expenditure until June 30, 2022.

**Background.** The OWA Project consists of weir improvements and associated ecosystem restoration in order to improve the connectivity of the Feather River to its historic floodway, reduce stages within the main channel, reduce or eliminate fish stranding, and enhance 300 acres of riparian habitat. The project request has been revised to account for the increased funding need for OWA. The original funding request for the OWA project increased due to design changes, additional costs associated with unanticipated environmental permitting requirements, higher construction costs and scope increases to address hydraulic elements that are needed to fully repair the existing system of inflow and outflow weirs, which allow water to flow into and out of the project areas during times of high water flow.

**Staff Recommendation.** Approve as proposed.

## 3900 AIR RESOURCES BOARD (ARB)

### Issue 37: Evaluation and Approval of Innovative Freight Technologies (MR)

**Governor's Proposal.** The May Revision proposes \$1.326 million Air Pollution Control Fund (APCF) for three years and seven permanent full-time positions to meet existing regulatory, planning, and incentive commitments for innovative technologies to cut emissions from freight equipment such as ships, locomotives, harbor craft, cargo handling equipment, and transport refrigeration units.

To meet the demand for new technology approvals, ARB requests seven new positions in the Transportation and Toxics Division (TTD) to conduct reviews of advanced pollution control technologies and facilitate ARB approvals for freight equipment used at seaports, rail yards, distribution centers, and other freight hubs. Specifically, the requested positions include four Air Resources Engineers, two Air Pollution Specialists, and one Air Resources Supervisor to manage the team.

The purpose of the proposal is to meet the growing demand (projected to increase by 400% over the next few years) for ARB to evaluate, approve, and monitor new technologies to cut emissions from port, rail, and other off-road freight equipment (such as ships, locomotives, harbor craft, cargo handling equipment, and transport refrigeration units). These equipment types are not covered by ARB programs that have received increased resources for certification and in-use enforcement in recent years following the Volkswagen emission cheating scandal. Zero-emission and other innovative technologies are coming to market in each of these freight sectors under existing regulatory, incentive, and planning commitments. Existing regulations and incentive programs specify ARB's approval of zero-emission and other innovative control technologies is required prior to deployment. ARB does not currently have dedicated staffing, established approval procedures, or fee schedules for innovative technology approvals for the freight equipment concentrated at seaports, rail yards, and distribution centers. However, ARB's approval of these technologies is still required for compliance with its regulations and for incentive programs to ensure the State's investment is sound.

These additional resources would enable ARB to develop procedures, perform technology evaluations, approve manufacturer/industry requests, monitor performance, and respond to detected problems. These actions are critical to providing regulatory compliance options for California businesses, to allow technology developers (some based in California) to bring products to market, and to prevent delays in deployment of cleaner freight equipment needed to cut emissions in disadvantaged communities.

Enforcement settlement funds deposited into APCF would initially fund the positions until fees collected from technology developers can provide ongoing support for the program. SB 854 (Committee on Budget and Fiscal Review), Chapter 51, Statutes of 2018, authorized ARB to assess fees for certifying, verifying, or approving innovative control technologies for non-vehicular and other off-road equipment. ARB has begun developing an overarching fee regulation and will amend existing equipment-specific regulations over the next five years to include fee collection provisions. However, ARB will have workload associated with approving innovative freight technologies well before fees are deposited into the Certification and Compliance Fund. As a result, ARB needs temporary funding through APCF for three years until the Certification and Compliance Fund is able to sustain these activities on an ongoing basis.

**Background. *Environmental Impacts.*** Ships, harbor craft, cargo handling equipment, locomotives, and other equipment that move freight in California are significant contributors of emissions including toxic diesel particulate matter, greenhouse gases, and nitrogen oxides that form ozone and fine particles. These emissions are a public health concern at both community and regional levels, and contribute to climate change. While existing ARB programs have reduced emissions significantly, most progress has resulted from the adoption of lower-emitting combustion technologies.

***New Emission Control Technology.*** Every new emission control technology must be approved by ARB to be used for regulatory compliance or to obtain grants from state-funded incentive programs like the California Climate Investments/Low Carbon Transportation, Proposition 1B, or the Carl Moyer Program. The technologies already approved by ARB staff have been "first of their kind" and highly complex control systems that require extensive evaluation, iterative consultation with technology developers, approval and issuance of Executive Orders, performance monitoring, and engagement with developers to remediate any issues.

**Staff Recommendation. Approve as proposed.**

**Issue 38: Heavy-Duty Phase 2 Greenhouse Gas Implementation and Audit Program (BCP and TBL) (MR)**

**Governor's Proposal.** The May Revision proposes \$1.9 million Air Pollution Control Fund (APCF) and 10 positions phased in over three years to review and certify medium and heavy-duty (HD) engines, vehicles, and trailers to the newly adopted California Phase 2 Greenhouse Gas (GHG) Regulations.

The positions would initially be funded by existing APCF resources until additional certification fees can be collected.

Associated trailer bill language (TBL) is proposed to expand ARB's authority to collect certification fees.

**Background.** To ensure vehicles and equipment meet California's strict emission standards, ARB currently issues over 3,900 certifications, also known as Executive Orders annually. Vehicles, engines and components must be certified by ARB to be sold in California, and advanced emission control technology must be approved by ARB to be used for regulatory compliance or to obtain grant funding.

**Phase 2.** On-road medium and heavy-duty trucks are a significant source of air pollution. The U.S. Environmental Protection Agency (US EPA), Department of Transportation's National Highway Traffic Safety Administration (NHTSA), and ARB staff have worked together to develop the Phase 2 standards for medium and HD vehicles in order to make vehicles more efficient and cut carbon pollution in order to reduce the impacts of climate change. The Phase 2 program imposes standards and requirements on manufacturers of medium and HD engines, chassis/vehicle, and trailers. Phase 2 builds on the previous Phase 1 GHG rulemaking, which regulated engines and three categories of vehicles: Tractors, vocational vehicles, pickups, and vans. The federal Phase 2 program applies to model year (MY) 2021+ for engines and vehicles. The California Phase 2 program will begin with MY 2020 for trailers and MY 2021+ years for engines and vehicles. The Phase 2 standards become increasingly more stringent through MY 2027.

Under California's Phase 2 GHG regulations, ARB staff will be required to conduct detailed independent reviews of technical applications to issue engine, vehicle, and trailer GHG certifications. This proposal includes 10 permanent staff positions starting in 2019-20 to begin implementing certification requirements for the new Phase 2 GHG program.

**Staff Comment.** Requiring regulated entities to pay for associated regulatory activities is reasonable. The expansion of the fee authority proposed in the May Revision is significant. The subcommittee may wish to ask ARB what the size of the fee is expected to be or the amount of additional revenue that it may generate.

**Staff Recommendation.** Approve as proposed.

**3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)****Issue 39: Cost Recovery Management System Information Technology Project (MR)**

**Governor's Proposal.** The May Revision proposes \$2.578 million one-time split evenly between the Hazardous Waste Control Account (HWCA) and the Toxic Substances Control Account (TSCA) (\$1.289 million each) in 2019-20 and four positions, including funding for two positions for two years, for the planning and project implementation phases of the Cost Recovery Management System (CRMS) information technology platform upgrade project.

**Background.** DTSC incurs costs overseeing the investigation and cleanup of contaminated sites (oversight costs), performing investigation and/or cleanup activities itself (cleanup costs) and when it reviews and issues permits to hazardous waste facilities. These costs are collectively known as DTSC's response costs. DTSC is authorized to recover its response costs from responsible parties (i.e., those parties responsible for the contamination) and from permitted hazardous waste facilities. The responsible parties and permitted hazardous waste facilities are referred to as billable parties. DTSC recovers millions in response costs from billable parties annually.

**Cost Recovery Billing System (CRBS).** CRBS is the existing vehicle for recovering DTSC's costs and is critical to DTSC's revenues. CRBS issues invoices to responsible parties, tracks cost data, records payments, and reconciles account balances to ensure that claims for reimbursement are accurate. CRBS also maintains data on the number of invoices processed and the amount of reimbursements received and provides reports and tracking tools related to cost recovery. Further, the information maintained in CRBS is critical to support litigation undertaken by DTSC and the Office of the Attorney General against responsible parties and responses to Public Records Act requests.

Failure to replace CRBS poses several unacceptable risks to DTSC. CRBS was developed in 2002 using software which is no longer supported as of April 2008. Critical security patches for CRBS have been unavailable since July 2018, which means that CRBS is at risk from new and emerging security threats. Additionally, the system cannot be modified to meet new business requirements, such as tracking settlements and issuing collection letters and delinquent notices, which can cause DTSC to be noncompliant with State Administrative Manual (SAM) requirements. Finally, the system cannot be modified to meet changes in existing law.

In August 2014, the State Auditor issued a report on DTSC's cost recovery efforts. The report found several deficiencies in DTSC's cost recovery processes. It specifically noted that CRBS was no longer supported and the system could not perform basic functions, such as tracking settlement agreements or automating the process for issuing collection letters to billable parties. The lack of basic functionality was an important factor in DTSC's failure to collect response costs in a timely manner.

DTSC has also been subject to several oversight hearings by the Legislature concerning its cost recovery efforts. These hearings demonstrated that CRBS was a major impediment to DTSC effectively recovering its response costs and complying with statute and state policy. DTSC has made a commitment to the Legislature that it would replace CRBS.

**LAO Comments.** This project has not yet completed the Project Approval Lifecycle (PAL) process. This means the Legislature is being asked to approve funding for the development and implementation of the project without the benefit of a completed project plan and final cost estimate.

**LAO Recommendation.** In order to ensure legislative oversight of this project, LAO recommends the Legislature adopt budget bill language that would make the release of the requested funding contingent on (1) approval of Stage 4 PAL documents by California Department of Technology and the Department of Finance, and (2) written notification to the Joint Legislative Budget Committee that the project has received these approvals.

**Staff Recommendation.** Approve as proposed and adopt BBL that would make the release of the requested funding contingent on (1) approval of Stage 4 PAL documents by CDT and the Department of Finance, and (2) written notification to the Joint Legislative Budget Committee that the project has received these approvals.

**Issue 40: Base Funding to Maintain Operations (MR)**

**Governor's Proposal.** The May Revision proposes a total augmentation of \$37.5 million General Fund in 2019-20 to maintain its existing operations. This consists of \$27.5 million for a General Fund backfill to the Hazardous Waste Control Account (HWCA) and \$10 million from the elimination of the Lead-Acid Battery Control Fund's General Fund Loan repayment and corresponding funding shifts. Accordingly, this request proposes several adjustments to realign DTSC's expenditures with the appropriate funding source while maintaining prudent fund balances and improving budget transparency.

More specifically, this request would do the following:

***\$27.5 million General Fund Backfill***

- Provide \$27.5 million General Fund to backfill the Hazardous Waste Control Account (HWCA) in 2019-20, \$18.5 million in 2020-21, and \$18.5 million in 2021-22 to maintain current service levels and ensure HWCA has a prudent reserve.

***\$10 million Net General Fund Change***

- Eliminate the \$16.7 million loan repayment from LABCF to the General Fund for the Exide Technologies facility cleanup beginning in 2019-20.
- Shift \$1.2 million General Fund for the 2018-19 Safer Consumer Products Budget Change Proposal (BCP) to the Toxic Substances Control Account (TSCA) TSCA to promote budget transparency.
- Shift \$5.5 million General Fund for hazardous waste activities to HWCA (comprised of \$3.0 million provided for HWCA solvency and \$2.5 million for the 2018-19 Enforcement in Vulnerable Communities BCP) to promote budget transparency.

For the net \$10 million General Fund change related to the LABCF, eliminating the \$16.7 million loan repayment from LABCF to the General Fund as well as shifting the above General Fund expenditures to HWCA (\$5.5 million) and TSCA (\$1.2 million) provides an additional net \$10 million General Fund support to DTSC in 2019-20. Combined with the \$27.5 million General Fund backfill to HWCA, the total General Fund impact in 2019-20 is \$37.5 million.

***Other Funding Adjustment***

- Eliminate a \$10 million loan from TSCA to LABCF in 2019-20 given the condition of TSCA.

**Background.** At the time of the 2019-20 Governor's Budget, DTSC had not completed the reconciliation of its accounting records. As a result, the magnitude of the Department's funding shortfall was unknown. The Governor's Budget reflected several temporary and placeholder funding shifts from other special funds, including the Lead-Acid Battery Cleanup Fund, to support the Department's current funding level. In February, DTSC was able to reconcile its accounting records through 2017-18.

The HWCA receives fees from various hazardous waste generators, facilities, and transporters. The fees provide revenue for HWCA and DTSC's Hazardous Waste Management Program, which funds the following activities:

- The Permitting Division is responsible for reviewing and acting on applications for hazardous waste facility permits, assessing and reviewing studies performed by permit applicants pursuant to permit conditions, and overseeing facility closures.
- The Enforcement and Emergency Response Division is responsible for inspecting hazardous waste facilities and taking appropriate enforcement actions.
- The Office of Criminal Investigation is responsible for conducting criminal investigations regarding violations of hazardous waste control laws.
- The Policy and Program Support Branch is responsible for registering hazardous waste transporters, collecting and tracking information related to the handling of electronic waste, and providing advice to the public and the regulated community on the application of hazardous waste management requirements.

Both of DTSC's two main special funds, HWCA and TSCA, have structural deficits with ongoing expenditures exceeding revenues. DTSC currently faces a risk of a cash shortfall in HWCA in 2018-19 and has been constraining spending to address this risk. The HWCA fund balance would be approximately -\$4.8 million by the end of 2018-19 if DTSC did not take measures to reduce its costs as well as shift its \$3.1 million Pro Rata assessment to TSCA. The current year HWCA Pro Rata liability will be repaid in 2019-20 from the General Fund backfill. Without this General Fund support, the HWCA fund balance will decrease to approximately -\$24.8 million in 2019-20, -\$44.1 million in 2020-21, and -\$63.5 million in 2021-22. The backfill proposed in 2019-20 also provides the HWCA fund with some reserve funding.

HWCA has also suffered increased cost pressures as legislative mandates have increased without a commensurate increase in fee revenues. These mandates have typically been funded with limited-term resources because the HWCA fund balance was insufficient to sustain the costs over time.

If left unaddressed, the deficit in HWCA will require the Hazardous Waste Management Program to make significant cuts to its operations. DTSC will be unable to adequately regulate the 105 permitted facilities that store, treat, or dispose hazardous waste; the 100,000 businesses that generate hazardous waste; and approximately 900 businesses that transport hazardous waste.

**LAO Comments.** DTSC requests \$27.5 million General Fund in 2019-20 and \$18.5 million General Fund in 2020-21 and 2021-22—as well as several other budget adjustments—to address structural deficits in HWCA and TSCA. LAO agrees with the need provide funding in order for DTSC to continue to regulate facilities that store or treat hazardous waste, as well as businesses that generate and transport hazardous waste.

**LAO Recommendation.** Accordingly, LAO recommends the Legislature approve the request for \$27.5 million General Fund and other budget adjustments in 2019-20. However, LAO recommends rejection of the request for \$18.5 million General Fund in 2020-21 and 2021-22. In recent years, DTSC has been the focus of numerous legislative oversight hearings due to fiscal and operational issues. Approving only one year of General Fund backfill will require DTSC to return with an additional request next year to address the HWCA structural deficit, which will help ensure continuing conversations regarding options to address the department's structural deficits (including TSCA), as well as ensure ongoing legislative oversight of this department's activities through the budget process.

**Staff Recommendation.** Approve as proposed with placeholder TBL to create a fee task force and implement other changes to the department.

**8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)****Issue 41: Catastrophic Livestock Disease Prevention and Emergency Response – Virulent Newcastle Disease and Natural Disasters Impacting Animals (MR)**

**Governor’s Proposal.** The May Revision proposes \$3.336 million General Fund and 23 permanent positions in 2019-20 and \$3.278 million General Fund ongoing thereafter to address current and continued threats to animal health, food supply, and the economy posed by the virulent Newcastle Disease (vND) and other diseases or natural disaster threats to animals. Specifically, these resources are intended to establish teams that will coordinate and respond to current and future threats to animal health.

**Background. Virulent Newcastle Disease (vND).** The current outbreak of vND was originally detected on May 16, 2018, in backyard chickens that died in Los Angeles County. Once this virus hits a large group of susceptible birds, it can explode as virus replication creates a viral plume, moving quickly from one ranch to another through workers, equipment, supplies, products, rain runoff, blown dust, rodents and feral poultry or wild birds. On December 14, 2018, vND was confirmed in a commercial poultry ranch in Riverside County where CDFA found dense backyard poultry and high levels of disease. As of the mid-April 2019, nine other commercial producers have tested positive in Riverside and San Bernardino Counties. About 1.2 million birds have been euthanized on over 450 confirmed infected and 1,000 exposed premises. The direct response costs alone total more than \$30 million and continues to increase. As of mid-April 2019, the virus spread into new areas of Los Angeles, San Bernardino, Riverside, Ventura and Alameda Counties, as well as to Utah and Arizona.

As of mid-February 2019, the United States Department of Agriculture has agreed to seek federal emergency funds to augment CDFA's response, USDA is willing to assist with temporary funding for needed permanent CDFA prevention and response staff through June 30, 2019 and are seeking emergency funds to cover the much larger immediate eradication effort, recognizing prior responses suggest that \$200 million may be required. USDA's conditional emergency support includes a commitment from California to ensure core infrastructure is maintained to prevent further introductions, immediately limit spread, and manage scale-up when facing future emergencies.

**CDFA Role In Fighting Outbreaks.** To fight these outbreaks, CDFA keeps a limited number of skilled response specialists placed strategically around the state. CDFA has an early warning system that utilizes animal owners, thousands of private veterinarians, specially trained CDFA foreign animal disease diagnosticians and the California Animal Health and Food Safety Laboratory System. One of CDFA's responsibilities is to train all contributors to the early warning system so they know when and how to contact CDFA at the first sign of a problem. CDFA also maintains constant foreign and emerging animal disease surveillance to assure that the state is free from particularly dangerous disease. When a disease of concern is detected, CDFA shifts all available staff resources into response positions. For livestock and poultry epidemics, these skilled resources are prepositioned at the state level rather than the local level, so they can be quickly deployed to any county.

**CDFA Staffing Needs to Fight Outbreaks.** Currently, CDFA does not have adequate resources to prevent catastrophic livestock and poultry disease introduction into California or contain an outbreak once introduced. CDFA has re-evaluated its vND containment and is shifting from waiting until an outbreak gets large enough to detect in California as done historically, to striking once a disease is detected. The goal is to use the anticipated short-term infusion of federal funds to reduce the current

virus load through active disease identification and flock euthanasia in known infected areas of San Bernardino, Riverside, Ventura, Alameda and Los Angeles; followed by long-term community education programs in high-risk areas statewide. Looking forward, when bird owners and their veterinarians need assistance relative to vND control, CDFA would quickly mobilize a local strike team to eliminate the virus before it spreads to an uncontrollable level. This improved best practice strategy protects the food supply and residents and will provide trained resources to assist with other disease outbreaks and natural disasters affecting animals.

The 23 positions proposed in the May Revision cover the following:

- Disease detection and prevention (One Veterinarian (Epidemiologist), One Agricultural Program Supervisor, and Three Livestock Inspectors).
- Disease Reporting Officer and Euthanasia Team (One Veterinarian, One Senior Livestock Inspector, and Four Livestock Inspectors).
- Field Reimbursement Specialist (Indemnity) (Two Livestock Inspectors). Two Livestock Inspectors will be responsible for assisting producers with the indemnity and reimbursement process for mandatory destruction orders that affect their operations.
- Quarantine Enforcement and Investigations (Two Livestock Inspectors and Two Special Investigators).
- Live Bird Market Disease Prevention and Surveillance (One Veterinarian (Epidemiologist)).
- Geographic Information Systems (One Research Data Specialist II).
- Communication, Education, and Outreach (One Associate Governmental Program Analyst).
- California Animal Response Emergency System (One Program Manager II, One Senior Emergency Coordinator, and One Associate Governmental Program Analyst).

CDFA intends to account for personnel workload activity and hours through a web-based task tracker. The task tracker will provide detail on the activities of staff and make it possible to more accurately allocate work, redirect and make staff changes, balance workloads, and assist in the program budget development process. The requested resources will be managed through monthly budget projections, expenditure forecasting, and the Financial Information System for California.

The current vND outbreak and associated challenges demonstrates that core staffing is essential where catastrophic disease is often introduced, at the rural-urban interface. Placing skilled, permanent staffing close to historical vND outbreak locations will build a rapport with local communities, reduce costs by reducing travel and overtime and effectively control disease spread. These positions along with technical specialists for animals in disaster, will also free up key CDFA staff to support disaster response as described by Executive Order, Administrative Orders and the Governor's Office of Emergency Services.

**Staff Recommendation. Approve as proposed.**

**Issue 42: Produce Safety Technical Assistance (MR)**

**Governor's Proposal.** The May Revision proposes \$700,000 General Fund in 2019-20 and ongoing and one position for the development of produce safety technical expertise and education to assist California produce farmers in complying with the Food Safety Modernization Act (FSMA). The resources requested is intended to be utilized to establish the Produce Safety Technical Assistance Program (TAP) to provide technical expertise in produce safety and allow for contracting with food safety experts at University of California Cooperative Extension (UCCE).

**Background. Food Safety Modernization Act.** In 2011, President Obama established FSMA to enable the Food and Drug Administration (FDA) to better protect public health by strengthening the food safety system. It allows the FDA to focus on preventing food safety problems before they begin rather than primarily reacting to problems after they occur. Within rules created by FSMA, the Product Safety Rule (PSR), effective January 2016, establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. The first major compliance date for large farms began on January 26, 2018 with routine inspections beginning in spring 2019.

**Product Safety Program (PSP).** CDFA currently has a partnership with the FDA and has received federal funding for PSP. The PSP has provided some educational opportunities for California's agricultural industry, such as presenting at workshops and providing voluntary on-farm readiness reviews. Beginning in 2019, the PSP will focus on produce safety inspections and compliance under the PSR. TAP will employ produce safety experts and will contract with UCCE and other food safety experts for produce safety education to provide farms with the resources and expertise needed to implement food safety practices based on current research findings and industry advancements.

**Small-Scale Farms.** There are more than 25,000 growers in California producing raw agricultural commodities and nearly half of these are small family farms. Large growers often utilize third-party certification audits to ensure their food safety measures are acceptable. However, it may not be plausible for small-scale growers to utilize third-party audits or independently comply with industry safety standards without requisite education and outreach. Similarly, it can be cost-prohibitive to hire a full-time food safety consultant to bridge this technical assistance need. TAP will assist growers by offering the tools necessary for meeting compliance of the PSR in California.

**CDFA's Plan to Implement Product Safety Technical Assistance Program (TAP).** To implement TAP, CDFA requests \$700,000 General Fund in 2019-20 and ongoing and one position. One Senior Environmental Scientist (Supervisory) will have responsibilities to: oversee development and implementation of TAP; implement and oversee educational and outreach activities; oversee UCCE contracted activities; be responsible for all program and budgetary aspects; act as the primary contact and subject matter expert on food safety methodologies for California's agricultural industry; and, work closely with industry association groups to assist farmers in developing food safety plans. Of the \$700,000 request, \$500,000 of this is proposed to be used to contract with UCCE to perform on-farm training and off-site workshops to ensure compliance with the PSR at the local level. Contracting with UCCE and other food safety experts for produce safety education will provide farms with the helpful resources and expertise needed to implement food safety practices based on current research findings and industry advancements.

**Staff Recommendation. Approve as proposed.**

**3930 DEPARTMENT OF PESTICIDE REGULATION (DPR)****8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)****Issue 43: Transitioning to Safer, More Sustainable Pest Management Solutions (Pest Management Research Grants) (MR)**

**Governor's Proposal.** The May Revision proposes the following to assist with the transition to safer, more sustainable pest management solutions:

- \$2.225 million General Fund one-time to DPR to contribute additional resources to the Pest Management Research Grant Program and facilitate a cross-sector work group that will identify, evaluate, and develop safer practical, and more sustainable alternative pest management tools for California growers.
- \$3.5 million General Fund one-time to CDFA to supplement CDFA's Pesticide Alternatives Grant program and to revitalize the Biologically Integrated Farming Systems (BIFS) Program to provide training and demonstration projects for Integrated Pest Management.

DPR and CDFA also request that the funds be available for encumbrance or expenditure until June 30, 2022, in recognition of the long-term nature of research grant projects and to accommodate terms of the Model Contract Language between the state and the University of California.

**Background. Chlorpyrifos.** Chlorpyrifos is a pesticide used to control a variety of insects on more than 60 crops, with major uses in California for nut trees, alfalfa, citrus, cotton, and several other food crops. In 2018, DPR determined that chlorpyrifos was a toxic air contaminant (TAC), which is defined as "an air pollutant that may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health." Chlorpyrifos was listed as a TAC on April 1, 2019. DPR recommended that county agricultural commissioners implement interim mitigation measures that prohibit or otherwise limit certain kinds of applications (aerial and air blast), institute buffer zones of up to a quarter mile, and restrict use to certain crops without acceptable pesticide alternatives. These recommendations were available to the county agricultural commissioners to use as of January 1, 2019 and are expected to further reduce the use of chlorpyrifos in California. DPR will commence a regulatory process to cancel the registration of chlorpyrifos, which would essentially no longer allow the use of this insecticide in the state.

**Transition to Safer Alternatives.** DPR and CDFA are proposing a comprehensive approach to assist in the transition to safer, more sustainable pest management solutions. DPR and CDFA will lead the work of a newly created, cross-sector work group that will identify, evaluate and develop safer, practical, more sustainable alternative pest management tools for California growers. In order to implement the work group's recommendations, DPR and CDFA also propose to fund incentive programs, additional research, and technical assistance to develop practical, safer, more sustainable alternatives to chlorpyrifos. In combination, the working group and funding for the development of alternatives will produce short-term solutions and prioritize the development of long-term solutions to support healthy communities and a thriving agricultural sector.

**Work Group to Develop Safer, Sustainable Pest Management Alternatives.** DPR requests \$125,000 General Fund one-time to convene a cross-sector work group that will identify, evaluate, and develop safer, practical, more sustainable alternatives pest management tools for California growers.

Recognizing the importance of maintaining a strong agricultural industry in California and the critical role pesticides currently play in that industry, there will be a corollary focus on the strategic controlled use of existing tools in the face of increasing restrictions on their use. The work group will develop an action plan by Spring 2020.

The work group will include representatives from California universities, environmental groups, growers and agricultural organizations, including those focused on sustainable agricultural practices, farmworker and field labor organizations, agricultural commissioners, commodity boards, pest control advisers, pest management product manufacturers, and state agencies. Recognizing that previous groups have worked to identify areas for future investment and development, the work group will begin by reviewing previous reports and recommendations to determine what pest management practices can be implemented in the short term. In addition, the work group will consult with experts from across the globe to identify and develop pest management tools and practices in agricultural production focusing primarily on the current use of chlorpyrifos for control of insect pests. The work group will also consider the strategic use of pesticides in the face of increasing use restrictions on chlorpyrifos in California.

The work group will provide practical, short-term solutions to begin the transition to safer, more sustainable pest management solutions. It will also provide direction for a five-year action plan to invest in new products and strategies to manage pests.

***Funding Incentive Programs, Additional Research, and Technical Assistance.*** DPR and CDFA request additional, one-time resources to reflect the state's commitment to supporting the agricultural sector in transitioning to safer, more sustainable pest management solutions. There are several existing programs that can serve to support this transition in the short- and long-term. DPR and CDFA request a total of \$5.6 million General Fund to support three grant programs, as described below, to support the investment and implementation of safer, more sustainable pest management solutions.

- ***DPR Pest Management Research Grants.*** \$2.1 million General Fund one-time for Pest Management Research Grants are intended to foster reduced-risk and sustainable integrated pest management (IPM) strategies that provide for public safety, environmental stewardship, environmental justice, effective pest management, and increased compliance with environmental laws and regulations.
- ***CDFA Development of Pesticide Alternatives Grant.*** CDFA requests \$1.5 million General Fund to support the Inter-Regional Research Project Number 4 (IR 4) and CDFA's Proactive Integrated Pest Management Solutions grants program. IR 4 is a program of the United States Department of Agriculture that supports and accelerates the registration of pest management tools on specialty crops. CDFA currently funds three IR-4 projects per year and one Proactive Integrated Pest Management Solutions grant per year. A one-time investment of \$1.5 million could support the backlog in the IR-4 program and focus on the funding of alternatives to chlorpyrifos that advance safer, more sustainable pest management solutions.
- ***Biologically Integrated Farming Systems (BIFS) Program.*** CDFA requests \$2 million General Fund for the BIFS grants program. This one-time investment would support two three-year projects, with an emphasis on demonstration sites, incentives to growers to participate, technical assistance, reporting, and administrative costs.

**Staff Recommendation. Approve as proposed.**