
Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5

Agenda

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



PART A

Thursday, March 4, 2021
10:00 a.m. or upon adjournment of session
State Capitol - Room 3191

Consultant: Yong Salas and Hans Hemann

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Items Proposed for Vote-Only**0690 OFFICE OF EMERGENCY SERVICES (CAL OES)****Issue 1: Mather: Headquarters Lobby Security Enhancements**

Request. Cal OES requests \$251,000 General Fund for preliminary plans (\$78,000) and working drawings (\$173,000) for security improvements to the Headquarters' lobby.

Background. The project includes security enhancements to the main lobby at the Cal OES Headquarters facility. The current layout consists of an open lobby design with limited security, which allows visitors to access the stairwells that lead to Executive areas, employee point of entry areas, breakrooms, and the State Operations Center (SOC). Cal OES is visited by a number of legislators, dignitaries, and the Governor. During activation, visitation can increase by upwards of 400 visitors daily. Ensuring a secure facility during activations and normal business hours is key to maintaining operations and providing a safe and secure location for staff to conduct business. The facility has also served as a base for the Governor and his staff during various disasters, the most recent being the COVID-19 Pandemic.

The project consists of creating a free-standing security kiosk that is purpose built, Americans with Disabilities Act (ADA) compliant, and can house three security guards. This project will include systems furniture, information technology (IT) components, new counter tops, and storage. Badge access turnstiles will be added to the north and south entry points while being adjacent to the stairwell that provides access to the Executive suite. Planter boxes and other obstruction type barriers will be installed to ensure foot traffic is funneled through these three main points of entry. The project includes construction and installation of all items as well as the demolition and removal of existing furniture.

The estimated total project costs are \$1.2 million including, preliminary plans (\$78,000), working drawings (\$173,000), and construction (\$981,000). The construction amount includes \$758,000 for the construction contract, \$53,000 for contingency, \$71,000 for architectural and engineering services, \$60,000 for agency-retained items, and \$39,000 for other project costs.

Staff Recommendation. Approve as requested.

Issue 2: Mather: State Operations Center Modification

Request. The Governor’s Office of Emergency Services (Cal OES) requests a \$465,000 General Fund for the preliminary plan (\$116,000) and working drawing (\$349,000) phases of the State Operations Center Modification project. This project will redesign and improve the existing State Operations Center in Mather, California, eliminating safety issues with the current facility. The project will also add additional second floor workspace, redesign the State Warning Center to add additional cubicles, and replace the aging technology wall.

Background. The SOC is used to coordinate resource requests, maintain situational awareness, resolve and set priority issues. The SOC is also where federal, state, and local agencies report during a disaster and in support of the National Response Framework. The SOC is currently set up in a war room model (a dedicated location for emergency personnel to co-locate and communicate the activities associated with the execution of the emergency at hand). Staff workspace is aligned in four rows facing the video wall at the front of the room. The rows are tiered and have three sections totaling 54 workstations, including a master control computer workstation for information technology support.

The current SOC structure (built in 2001) does not allow staff working in the same functional section to effectively and efficiently collaborate during disaster response efforts resulting in possible delays in timely responsiveness to life and safety issues. Currently, personnel have to step around each other in the row to talk face-to-face or stand behind one person in order to view one computer screen to work as a section and document section objectives. This design is not functional during an emergency response or disaster activation and causes safety concerns.

Additionally, access within the SOC is very restrictive for individuals with disabilities and mobility limitations which makes effectively participating and contributing in the SOC environment difficult. For example, individuals using a mobility device (wheelchair, scooter, walker, etc.) can only navigate the front floor area and the last row. All of these concerns have been documented in the After Action Reports, which is a process where all responding entities provide lessons learned and document what worked and did not work for future improvements.

Total project costs will be \$12.6 million, of which \$2.7 million will be for swing space.

Staff Recommendation. Approve as requested.

Issue 3: Deferred Maintenance

Request. The Governor's Office of Emergency Services requests \$5 million one-time General Fund for deferred maintenance projects related to critical infrastructure needs.

Background. The Administration requests \$5 million one-time General Fund for the following deferred maintenance projects:

Facility Location	Project Title and Description	Estimated Cost
3650 Schriever Ave, Mather CA 95655	Supplement funding shortage for employee breakroom renovations	\$374,750
3650 Schriever Ave, Mather CA 95655	Upgrade Physical Security Systems: CCTV, Access Control Equipment, CPU hardware, software and door hardware	776,250
3650 Schriever Ave, Mather CA 95655	Curb and Sidewalk Repair - Replace cracked, crumbling, and broken concrete sidewalks and curbed areas.	1,550,000
3650 Schriever Ave, Mather CA 95655	Replace IT Network Fiber Optic Backbone	450,000
3650 Schriever Ave, Mather CA 95655	Replace IT Network Cabling (copper)	1,050,000
CSTI - Camp San Luis Obispo	Repave and restripe parking lot between Kern and Mendocino Avenue (14,000 sq. ft.)	124,000
CSTI - Camp San Luis Obispo	Streambed alterations to prevent further erosion of Howard Hall foundation due to creek overflow	375,000
CSTI - Camp San Luis Obispo	Main Campus: Hardscape, landscape and irrigation replacement	300,000
Total		\$5,000,000

Staff Recommendation. Approve as requested.

Issue 4: Next Generation 9-1-1 Grant Program

Request. The Governor's Office of Emergency Services requests a one-time increase of \$570,000 in State Operations Federal Trust Fund authority to support the continued development of the Next Generation 9-1-1 program.

Background. The NTIA within the U.S. Department of Commerce and the National Highway Traffic Safety Administration (NHTSA) within the U.S. Department of Transportation are responsible for the joint 9-1-1 Implementation and Coordination Office (ICO). As authorized by the Middle-Class Tax Relief and Job Creation Act of 2012 (Act), NTIA and NHTSA nationally awarded \$109.3 million of new funding to states for a grant program to upgrade public safety answering points (PSAPs) to NG 9-1-1 capabilities. California received \$11.4 million in federal grant funding from the NG 9-1-1 Grant. The grant funds are being expended to help 9-1-1 call dispatchers use digital Internet Protocol-based, broadband-enabled technologies to coordinate emergency response.

During the first year of the grant (2019), Cal OES completed the request for proposal process and selected five vendors who began to build out the NG 9-1-1 system. In early 2020, Cal OES began to install NG 9-1-1 equipment at the 438 PSAPs throughout the state and completed the build out of the NG 9-1-1 core services. In fall 2020, Cal OES began to test the NG 9-1-1 system with the proposed go live date in 2021.

During the testing process, Cal OES determined a gap in Cal OES' ability to support the GIS services needed for NG 9-1-1. Cal OES requested and received a budget modification from NTIA and NHTSA to support a temporary 9-1-1 GIS team that support improved 9-1-1 location accuracy and call routing during the 2020-21 fiscal year (FY). In addition, an augmentation to Cal OES' budget was approved through a budget revision in FY 2020-21 to increase budget authority to support five (5) temporary help positions that are necessary to support NG 9-1-1 deployment. This BCP request is to increase the budget authority and allow for the continuation of temporary help positions through FY 2021-22 to ensure the critical GIS activities can be supported.

Cal OES' objective is to support the development and operation of 9-1-1 services. Under the scope of the grant, the temporary help supported by this request would allow the Public Safety Communications staff to continue collaboration with local governments and 9-1-1 call centers to upgrade equipment and operations.

The NG 9-1-1 grant funds will be used to support five temporary help positions that are part of a temporary 9-1-1 GIS team. The 9-1-1 GIS team is responsible for developing, implementing, and continued GIS research to improve 9-1-1 location information and 9-1-1 call routing. The 9-1-1 GIS team performs the tasks needed to support GIS data integration, data analysis, data visualization development, map development, testing and documentation needed to support the NG 9-1-1 system. This includes but is not limited to integrating road center lines, address points, PSAP boundary files and the integration, validation and generation of spatial data needed with particular emphasis on operational requirements utilized for NG 9-1-1. Improving 9-1-1 location and call routing will reduce 9-1-1 response times and has a direct correlation to saving lives. These responsibilities are critical to the successful deployment of NG 9-1-1.

Staff Recommendation. Approve as requested.

Items Proposed for Discussion**7870 CALIFORNIA VICTIM COMPENSATION BOARD (CALVCB)****Issue 5: Ongoing Backfill**

Request. CalVCB requests \$33 million General Fund in 2021-22 and \$39.5 million General Fund thereafter to backfill a decline in revenues in the Restitution Fund.

Background. California funds services to victims of crimes through various programs administered by different entities, including: the Victim Compensation Board (VCB), the Governor's Office of Emergency Services (OES), the Department of Justice (DOJ), and the California Department of Corrections and Rehabilitation (CDCR). The 2018-19 Budget Act required the VCB and OES to work together to develop options and a recommendation for combining the state's victims programs under one organization. A Consolidation Working Group was convened to complete the report and provide recommendations for consolidating the victims' programs. The report was released in October 2018.

OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, OES administered \$486.5 million in grant funds. Likewise, VCB also combines federal and state funding—from fines and restitution orders paid by offenders convicted of traffic infractions, misdemeanors, or felonies—to offer compensation directly to, or on behalf of, victims and survivors who are injured or threatened with injury. Most recently, VCB approved more than 52,000 applications and provided more than \$57 million in compensation for crime-related expenses, including income and support loss, medical and dental care, funeral and burial expenses, and other losses not reimbursable from another source.

Victim compensation has remained separate, in part, due to the significant logistical challenges in consolidating the entities, as well as the need to avoid negative impacts to those who receive funding and services to support victims and their families. However, the coordination of the state's delivery of victim services are necessary to ensure that the limited resources allocated for these programs are done so efficiently.

The Administration indicated its intent to consolidate the victims' programs operated by the CalVCB and Cal OES as part of the 2020-21 Budget. However, the Governor's Budget Summary from January 2020 stated that the Administration still intendeds to pursue this consolidation, but has put the plan on a temporary pause.

Staff Recommendation. Hold open.

0690 OFFICE OF EMERGENCY SERVICES (CAL OES)

Issue 6: Oversight: FEMA Reimbursements
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Background. The federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) is intended to provide an orderly and continuing means of assistance by the federal government to state and local governments to alleviate the suffering and damage which results from disasters. The Stafford Act authorizes the President to issue “major disaster” or “emergency” declarations upon the request of a governor of an affected state. Emergency declarations trigger aid that protects property, public health, and safety and lessens or averts the threat of an incident becoming a catastrophic event. Given their purpose, the emergency declarations may precede an event. A major disaster declaration is generally issued after catastrophes occur, and constitutes broader authority for federal agencies to provide supplemental assistance to help state and local governments, families and individuals, and certain nonprofit organizations recover from the incident.

The assistance for individuals and households is called Individual Assistance (IA). But the bulk of FEMA’s grants are for Public Assistance (PA), which reimburses state and local governments when disaster costs are too much for them to absorb. These programs are activated when the President signs a Major Disaster Declaration and orders either or both IA and PA to commence.

PA grants primarily reimburse state, county and local governments or any other political subdivision of the state including Native American tribes. Also eligible for grants are private nonprofit organizations, including houses of worship, which provide essential services to the general public. The funds are directed to the state (the recipient), which then reimburses “sub-recipients,” the state agencies, local governments and eligible private-non-profits. FEMA will reimburse at least 75 percent of the eligible costs with a local match of 25 percent.

Disaster-related costs include repairs to damaged infrastructure, public services and facilities.

The Role of Cal OES. Cal OES acts as the grantee for FEMA’s Public Assistance program, and serves as the official contact between subrecipients/applicants and FEMA. For COVID-19 declarations, FEMA developed a streamlined application that applicants fill out through FEMA’s grants portal, which is housed with Cal OES. Cal OES has the responsibility to educate subrecipients/applicants on the Public Assistance program and other available assistance, in addition to providing technical support and assistance. The state also has the responsibility to collect cost data and prepare cost estimates. The state does not have a role in approving requests for FEMA reimbursement; that responsibility lies with FEMA.

COVID-19 Major Disaster Declaration. On March 22, 2020, Governor Newsom’s request for a presidential major disaster declaration was approved for California’s COVID-19 response. However, on January 21, 2021, the Biden Administration directed FEMA to provide assistance at a 100 percent federal cost share until September 30, 2021, and would cover costs dating back to January 2020. Governor Newsom issued a press release on February 5, 2021 regarding the President’s announcement and stated that:

“ Programs eligible for full reimbursement under this new policy include: sheltering to protect unhoused Californians, including Project Roomkey; the purchase of personal protective equipment; Great Plates Delivered, which provides meals to seniors; National Guard deployments to support vaccination efforts and food banks; the California Healthcare Workers Program, which provides hotel rooms to doctors, nurses and other critical front-line health care workers for free or at a discount; Housing for the Harvest, which provides safe, temporary isolation spaces for agricultural and farmworkers who test positive or were exposed to the virus; and Project Hope, which provides hotel accommodations to people released from state prison who have a need to quarantine or isolate due to COVID-19 exposure or positive status.”

Questions for the subcommittee to consider:

- Does the Administration know whether a portion or all of the costs incurred for programs like Project Roomkey, PPE procurement, Great Plates Delivered, etc., will be reimbursed given the President’s recent announcement?
- Can Cal OES describe the process and average length of time that a recipient receives its reimbursements from the time those costs are incurred?
- What type of technical assistance does Cal OES provide to applicants/subrecipients for the FEMA reimbursement process?

Staff Recommendation. This is an oversight item.

OVERVIEW OF COVID-19 PANDEMIC SPENDING

Issue 7: California's COVID-19 Pandemic Direct Response Expenditures

On March 4, 2020, Governor Newsom declared a state of emergency in response to the COVID-19 Pandemic triggering a disaster response effort unlike any other in California's history. Declaring the state of emergency paved the way for the expenditure of an unprecedented amount of disaster-related funding by federal, state and local governments. Because of the ever-changing nature of the pandemic and the sheer scope of the state's response, the Administration has responded by allocating billions of dollars in funding in an expedited manner using budget authority provided under the state's disaster response laws. Under the current state of emergency, the Administration has broad authority and flexibility to direct resources to programs it determines are needed. As a result, an extraordinary amount of state and federal funds have been allocated to new and quickly developed programs or augmented to existing programs that have seen increased levels of utilization.

As the Administration has allocated resources to response efforts during the pandemic, the Department of Finance (DOF) has continued to provide the Legislature with periodic estimates of projected spending for the state's direct response activities based on the "best available information" at the time. However, the estimates have often changed dramatically from one update to another with few details about how the funds would be spent.

When the 2020-21 Budget Act was approved by the Legislature, DOF estimated and the budget assumed that direct state response expenditures for fiscal years 2019-20 and 2020-21, combined, would total \$8.6 billion. Since the adoption of the current year budget, DOF has revised its estimate of direct response spending to approximately \$11.2 billion for the two fiscal years.

In addition, the Administration projects needing a least another \$1.8 billion in General Fund resources for fiscal year 2021-2022, bringing the total estimate of COVID-19 direct response costs to nearly \$13 billion for the three fiscal years. However, based on the varying estimates from last year, it is likely that the estimate will change significantly as the state continues to support additional response activities.

CHART 1 titled *COVID-19 Direct Response Cost Estimate* (below) shows the difference between DOF's estimate of \$8.6 billion that was assumed in the 2020 Budget Act for fiscal years 2019-20 and 2020-21, and the updated estimate of \$13 billion for fiscal years 2019-20, 2020-21 and 2021-22 combined. The estimate, which includes the addition of \$1.8 billion General Fund for direct state spending in 2021-22, is \$4.4 billion higher than the spending estimate in the budget approved by the Legislature last June.

CHART 1**COVID-19 Direct Response Cost Estimate:
Total Expenditures Comparison**

Cost Category	2020 Budget Act Estimate	2021 Governor's Budget Estimate	Difference
State Response Operations	\$589,128,000	\$2,529,273,000	\$1,940,145,000
State Hospitals	\$0	\$82,698,000	\$82,698,000
Testing	\$0	\$37,102,000	\$37,102,000
Surge Capacity (Norwalk)	\$0	\$2,568,000	\$2,568,000
Other Staffing and Operational Costs	\$0	\$43,028,000	\$43,028,000
National Guard	\$0	\$32,848,000	\$32,848,000
Corrections and Rehabilitations	\$17,300,000	\$1,418,988,000	\$1,401,688,000
Community Supervision	\$2,971,000	\$45,340,000	\$42,369,000
Temporary Suspension of Prison Intake	\$14,329,000	\$240,895,000	\$226,566,000
Reentry Housing	\$0	\$15,000,000	\$15,000,000
Project Hope	\$0	\$1,929,000	\$1,929,000
Personal Protective Equipment	\$0	\$89,296,000	\$89,296,000
Medical Surge/Tents	\$0	\$240,741,000	\$240,741,000
Testing (Employee)	\$0	\$378,926,000	\$378,926,000
Testing (Inmate)	\$0	\$175,533,000	\$175,533,000
Cleaning	\$0	\$29,180,000	\$29,180,000
Other Staffing and Operational Costs	\$0	\$202,148,000	\$202,148,000
Other State Agency Response Operations Costs	\$571,828,000	\$994,739,000	\$422,911,000
Procurements	\$4,363,764,000	\$3,366,496,000	-\$997,268,000
OES Masks Contract (Global Healthcare Product Solutions, LLC)	\$1,567,500,000	\$920,600,000	-\$646,900,000
DGS and Other Procurements	\$2,796,264,000	\$2,445,896,000	-\$350,368,000
Hospital and Medical Surge (to support 5,000 beds)	\$1,325,023,000	\$1,091,631,000	-\$233,392,000
Staffing Costs	\$854,523,000	\$768,421,000	-\$86,102,000
Facilities and Operating Costs	\$470,500,000	\$323,210,000	-\$147,290,000
Hotels for Health Care Workers/Support Staff	\$507,650,000	\$368,957,000	-\$138,693,000
Housing for the Harvest	\$0	\$9,623,000	\$9,623,000
Vulnerable Populations and Other Support Services	\$638,602,000	\$1,888,547,000	\$1,249,945,000
Project Roomkey	\$100,000,000	\$162,000,000	\$62,000,000
Food Banks	\$70,000,000	\$165,500,000	\$95,500,000
Support for Small Businesses	\$50,000,000	\$562,500,000	\$512,500,000
Great Plates Delivered	\$25,000,000	\$25,000,000	\$0
Other Program Allocations	\$393,602,000	\$973,547,000	\$579,945,000
Statewide Testing	\$527,000,000	\$2,544,045,000	\$2,017,045,000
PerkinElmer	\$0	\$1,365,363,000	\$1,365,363,000
Logistics Health, Inc. (Optum)	\$0	\$726,000,000	\$726,000,000
FedEx Specimen Transportation	\$0	\$19,989,000	\$19,989,000
Other Statewide Testing	\$527,000,000	\$432,693,000	-\$94,307,000
Contact Tracing and Tracking	\$173,750,000	\$646,339,000	\$472,589,000
Vaccine Task Force	\$0	\$372,400,000	\$372,400,000
Other Response Costs	\$470,122,000	\$0	-\$470,122,000
Community Engagement	\$0	\$162,500,000	\$162,500,000
Totals	\$8,595,039,000	\$12,979,811,000	\$4,384,772,000

Prepared by the Department of Finance

The unpredictable nature of the pandemic has driven the dramatic changes in the cost estimates. For example, the original estimates developed by DOF only included \$17 million for COVID-19-related expenditures for the California Department of Corrections and Rehabilitation (CDCR), primarily to reimburse counties for housing inmates while prison intake was suspended. In the latest fiscal update provided this January, DOF estimates the state will spend over \$1.4 billion for CDCR's COVID-19 response activities. Additionally, the original estimate included \$527 million for testing. Now, the Administration estimates a total of more than \$2.5 billion will be needed to support statewide testing activities, resulting in over a \$2 billion increase. This estimate does not

include the increased estimate of expenditures for testing being conducted by CDCR or the Department of State Hospitals.

Alternatively, a number of programs that received a lot of attention at the beginning of the pandemic never fully materialized. As such, DOF has reduced its estimate for statewide procurement including PPE by nearly \$1 billion, hotels for health care workers by \$138 million and hospital surge capacity by \$233 million.

Based on history and the fluidity of DOF's estimates, it is fair to assume that the projections will fluctuate and continue to be revised through the remainder of this fiscal year and into the following fiscal year.

It must be noted that while the current estimate of total direct COVID-19 emergency response costs are approximately \$13 billion, DOF estimates a net General Fund impact of approximately \$2.5 billion. The Administration anticipates that a majority of the General Fund expenditures will be offset by federal funds and other available reimbursements, including reimbursements for eligible costs from the Federal Emergency Management Agency (FEMA). Historically, FEMA has reimbursed states up to 75% for disaster related expenditures but the federal government recently announced FEMA would reimburse states for 100% of "eligible" COVID-19-related expenditures dating back to January 20, 2020. (See discussion above.)

Issue 8: Budget Spending Authority

The budget spending authority in California's existing disaster response-related statute gives the Administration considerable flexibility in allocating funds during a declared state of emergency. The Administration, which has utilized a number of budget spending authorities for the state's COVID-19-related costs in 2019-20, 2020-21 is requesting the extension and expansion of spending authority for fiscal year 2021-22 (see Items for Discussion below).

Below are details about the various spending authorities that the Administration has utilized to respond to the COVID-19 pandemic.

Disaster Response-Emergency Operations Account (DREOA). DREOA, established in Government Code section 8690.6, provides the Director of Finance with the authority to make disaster-response allocations to state agencies and departments for immediate and necessary activities after a proclamation of emergency by the Governor. The Director is authorized to transfer money from the Special Fund for Economic Uncertainties (SFEU) to DREOA to pay for expenditures for disaster response operations costs. Funds in DREOA are continuously appropriated for disaster response and recovery operations that occur within 120 days and the Governor can extend the authority in 120-day increments through the notification of the Joint Legislative Budget Committee (JLBC). Generally, the spending authority only extends for the duration of the fiscal year in which the first extension occurred. As a result, the Administration

cannot use DREOA in 2021-22 for COVID-19-related expenditures. The Governor's proposed budget includes a new budget control section that would extend DREOA for another year.

To date, the Administration has notified the JLBC of five DREOA transfers totaling \$7.1435 billion:

DREOA Notification Date	Amount of Transfer
March 25, 2020	\$1.3 billion
May 21, 2020	\$1.831 billion
November 6, 2020	\$1.5 billion
December 17, 2020	\$.5125 billion
February 24, 2021	\$2 billion
Total	\$7.1435 billion

In addition, under the Emergency Services Act, established in Government Code section 8645, the Governor can transfer any fund legally available into DREOA in order to deal with the state of emergency. Until a few years ago, DREOA was rarely used and had a limited amount of funding because the Administration generally used existing program funding and authority to pay for disaster response. Prior to 2016-17, very little, if any funds were transferred to DREOA.

In 2019, recognizing that large wildfires response activities, like debris removal, tend to take longer than 120 days to complete, DREOA was amended to give the Administration the authority to extend and allocate disaster-related funding in 120-day increments for the duration of the fiscal year in which the first extension occurred. DREOA authority lasts for 120 days, but can be extended. The most recent extension occurred on February 24, 2021.

Until the COVID-19 pandemic, DREOA was generally only used for extraordinary emergency responses for events like wildfires, earthquakes, flooding, and other natural disasters. They were short-term, regional emergencies (generally natural disasters) and DREOA helped provide financial assistance for emergency work and the repair, restoration or replacement of public real property damaged or destroyed during a disaster. This is a funding source that provides the state an opportunity for a more expeditious response to and recovery from disasters.

It should be highlighted that there are very limited reporting requirements associated with the use of DREOA. DREOA only requires the Director of Finance to notify the Legislature after the

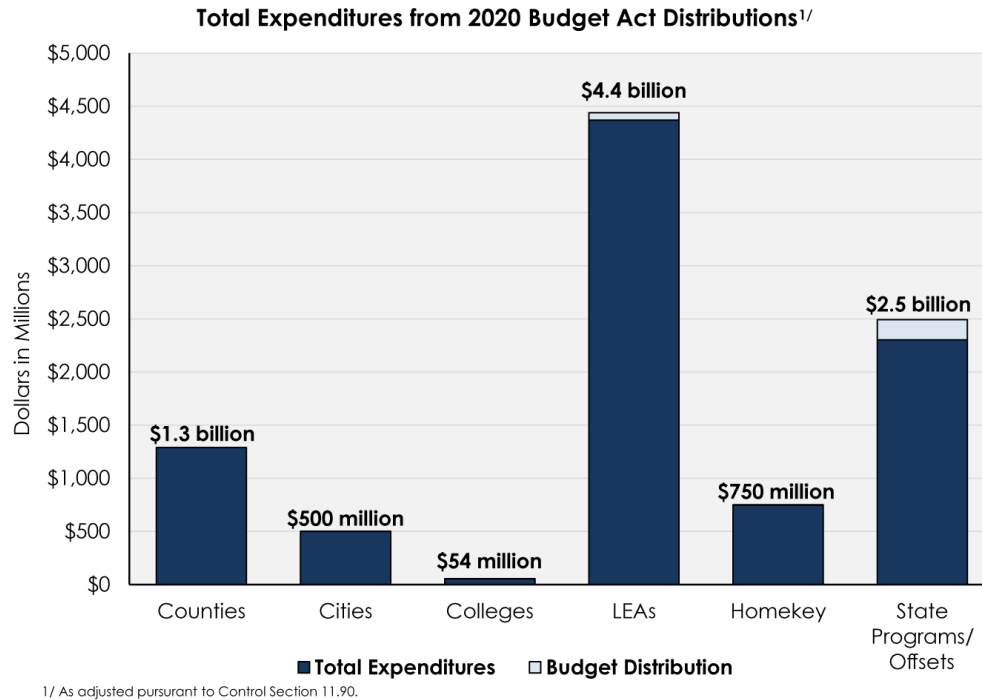
transfer of funds are made from the Special Fund for Economic Uncertainties to DREOA, but not the actual allocation or expenditure of funds. While the Administration has been granted significant latitude regarding expenditures for natural disasters, the response to the COVID-19 pandemic is decidedly different in terms of duration and scope. During the COVID-19 crisis the information provided to the Legislature about what programs and activities were being funded, the cost, and what contracts were anticipated and executed has been inconsistent.

California Emergency Services Act. The California Emergency Services Act (CESA) provides broad spending authority to the Administration during a declared emergency. The Act, which was enacted in 1970, gives the Governor the power to spend money “from any fund legally available” in response to an emergency and does not include any requirements to consult with or notify the Legislature when funds are redirected to emergency response activities. Under the authority granted by CESA, the Governor may redirect state resources in order to respond to the state of emergency without regard to statutory law. According to the LAO, the key authorities granted under CESA include: (1) spending legally available funds beyond the level of funding provided specifically for emergencies, (2) redirecting funding provided to departments for other purposes to a department’s emergency response, and (3) redirecting funding provided for CESA purposes.

Control Section 36. SB 89, which passed the Legislature on March 17, 2020 with bipartisan support, added Control Section 36.00 to the 2019-20 Budget Act to address the Governor’s March 4, 2020 COVID-19 Proclamation of Emergency. It included an appropriation of \$1 billion in General Fund to be utilized, upon the order of the Director of Finance and a 72-hour written notification to the (JLBC, for any purpose related to the state of emergency. The funds were available until June 30, 2020 – the end of the 2019-20 fiscal year. In total, the Director made a total of \$827 million in COVID-19-related augmentations. Control Section 36 was not included in the 2020-21 Budget Act. The Administration intends to offset approximately \$423 million with federal Coronavirus Relief Funds as appropriated through Control Section 11.90 (see below).

Special Fund for Economic Uncertainties (SFEU) Set Aside . The 2020-21 Budget Act included contingency funding for COVID-19-related costs. Specifically, \$2.9 billion was allocated to a discretionary reserve balance in the SFEU. Of that amount, \$716 million was specifically set aside for COVID-19-related response expenditures and represents the state’s 25 percent share of cost of the total \$2.9 billion in estimated contingency funds needed by the Administration, with the remaining amount assumed to come from federal reimbursements. (This SFEU set aside was established as an alternative to providing the total \$2.9 billion in estimated additional costs through the Control Section 36 process.) The Administration is accessing these funds through the DREOA process.

Control Section 11.90. Control Section 11.90 was added to the 2020-21 Budget Act and allocated \$9.5 billion in funds from the federal Coronavirus Relief Funds (CRF), which was part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. These funds were allocated as follows:



Of the \$9.5 billion that California received, \$2.5 billion was allocated to offset direct state costs that were incurred between March 1, 2020 and December 31, 2020 for specified uses and cover costs that were necessary expenditures incurred due to the public health emergency or were not accounted for in the state's adopted budget. In December 2020, Congress approved a one-year extension, allowing the state to offset direct state costs for COVID-19-related expenditure made before December 31, 2021. To date, the Administration has identified more than \$2 billion in General Fund offsets. Approximately, \$1.1 billion will offset expenditures made through DREOA and as noted above, approximately \$423 million will offset the costs associated with augmentations made through Control Section 36 in the 2019-20 Budget Act.

Control Section 11.95. Control Section 11.95 was added to the Budget Act of 2020-21 to give DOF the authority to allocate federal funding for testing and contact tracing. The federal Paycheck Protection Program and Health Care Enhancement Act provided the state with a total of \$499 million for these purposes. In July 2020, as required in Control Section 11.95, DOF provided the JLBC a 10-day notification that it was allocating \$286 million to local public health departments to assist with diagnostic and surveillance testing capacity, support individuals that need to isolate and quarantine, and aid local public health contact tracing efforts. \$176 million was augmented to the Department of Public Health's budget to work in concert with the local public health departments and \$37 million was allocated to a contract with Heluna Health for contact tracing services.

Control Section 11.95 was amended last week by AB 85 to allow the DOF to allocate approximately \$889 million from the federal Coronavirus Response and Relief Supplemental

Appropriations Act for testing, contact tracing, food assistance, and vaccine distribution. It requires DOF to provide the JLBC with a 10-day notification prior to making any allocation or adjustment.

Funds allocated under this Control Section can be used to offset General Fund expenditures made for testing and contact tracing.

Control Section 28. Control Section 28, has historically been included in the annual state budget and gives the Administration the ability to spend unanticipated federal funds received after enactment of the state budget. It requires DOF to notify the JLBC 30-days prior to making the augmentation but that review period can be shorted upon a request from the Director of Finance and the approval of the JLBC Chair. Control Section 28, which is not limited to emergency or COVID-19-related response activities, is probably the most utilized of all of the control sections that the Administration has at its disposal. The Administration has utilized Control Section 28 numerous times, as federal COVID-19-related funds have been awarded to the state by the federal government. Most recently, the Department of Public Health's budget was augmented by \$1.2 billion for a portion of unanticipated federal Epidemiology and Laboratory Capacity funds from the Centers for Disease Control and Prevention. CDPH distributed the money to local public health departments to support testing, contact tracing, vaccination, surveillance, containment and mitigation. The Chair of the JLBC waived the 30-day notification period.

PROPOSED BUDGET CONTROL SECTIONS

Overview. The Governor's 2021-22 Budget proposes a total of \$1.8 billion in General Fund spending for COVID-19-related expenditures. Of that, approximately \$1.4 billion in General Fund support is spread across multiple departments. Below is a summary chart of the proposed expenditures for each department. The appropriate Senate Budget Subcommittees will be hearing the specific details of each of the proposed expenditures.

COVID-19 Direct Response Cost Estimate: 2021-22 Appropriations Proposed in Department Budgets

Department	Proposed Appropriation
Office of Emergency Services	\$119,753,000
Department of Public Health	\$820,549,000
Department of Developmental Services	\$36,746,000
Department of State Hospital	\$51,982,000
Department of Social Services	\$5,000,000
Department of Corrections and Rehabilitation	\$281,279,000
Board of State and Community Corrections	\$12,106,000
Department of General Services	\$84,419,000
Department of Veteran Affairs	\$5,295,000
Total	\$1,417,129,000

The specified allocations for each department or entity are as follows:

- *Department of Public Health (DPH)* – DPH requests General Fund expenditure authority of \$820.5 million in 2021-22 for statewide testing efforts at the Valencia Branch testing laboratory, testing specimen collection through OptumServe, and other miscellaneous services and procurements related to testing.
- *Department of General Services (DGS)* – DGS requests General Fund expenditure authority of \$84.4 million in 2021-22 for three key pandemic-related programs: 1) Hotels for Healthcare Workers, which provides hotel rooms to healthcare workers providing critical care to COVID-19 patients to help them avoid bringing the virus home; 2) Housing for the Harvest, which provides hotel rooms for agricultural workers to isolate safely if they are exposed to, or test positive for COVID-19; and 3) Project Hope, which provides hotel rooms to individuals released from prison that need to quarantine safely. This request

also includes DGS' contract with FedEx for testing specimen transportation costs, which would be shifted to the DPH budget.

- *Department of Corrections and Rehabilitation (CDCR)* – Funding for CDCR (\$108.6 million) will primarily be used for tent and equipment rental contracts, custody overtime, cleaning, and purchasing of PPE. California Correctional Health Care Services' funding (\$172.7 million) is mainly for inmate and staff testing, medical staffing registry and overtime, medical treatment, and purchasing PPE.
- *Department of Veterans Affairs* – The Department of Veterans Affairs requests General Fund expenditure authority of \$5.3 million in 2021-22 to continue efforts to mitigate impacts of the pandemic in veterans' homes. These resources would support enhanced cleaning protocols, testing of staff and residents, procurement of PPE and cleaning products, and procurement of thermometers and medical devices.
- *Department of Social Services (DSS)* – DSS requests General Fund expenditure authority of \$5 million in 2021-22 for its Rapid Response Program to support entities that provide assistance and services to immigrants during emergent situations when federal funding is not available.
- *Department of State Hospitals (DSH)* – DSH requests General Fund expenditure authority of \$52 million in 2021-22 to support staff costs for cleaning, staffing coverage, environmental projects, custody tasks, screening and isolation. The request also covers commodity purchases, such as PPE, sanitation supplies, changes in food service, as well as equipment for heating and air, filtration, and information technology solutions. In addition, though most testing costs would be shifting to DPH, DSH expects some costs from a contractor hired to work onsite to collect, process, and report staff testing results.
- *Board of State and Community Corrections (BSCC)* – BSCC requests General Fund expenditure authority of \$12.1 million in 2021-22 to support county probation departments with increased number of individuals released from state prison on Post-Release Community Supervision to reduce institutional populations in response to the pandemic.
- *Department of Developmental Services (DDS)* – DDS requests General Fund expenditure authority of \$36.7 million in 2021-22 for development of surge sites to serve consumers diagnosed with, exposed to, or at high risk of COVID-19. The funding would support an average of 25 beds each at Fairview and Porterville Developmental Centers for six months.
- *Governor's Office of Emergency Services (CalOES)* – CalOES requests General Fund expenditure authority of \$119.7 million in 2021-22 to reimburse local governments for eligible costs associated with emergency activities undertaken in response to the COVID-19 pandemic.

The Governor's Budget proposes adding Control Section 11.91 to give DOF the authority to transfer the proposed \$1.4 billion in expenditures from one department to another department as response efforts and activities change.

The Administration is also proposing \$406 million in General Fund support for direct state response. The Administration has estimated that it needs an additional and flexible source of General Fund for statewide hospital and medical surge, contact tracing, and other emergency operations costs. The proposal includes an estimate of approximately \$84.5 million for statewide hospital and medical surge preparation, \$143.8 million for contact tracing, and \$177.5 million for emergency operations costs for which specific allocation to individual departments will follow once the Administration has determined what response efforts need funding.

The Administration argues that it needs the flexible source of funding for costs that are difficult to predict at this time. The funds would be allocated under a new Budget Control Section 11.92 that would continue to be administered through a mechanism that is consistent with the Disaster Response-Emergency Operations Account (DREOA).

Issue 9: Budget Control Section 11.91

Background. As discussed above, the Governor's Budget proposes \$1.8 billion in General Fund expenditures for estimated COVID-19-related expenditures. Of that amount, approximately \$1.4 billion is proposed for COVID-19-specific items within nine specific department budgets. These departments include the Office of Emergency Services, the Department of Public Health, the Department of Developmental Services, the Department of State Hospitals, the Department of Social Services, the Department of Corrections and Rehabilitation, the Board of State and Community Corrections, the Department of General Services, and the Department of Veterans Affairs. (The specific augmentations are being heard in the Senate Budget Subcommittees with jurisdiction over the various departments.) The remaining \$406 million is an estimated amount for unanticipated COVID-19-related expenditures including statewide hospital and medical surge, contact tracing, and other emergency operations costs.

The Administration maintains "there is difficulty determining precise allocations given the uncertainty surrounding those programmatic and fiscal needs" which necessitates the need for a flexible funding source. The Governor's proposed budget includes new Control Section language that reflects the Administration's desire for a flexible funding source.

Governor's Budget Proposal. The Governor's Budget proposes adding Control Section 11.91 which would give the DOF the authority to transfer the proposed \$1.4 billion in COVID-19 specific General Fund expenditures from one department to another department as response efforts and priorities change. Control Section 11.91 will allow the DOF to transfer any portion of \$1.4 billion between any of the 12 departments.

In addition, Control Section 11.91 would allow the DOF to increase the spending authority of any of the 12 departments or create new items of appropriation to allocate these funds to any other department outside of the 12 to account for any unanticipated federal funds received, estimates of funds that will be received from the federal government or private sources if DOF determines all of the following:

The funds will:

- 1) Support the state's response to the COVID-19 public health emergency.
- 2) The expenditure is consistent with state law.
- 3) The funds will only be used for COVID-19-related response and recovery.
- 4) The state is not required to expend any other state funds.

Potential Questions for the Subcommittee to Consider:

- What is the problem with using the existing budget control sections to allocate or reallocate General Fund money?
- How does the Administration plan to notify the Legislature when it makes changes in expenditures?
- Budget Control Section 28 currently provides DOF with the authority to approve increased spending authority to any department that receives unanticipated federal funding after providing the Joint Legislative Budget Committee (JLBC) with a 30-day notification which can be waived to expedite the process. Why is the Administration seeking this broader authority without providing any Legislative notification?
- Why is the Administration seeking to expand DOF's authority to increase spending authority for funds it estimates will be received federal government or private sources?

Staff Recommendation. Hold open.

Issue 10: Budget Control Section 11.92

Background. As described above, DREOA gives the DOF the authority to make disaster-response allocations to state agencies and departments for immediate and necessary activities that occur within 120 days after a proclamation of emergency by the Governor and can be extended in 120-day increments through notification of the JLBC. However, the spending authority generally only extends for the duration of the fiscal year in which the first extension occurred. As a result, the Administration is seeking to extend the spending authority authorized by DREOA for an additional year for COVID-19-related activities.

Governor's Proposal. The Governor's proposed budget adds Control Section 11.92 which would authorize the Administration the use of DREOA for expenditures to respond to the March 4, 2020 proclamation of a state of emergency for COVID-19 for the 2021-22 fiscal year. Control Section 11.92 would allow the Director of Finance to allocate at least \$406 million for unanticipated COVID-19-related expenditures including statewide hospital and medical surge, contact tracing, and other emergency operations costs. In addition, the new control section would allow the Administration to transfer any additional funding it deems necessary for COVID-19-related response efforts from the SFEU to DREOA or using the broader authority under CESA.

Potential Questions for the Subcommittee to Consider:

- Did the Administration consider using Control Section 36 instead of proposing Control Section 11.92 to appropriate the \$406 million and/or any additional COVID-19 response funding?
- How does the Administration plan to notify the Legislature of future COVID-19-related expenditures made through Control Section 11.92?

Staff Recommendation. Hold open.