



Senate Budget and Fiscal Review

Subcommittee No. 5 2014 Agendas

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California State Senate

SENATE BUDGET & FISCAL REVIEW

SUBCOMMITTEE No. 1

Agenda

March 8, 2004

Upon Adjournment of Session – Room 113

EDUCATION
JACK SCOTT, CHAIR
BOB MARGETT
JOHN VASCONCELLOS

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SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, March 6, 2014
9:30 a.m. or Upon Adjournment of Session
State Capitol - Room 113

Consultant: Julie Salley-Gray

Informational Items

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5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and included the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Juvenile: Operations and Offender Programs, Academic and Vocational Education, Health Care Services
- Adult Corrections and Rehabilitation Operations: Security, Inmate Support, Contracted Facilities, Institution Administration
- Parole Operations: Adult Supervision, Adult Community-Based Programs, Administration
- Board of Parole Hearings: Adult Hearings, Administration
- Adult: Education, Vocation, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2013 Budget Act projected an adult inmate average daily population of 128,885 in the current year. The current year adult inmate population is projected to exceed Budget Act projections by 6,101 inmates, a 4.7 percent increase, for a total population of 134,986. The budget year adult inmate population is projected to be 137,788, a 6.9 percent increase of 8,903 inmates over the revised current year. Current projections also reflect an increase in the parolee population of 3,439 in the current year compared to Budget Act projections, for a total average daily population of 45,934. The parolee population is projected to be 36,652 in 2014-15, a decrease of 5,843.

The Governor's Budget proposes \$9.8 billion (\$9.5 billion General Fund and \$320 million other funds) and 60,598.7 positions for CDCR in 2014-15. The following table shows CDCR's total operational expenditures and positions for 2012-13 through 2014-15.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$8,534,272	\$9,263,117	\$9,494,977
General Fund, Prop 98	16,824	17,910	17,698
Other Funds	53,534	62,690	63,053
Reimbursements	138,275	179,647	185,043
Recidivism Reduction Fund	-	-81,109	72,811
SCC Performance Incentive Fund	-615	-1,000	-1,001
Total	\$8,742,290	\$9,441,255	\$9,932,581
Positions	50,728.7	60,790.1	60,598.7

INFORMATIONAL ITEMS

Issue 1: Female Offender Status Report

Panel 1 – Overview

Jay Virbel, Associate Director, Female Offender Program (10 minutes)

Robert Barton, California’s Inspector General (10 minutes)

Panel 2 – Perspectives

Mianta McKnight, Female Offenders Treatment and Employment Program, Treasure Island (10 - 15 minutes)

Vitka Eisen, Chief Executive Officer, Health Right 360 (10 - 15 minutes)

Cynthia Chandler, Attorney, Justice Now (10 - 15 minutes)

Panel 3 – Challenges, Successes, and Options

Wendy S. Still, Chief Adult Probation Officer, Adult Probation Department, City and County of San Francisco (15 minutes)

Public Comment

Female Offender Population. On February 19, 2014, CDCR’s female population was 6,153. The Governor’s Budget projects that CDCR’s female population will be 6,179 by June 30, 2014, and will increase to 6,383 by June 30, 2015.

CDCR currently houses female offenders at three institutions; California Institute for Women in Corona, Central California Women’s Facility in Chowchilla, and Folsom Women’s Facility at Folsom State Prison near Sacramento. The following is the population in each facility as of February 19, 2014.

Prison	Population	Capacity	Percent of Capacity
California Institute for Women	2,092	1,398	149.6%
Central California Women’s Facility	3,645	2,004	181.9%
Folsom Women’s Facility	357	403	88.6%
Total	6,094	3,805	160.2%

Local Jail Population. According to the BSCC's County Jail Populations Profile, 2nd Quarter Reporting for 2013 (April - June), there were 10,593 female offenders in county jails, 6,002 of which were not yet sentenced.

Parole and Probation Population. In addition to the approximately 17,000 women incarcerated in California, there will be an estimated 6,300 in post-release supervision, 2,800 of those women will be supervised under the state parole system and up to 3,500 will be in Post Release Community Supervision (PRCS) overseen by county probation departments.

Juvenile Offenders. In addition to the adult female offenders, as of December 31, 2013, there were 19 female juvenile offenders incarcerated at the Ventura Youth Correctional Facility in Camarillo. The average length of stay for young women in this facility is 32.5 months. Finally, there are approximately 1,000 girls currently under the care and supervision of county probation departments.

Recidivism. Women are considerably less likely than men to return to prison after they are released. A 2011 study from CDCR found that women have a 55 percent chance of returning to prison. On the other hand, 66 percent of men return to prison within three years of their release. This constitutes an 11 percent difference. First time offenders have a lower recidivism rate than repeat offenders. 47 percent of women return to prison after serving their first sentence while 58 percent of men return. Further, inmates designated as serious or violent offenders recidivate at a lower rate than those who are not. Finally, inmates participating in mental health programs return at a rate that is 6 percent to 11 percent higher than other inmates.

National Statistics on Female Offenders. A 2012 report from the Sentencing Project in Washington, D.C. provides the following information on incarcerated women in the United States:

- Between 1980 and 2010, the number of incarcerated women increased 646 percent, from 15,118 to 112,797. When local jails are included, the number rises to over 205,000 women.
- During that period, the number of women in prison increased at nearly 1.5 times the rate of men (646 percent versus 419 percent).
- Counting probation and parole, in 2010 more than 1 million women were under the supervision of the criminal justice system.
- In 2010, African American women were incarcerated at nearly 3 times the rate of white women and Hispanic women were incarcerated at 1.6 times the rate of white women.

- However, between 2000 and 2010, the rate of incarceration decreased 35 percent for African American women and increased 28 percent for Hispanic women and 38 percent for white women.
- Women are more likely to be in prison for drug and property offenses, while men are more likely to be in prison for violent offenses.
- Women in prison are more likely than men to be victims of sexual misconduct. More than three-quarters of all reported staff sexual misconduct involves women who were victimized by male correctional staff.
- Nearly three-quarters of women in state prison in 2004 had symptoms of a current mental health problem, compared to 55 percent of men.
- 62 percent of women in state prisons have minor children.
- 64 percent of mothers in prison lived with their children before they were sent to prison.
- 1 in 25 women in state prisons and 1 in 33 women in federal prisons are pregnant when admitted to prison.
- The majority of children born to incarcerated mothers are immediately separated from their mothers.

Female Offender Programs and Services/Female Offender Master Plan. In July 2005, the California correctional system reorganized to address directly the rehabilitative and re-entry needs of all inmates and parolees. As part of this reorganization, CDCR established the Female Offender Programs and Services (FOPS) office, to manage and provide oversight of adult female programs, including prisons, conservation camps, and community programs. FOPS developed a gender-responsive, culturally sensitive approach to program and policy development to improve recidivism outcomes for the adult incarcerated and paroled female offenders under the supervision of CDCR.

In addition, CDCR established a Gender-Responsive Strategies Commission (GRSC) to assist in the development of a master plan for female offenders. This advisory commission was comprised of representatives of the various disciplines within CDCR, community partners, nationally recognized experts on female offenders, previously incarcerated individuals, family members of women offenders and other external stakeholders, including labor, the California Commission on the Status of Women, the Little Hoover Commission (LHC) and legislative representatives. Several subcommittees provide input to CDCR on institutional operational practice and policy, treatment programs, community re-entry, medical and mental health, and parole.

Collaboratively, FOPS and GRSC developed a master plan, a gender-responsive, culturally sensitive approach to program and policy development to improve recidivism outcomes for the adult incarcerated and paroled female offenders under the supervision of CDCR. The plan provides a blueprint for CDCR to incorporate national standards in operational practice, program development, medical and mental health care, substance abuse treatment, family reunification, and community reentry.

Gender Responsive Planning. Gender-responsive means creating an environment through site selection, staff selection, program development, content, and material that reflects an understanding of the realities of women’s lives and addresses the issues of the participants. Gender-responsive approaches are multidimensional and are based on theoretical perspectives that acknowledge women’s pathways into the criminal justice system. These approaches address social (e.g., poverty, race, class and gender inequality) and cultural factors, as well as therapeutic interventions. These interventions address issues such as abuse, violence, family relationships, substance abuse and co-occurring disorders. They provide a strength-based approach to treatment and skill building. The emphasis is on self-efficacy.

Six guiding principles frame the Gender Responsiveness Approach adopted by CDCR:

Gender	Acknowledge that gender makes a difference.
Environment	Create an environment based on safety, respect, and dignity.
Relationships	Develop policies, practices, and programs that are relational and promote healthy connections to children, family, significant others, and the community.
Services and Supervision	Address substance abuse, trauma, and mental health issues through comprehensive, integrated, culturally relevant services, and appropriate supervision.
Socioeconomic Status	Provide women with opportunities to improve their socioeconomic conditions.
Community	Establish a system of community supervision and re-entry with comprehensive, collaborative services.

The gender-responsive approach is built on research that has found that female offenders’ pathways to criminality are significantly different from those of their male counterparts. In addition, the types of crimes committed by female offenders, their level of violence, their responses to custody and supervision, and their family situations and responsibilities have also been shown to be very different than those of male offenders. Among women, the most common pathways to crime are based on survival (of abuse and poverty) and substance abuse. Research on female offenders has established that women enter the criminal justice system in ways different from those of male offenders. California’s female offenders have a specific profile that mirrors national findings. They are less likely than men to have committed violent offenses and more likely to have been convicted of crimes involving property or drugs—posing a lesser risk to the community.

Women in community-based, family-focused settings face fewer obstacles to visitation and maintaining family connections. Community-based settings can emphasize treatment, service provision, and community reentry. Addressing the risk and needs of the female offender requires an appropriate assessment. There are multiple instruments that provide assessments, but counties should consider using gender-responsive risk and needs assessment instruments that incorporate women's pathways and recommend gender-appropriate placements, treatment, and supervision.

As part of community programming, this system of supervision and support in communities should include: housing, education, job training, employment, family counseling, child care and parenting education, drug and alcohol treatment, health and mental health care, peer support, and aftercare. Wraparound services and other integrated approaches can also be very effective because they address multiple needs in a coordinated way and facilitate access to services.

In addition, several research studies have found that gender responsive approaches are more effective in reducing recidivism and improving outcomes for female offenders when implemented according to these principles.¹

Community Prisoner Mother Program (CPMP). The Community Prisoner Mother Program (CPMP) is a community substance abuse treatment program where non-serious, nonviolent female offenders may serve a sentence up to six years. The CPMP has been in existence since 1985 and is mandated by Penal Code (PC) Section 3410. Women are placed in the program from any of the female institutions. Program eligibility requires that the female offender have up to two children less than six years of age, have no additional felony charges pending, nor any prior escapes. The female offender must sign a voluntary placement agreement to enter the program, followed by three years of parole. The CPMP facilities are not the property of CDCR, and a private contractor provides program services at a facility in Pomona. The treatment program addresses substance issues, emotional functioning, self-esteem, parenting skills, and employment skills.

The primary focus of the CPMP is to reunite mothers with their children and re-integrate them back into society as productive citizens by providing a safe, stable, wholesome and stimulating environment, establishing stability in the parent-child relationship, and providing the opportunity for inmate mothers to bond with their children and strengthen the family unit.

Since January 2012, 59 inmates and their children had participated in the program in Pomona. The program has 24 beds available and has an average daily population of 19 women and their children (80 percent of its maximum capacity).

¹ The background on gender-responsive planning was included in a letter to probation officers and Community Corrections Partnership members from Barbara Owen, Professor, Criminology, CSU-Fresno and Barbara Bloom, Professor and Chair, Criminology & Criminal Justice Studies, Sonoma State University.

Alternate Custody Program (ACP). In 2010, Senate Bill 1266 (Liu), Chapter 644, Statutes of 2010 established the ACP program within the CDCR. The program was subsequently expanded in 2012 by SB 1021 (Committee on Budget and Fiscal Review), Statutes of 2012, Chapter 41. Under this program, eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, are allowed to participate in lieu of their confinement in state prison. Through this program, female inmates may be placed in a residential home, a nonprofit residential drug-treatment program, or a transitional-care facility that offers individualized services based on an inmate's needs. The program focuses on reuniting low-level inmates with their families and reintegrating them back into their community.

All inmates continue to serve their sentences under the jurisdiction of the CDCR and may be returned to state prison for any reason. An inmate selected for ACP is under the supervision of a parole agent and is required to be electronically monitored at all times.

To be eligible for the program, a woman must volunteer for the program, meet the eligibility criteria, and cannot have a current conviction for a violent or serious felony or have any convictions for sex-related crimes.

Services for ACP participants can include: education/vocational training, anger management, family- and marital-relationship assistance, substance-abuse counseling and treatment, life-skills training, narcotics/alcoholics anonymous, faith-based and volunteer community service opportunities.

CDCR implemented ACP on September 12, 2011. Since its inception, 345 women have participated in the program and an additional nine women are currently awaiting transfer into the program. As of February 25 of this year, the daily population was 77 women. There are currently 287 women in various stages of the application process. Approximately one-third of those women will be deemed eligible; the remainder will most likely be disqualified because of their offenses. Of the 345 participants to date, 39 have been returned to prison due to their behavior in the community or for committing new crimes.

CDCR reports that after realignment, it became much more difficult to find women who could qualify for the program since the lower level offenders are now incarcerated in county jails. Prior to realignment, processing an application for the program took between 60 and 90 days. Currently, it takes 120 to 150 days to determine whether or not a woman is eligible for the program.

Female Offender Treatment and Employment Program (FOTEP). FOTEP is a program designed to provide a transition for female offenders from custody to the community by focusing on intensive, gender responsive counseling services. In addition, there is a comprehensive case management component that assesses the needs of the participants and provides the services and programs that would most likely result in their recovery and employment success. FOTEP allows women to have their

children reside with them while they are in treatment. The program lasts for up to 15 months.

There are currently five community programs throughout the state running FOTEP programs. The total capacity for those programs is 300 beds. Current enrollment in those programs is 161 women, or 54 percent of capacity.

Female Rehabilitative Community Correctional Facility (FRCCC). The FRCC located in Bakersfield is a reentry program designed for non-serious, non-violent female offenders who have 36 months or less remaining on their sentences. The program is designed to provide gender-specific wraparound services such as education, healthcare, mental health, vocational training, and substance abuse and trauma treatment. There are 75 beds available in the FRCCC and 34 women participating in the program (46 percent of capacity).

Conservation/Fire Camps. In addition to the three institutions and the abovementioned specialized programs, there are three conservation camps in the state being run in collaboration with the California Department of Forestry and Fire Protection. The female inmates live at the camps year round and are trained to serve as inmate firefighters for wild land fire suppression. The camps serve San Diego, Imperial, Riverside, and Los Angeles Counties. As of February 28, 2014, there were 223 women in the camps and the camps have a capacity for 320 women (70 percent of capacity).

Issue 2: The Three-Judge Panel Court Order**Panelists**

Jeffrey Beard, Secretary, CDCR

Millicent Tidwell, Director, Division of Rehabilitative Programs, CDCR

Aaron Edwards, Senior Analyst, LAO

Sarah Larson, Analyst, LAO

Drew Soderborg, Managing Principal Analyst, LAO

Department of Finance

Public Comment**Background**

In 2009, a federal three-judge panel declared that overcrowding in the state prison system was the primary reason that CDCR was unable to provide inmates with constitutionally adequate health care. The court ruled that in order for CDCR to provide such care, overcrowding would have to be reduced. Specifically, the court ruled that by June 2013, the state must reduce the inmate population to no more than 137.5 percent of the “design capacity” in the 33 prisons operated by CDCR. Design capacity generally refers to the number of beds CDCR would operate if it housed only one inmate per cell and did not use temporary beds, such as housing inmates in gyms. Inmates housed in contract facilities or fire camps are not counted toward the overcrowding limit. In May 2011, the U.S. Supreme Court upheld the three-judge panel’s ruling. Under the population cap imposed by the federal court, the state would need to reduce the number of inmates housed in its 33 state prisons by about 34,000 inmates, relative to the prison population at the time of the ruling.

In October 2012, the federal three-judge panel ordered the state to present two plans for how it would further reduce the state’s prison population either by the original deadline of June 2013, or by a deadline of December 2013. On January 7, 2013, the Administration released its response to the court. The Administration requested that the court modify or vacate its population reduction order altogether. While the three-judge panel did not issue judgment on whether to vacate the population limit, it did extend the deadline for meeting the limit from June 2013 to December 2013. It also ordered the Administration to continue working toward meeting the limit in December but did not order the Administration to take any specific actions.

In June of 2013, the court ordered Governor Brown to reduce the prison population by 9,600 inmates by the end of the year. The state's response was reflected in part by the passage of SB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013. That measure authorizes \$315 million to meet the court's order either through increasing prison bed capacity or, to the extent the court grants more time for California to meet the court's order, increasing California's cost-effective investments in evidence-based practices and policies to reduce recidivism.

On September 24, 2013, the three-judge panel issued an order directing the state to meet with inmate attorneys to discuss how to implement a long-term overcrowding solution. The order also prohibits the state from entering into any new contracts for out-of-state housing without an order of the court. A subsequent order moved the deadline for meeting the population cap to April 18, 2014, and required that both parties in the case work to reach an agreement on how to best reach the 137.5 percent goal.

Unfortunately, the parties were unable to come to a long-term solution by the deadline provided by the court. On January 13, 2014, the court noted the failure of the plaintiffs and the defendants to find a solution and the court ordered both sides to submit plans that they believe would allow the state to achieve compliance with the court-ordered population cap of 137.5 percent of design capacity.

Recent Court Order. On February 10, 2014, the court granted the state's request for a two-year extension to meet the population cap and largely adopted the plan submitted by the Administration. The order established the following benchmarks:

Benchmark Date	Percent of Capacity	Number of Inmates ²	Reduction from Projected Population
June 30, 2014	143%	116,651 ³	1,266 ⁴
February 28, 2015	141.5%	117,030 ⁵	12,193 ⁶
February 28, 2016	137.5%	116,989 ⁷	17,927 ⁸

² Based on a current prison capacity of 81,574, which grows to 85,083 with the activation of DeWitt and the three infill projects.

³ Assumes DeWitt is not activated in time to meet this deadline.

⁴ Based on the 1/31/2014 institution population of 117,917.

⁵ Assumes DeWitt is activated and increases the state's capacity by 1,133 beds.

⁶ Based on the Department of Finance "Three-Judge Court Compliance Projections with Two-Year Extension" Prison Population, with Blueprint projection of 129,233.

⁷ Assumes activation of all three infill projects approved in the Blueprint, which will increase capacity by 2,376 beds.

⁸ Based on the Department of Finance "Three-Judge Court Compliance Projections with Two-Year Extension" Prison Population, with Blueprint projection of 134,916.

In addition, the court order established the following requirements for the state:

1. Prohibits an increase in the number of inmates housed in out-of-state facilities.
2. Requires an immediate increase in credits prospectively for non-violent second-strike offenders and minimum custody inmates. In addition, allows non-violent second-strikers to earn good time credits at 33.3 percent and earn milestone credits.
3. Requires implementation of a new parole determination process which will allow non-violent second-strikers to be eligible for parole once they have completed 50 percent of their sentence.
4. Requires the parole of certain inmates serving indeterminate sentences who have already been granted parole by the Board of Parole Hearings but have future parole dates.
5. Requires the implementation of an expanded parole process for the following types of inmates:
 - a. Medically incapacitated inmates.
 - b. Inmates who are 60 years of age or older and have already served 25 years.
6. Requires the activation of 13 reentry hubs by February 10, 2015.
7. Requires the pursuit of the expansion of the state's pilot reentry program to include additional counties.
8. Requires an expanded alternative custody program for female inmates.
9. Requires monthly status reports to the court.
10. Appoints a Compliance Officer who will release inmates in the event that the established benchmarks are not reached.
11. Waives all statutory, constitutional, and regulatory provisions, except the California Public Resources Code, which may impede the implementation of the order.

SB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013. In September 2013, the Legislature passed, and the Governor signed, SB 105 to address the federal three-judge panel order requiring the state to reduce the prison population to no more than 137.5 percent of design capacity by December 31, 2013. SB 105 provides the CDCR with an additional \$315 million in General Fund support in 2013-14 and authorizes the department to enter into contracts to secure a sufficient amount of inmate housing to meet the court order and to avoid the early release of inmates which might otherwise be necessary to comply with the order. The measure also requires that if the federal court modifies its order capping the prison population, a share of the \$315 million appropriation in Chapter 310 would be deposited into a newly-established Recidivism Reduction Fund.

Governor's Recidivism Fund Proposal. The Governor's budget reflects total expenditures of \$228 million from the \$315 million appropriated in AB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013. The proposed plan would set aside \$81.1 million for the following recidivism reduction efforts.

- \$11.8 million to expand substance use disorder treatment to ten additional state prisons.
- \$9.7 million to expand substance use and cognitive behavioral treatment to in-state contracted facilities.
- \$11.3 million to increase the number of slots in the Integrated Services for Mentally Ill Parolees program from 600 to 900.
- \$8.3 million for the design and planning necessary to convert a 600-bed facility in Stockton into a reentry hub over the next two years.
- \$40 million to support state reentry programs in the community, either through programs provided in jails or for services provided within communities.

The proposed budget also states the intent of the Administration to immediately begin implementing measures required by the federal court pertaining to expanded medical parole, elderly parole, and credit enhancements. Initial estimates suggest that this may result in the release of approximately 2,000 inmates over the next two years.

Legislative Analyst's Office (LAO). On February 28, the LAO released their analysis of the recent court order and the Governor's plan to reduce the prison population. While the LAO agreed that the plan will likely allow the state to reach the 137.5 percent cap by the deadline of February 26, 2016, they did find that the plan is very costly and will not allow the state to maintain compliance with the cap in the long run. The LAO found that the centerpiece of the Governor's plan is to place almost 17,000 inmates in contract beds, 9,000 out of state and 8,000 within the state. They estimate the on-going cost of those beds to be approximately \$500 million per year.

The report notes:

While the plan is likely to achieve compliance with the court order in the short run, current projections indicate that CDCR is on track to eventually exceed the cap. CDCR is currently projecting that the prison population will increase by several thousand inmates in the next few years and will reach the cap by June 2018 and exceed it by 1,000 inmates by June 2019. However, we note that this projection is subject to considerable uncertainty. Given the inherent difficulty of accurately projecting the inmate population several years in the future, it is possible that the actual population could be above or below the court imposed limit by several thousand inmates.

In addition, we are concerned that the plan's heavy reliance on contract beds makes it a very costly approach. As we note earlier, the Administration is currently considering alternatives to contracting for additional prison beds indefinitely to maintain long-term compliance with the cap. However, until such alternatives are implemented, the state will likely need to continue spending nearly \$500 million annually on contract beds in order to maintain compliance with the prison population cap. In contrast, other options available to the Legislature could actually decrease state expenditures.

Summary of LAO Recommendations. The LAO makes the following recommendations for the Legislature to consider:

- Reject funding for the Integrated Services for Mentally Ill Parolees (ISMIP) program expansion and require an evaluation.
- Approve the drug treatment expansion but require an evaluation.
- Withhold funding for rehabilitation programming in contract facilities and direct the department to provide a more comprehensive plan during the spring budget hearings.
- Reject the Northern California Reentry Facility (NCRF) proposal.
- Reject the \$40 million jail and community reentry facility proposal.
- Evaluate CDCR's current rehabilitative programs.
- Expand the program created by SB 678 (Leno), Chapter 608, Statutes of 2009, commonly referred to as SB 678, which provides counties a fiscal incentive to

reduce the number of felony probationers that fail on probation and are incarcerated.

- Reclassify certain felonies and wobblers as misdemeanors.
- Reduce sentences for certain crimes.
- Increase the early release credits inmates can earn.
- Expand the Alternative Custody Program to male inmates.
- Modify rehabilitative programs based on the evaluation recommended above.

ITEMS TO BE HEARD

Issue 3: Population BCP

Governor's Budget. Each year, in the January Budget, the Administration requests modifications to CDCR's budget based on projected changes in the prison and parole populations in the current and budget years. The Administration then adjusts these requests each spring as part of the May Revision, based on updated projections of these populations. The adjustments are made both on the overall population of offenders and various subpopulations (such as mentally ill inmates and sex offenders on parole). This year's proposed budget includes a net increase of \$2.9 million General Fund in the current year and a net reduction of \$23.4 million General Fund in the budget year.

According to the Legislative Analyst's Office analysis of the Governor's proposed budget, the current-year net increase in costs is primarily due to costs from the higher-than-expected 2013-14 parole population, as well as additional unanticipated costs for the recently activated California Health Care Facility (CHCF) in Stockton. These costs are partially offset by savings related to in-state contract beds due to delays in moving inmates into such beds, as well as reduced costs associated with the deactivation of temporary mental health crisis beds at the California Men's Colony in San Luis Obispo. (The increased cost for the Administration's proposed expansion of in-state contracts in the current year is accounted for elsewhere in the Governor's budget for CDCR.)

The budget-year net reduction in costs is largely related to the lower-than-expected 2014-15 parole population and reduced costs associated with deactivating temporary mental health crisis beds at the California Institution for Men in Chino and California State Prison, Sacramento. These reductions are partially offset by increased costs to reimburse counties for various services provided to CDCR (such as housing CDCR inmates when they must appear in court), as well as costs from an increase in certain populations of inmates needing mental health care.

Legislative Analyst's Office (LAO) Recommendation. The LAO withholds recommendation on the Administration's adult population funding request until the May Revision. They will continue to monitor CDCR's populations, and make recommendations based on the Administration's revised population projections and budget adjustments included in the May Revision. However, they recommend that the Legislature direct the department to make adjustments as part of the May Revision to reflect the savings from the delayed activation of housing units at CHCF.

Issue 4: Office of the Attorney General Litigation Services

Governor's Budget. The Governor's budget requests \$1.36 million for five additional full-time deputy Attorney General positions in order to provide ongoing representation for CDCR in the class action cases of *Coleman v. Brown*, *Plata v. Brown*, the Three Judge Panel, and other class action litigation.

Staff Comment. The Administration asserts that there is an increased volume of litigation facing CDCR. At this time, the Administration has not provided trend data that demonstrates the growing need. While CDCR does continually face a significant amount of litigation, with the recent decision by the three-judge panel on prison overcrowding, a fairly significant legal workload should be completed.

CDCR's budget currently includes approximately \$40 million GF in fees for legal services provided by the Attorney General's Office. \$40 million provides the funding for approximately 150 attorneys and paralegal staff. In addition, CDCR currently employs 112 in-house attorneys and has a budget of \$69 million (\$28 million of which is dedicated to settlements and judgments) for their Office of Legal Affairs. Of those 112 attorneys, approximately 14 are devoted to class action law suits.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, March 20, 2014
9:30 a.m. or Upon Adjournment of Session
State Capitol - Room 113
Consultant: Julie Salley-Gray

Special Presentation

"Guiding Rage Into Power" Insight-Out's Program at San Quentin Prison

Items Proposed for Discussion

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SPECIAL PRESENTATION

INSIGHT-OUT'S GRIP PROGRAM: GUIDING RAGE INTO POWER (A COMPREHENSIVE OFFENDER ACCOUNTABILITY PROGRAM)

The Guiding Rage Into Power (GRIP) approach has been developed over 17 years of working with thousands of prisoners, mostly in San Quentin State Prison. This program offers an in-depth journey into the participants' ability to understand and transform violent behavior and replaces it with an attitude of emotional intelligence. The one-year long program helps participants to comprehend the origins of their violence and develop the skills to track and manage strong impulses before they are acted out in destructive ways. Students become "emotionally literate" by fully understanding feelings of anger and rage, learning to recognize the body signals that accompany those emotions, and engage in a process to stop and discharge the buildup of tension in a safe manner. The course helps participants to identify and communicate the feelings underneath anger and process 'the feelings within the feelings' such as sadness, fear, and shame. Students also develop the skills to understand and express the unmet needs that are covered up by the experience of rage.

The GRIP program has a distinct focus. Most rehabilitation programs singularly zero in on either academic or vocational purposes or addiction recovery. These are important efforts, yet they would be optimized if the root causes of what leads someone to offend were addressed directly. The GRIP methodology consists of a transformational re-education modality that commits the participants to a process of deep self-inquiry and healing. The program examines the origins of criminogenic conduct and undoes the characteristic destructive behavioral patterns (including addiction) that lead to transgressions. Participants learn to:

1. Stop their violence
2. Develop emotional intelligence
3. Cultivate mindfulness
4. Understand victim impact

The program is a trauma treatment-based model that integrates the latest brain research. One of the goals of the program is to heal the unprocessed pain from which people lash out. Participants partake in a process of creating an inventory of 'unfinished business' that relate to traumatic experiences that have become formative defense mechanisms which generate triggered reactions. They also make a personal history of 'violence suffered' and 'violence perpetrated' to gain insight into origins and patterns of behavior. Students sign a pledge to become a non-violent person and a peacemaker. A major component of the program is that it functions as a peer education model where experienced students co-facilitate the classes and mentor newer students. All participants are to become fully engaged as integral stakeholders of the program. The program employs a methodology that is called 'normative culture' wherein the students cultivate intrinsic motivation by being actively involved in both setting and enforcing the standards and norms that are integral to the course. This central value of the program

ensures maximum ownership of the participants for their own learning process. Through its status as a service provider through the Marin Probation Department, the program is certified to meet the needs of parolees that must take a 52-week court ordered domestic violence program before release to the community. It also is able to certify prisoners as facilitators of domestic violence as a job skill. The program actively interacts with the community by inviting in guest teachers, victims, California Department of Corrections and Rehabilitation (CDCR) officials, law enforcement, and other community members.

The program integrates three principal modalities:

- Instruction functions as a means to teach the information that is crucial to the program's theoretical framework.
- Process refers to the various exercises employed to work with a deep layer of emotional material that must be acknowledged, expressed, and integrated in order for insight and understanding to occur.
- Practice anchors the acquired insights into a durable behavior by spending time learning how to embody what has been learned.

Practicing the GRIP tools makes the insight operational as a behavioral skillset.¹

Staff Comment. Prisons, such as San Quentin, that are located in highly populated areas often are able to provide a wide array of innovative programming through volunteer efforts and non-profit organizations, such as Insight-Out, the Prison Yoga Project, or the Insight Garden Program. However, remote institutions such as Pelican Bay in Crescent City or Ironwood State Prison in Blythe, do not have the same opportunities to use volunteers and community-based organizations to expand the availability of rehabilitative programs. The Legislature may want to consider creating a grant program that would provide funding for non-profit organizations who would like to expand their programs into underserved institutions.

¹ Program information provided by Jacques Verduin, Executive Director, Insight-Out

ITEMS TO BE HEARD

0552 Office of the Inspector General

The Office of the Inspector General (OIG) protects public safety by safeguarding the integrity of California's correctional system. The OIG is responsible for contemporaneous oversight of the California Department of Corrections and Rehabilitation's (CDCR) internal affairs investigations, use of force, and the employee disciplinary process. When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Inspector General reviews the policies, practices, and procedures of CDCR. The Inspector General reviews the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities; conducts metric-oriented inspection programs to periodically review delivery of medical care at each state prison and the delivery of reforms identified in the department's document, released in April 2012, entitled "The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight, and improve the prison system" (blueprint). The OIG receives communications from individuals alleging improper governmental activity and maintains a toll-free public telephone number to receive allegations of wrongdoing by employees of CDCR; conducts formal reviews of complaints of retaliation from CDCR employees against upper management where a legally cognizable cause of action is present; and reviews the mishandling of sexual abuse incidents within correctional institutions. The OIG provides critical public transparency for the state correctional system by publicly reporting its findings.

In addition, the Public Safety and Offender Rehabilitation Services Act of 2007, established by AB 900 (Solorio), Chapter 7, Statutes of 2007, created the California Rehabilitation Oversight Board (C-ROB) within the OIG. C-ROB's mandate is to examine CDCR's various mental health, substance abuse, educational, and employment programs for inmates and parolees. (C-ROB is discussed in more detail in the next section.)

Following is the total funding and positions for the OIG, as proposed in the Governor's Budget. The OIG is funded exclusively from the General Fund.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$13,507	\$15,762	\$17,031
Total	\$13,507	\$16,366	\$17,031
Positions	87.2	93.4	95.4

Issue 1: C-ROB Update

Background. AB 900 (Solorio), Chapter 7, Statutes of 2007, established the California Rehabilitation Oversight Board (C-ROB) within the Office of the Inspector General (OIG). C-ROB is made up of state and local law enforcement, education, treatment, and rehabilitation professionals who are mandated to examine and report biannually on rehabilitative programming provided by CDCR. The board meets quarterly to recommend modifications, additions, and eliminations of offender rehabilitation and treatment programs. The board also submits biannual reports to the Governor, the Legislature, and the public to convey its findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in offender rehabilitation services, and levels of offender participation and success. In performing its duties, C-ROB is required by statute to use the work of the Expert Panel on Adult Offender Reentry and Recidivism Reduction Programs.

C-ROB uses the California Logic Model as the framework by which to evaluate CDCR's progress in implementing rehabilitative programming. The California Logic Model is eight evidence-based principles and practices, identified by the expert panel, that show what effective rehabilitation programming could look like as an offender moves through the state's correctional system. The eight areas are: (a) assess high risk; (b) assess need; (c) develop behavior management plan; (d) deliver programs; (e) measure progress; (f) preparation for reentry; (g) reintegrate; and (h) follow-up.

On March 15, C-ROB released the fourteenth biannual report, which examines the progress the CDCR made in providing and implementing rehabilitative programming between July and December 2013.

C-ROB Recommendations. The following are the board's findings, and the department's progress in response to those findings, regarding effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in rehabilitation services, and levels of offender participation and success.

The board recommends CDCR's Division of Rehabilitative Programs continue to work closely with CDCR's Division of Adult Institutions' Female Offenders' Mission to provide female offenders with gender-responsive treatment, services, and gender-specific curricula that increase opportunities for successful reintegration into their communities to reduce their rate of recidivism.

The characteristics of the female offender population have, and will continue, to change. The board is focused on how the department administers programs for female offenders and has identified a gap in rehabilitation services as it applies to the female offender population. The department is working with the Division of Adult Institution's Female Offenders' Mission, and future reports will include information about progress implementing a curriculum to meet this need.

The board recommends the department work with the California Arts Council and California Lawyers for the Arts to develop a dedicated “Arts in Corrections” program to be administered statewide.

The board is pleased with the initial results from the Arts in Corrections pilot program, and is aware that offenders who engage in arts programs experience better parole outcomes and lower rates of recidivism. Studies indicate that prison arts education results in a reduction of disciplinary actions and reduced tension within the institution. The department’s own study of parolees between 1980 and 1987 showed that offenders who had engaged in the Arts in Corrections programs experienced better parole outcomes and lower rates of recidivism. The California Arts Council, in conjunction with the California Lawyers for the Arts, is proposing a \$1.214 million budget proposal, which will fund an arts institution program in nine California prisons for two years. Included in the proposal is an integrated evaluation system to provide an assessment of the program’s effectiveness and allow the department and the California Arts Council to focus future funding on the most effective programs.

The board recommends the department work collaboratively with CalPIA to improve access to PIA programs.

The California Prison Industry Authority (CalPIA) has proven to be effective at reducing recidivism. The department and CalPIA strive to increase public and prison safety and reduce recidivism. Therefore, in addition to increasing access to career technical education (CTE), the department should enhance access to CalPIA. The board recommends the department work collaboratively with CalPIA to leverage the programs offered to offenders.

The board reports that the department and CalPIA continue to work collaboratively to improve access to rehabilitative programs offered to offenders. CalPIA is mandated to operate a work program for prisoners that will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay program expenses.

The board recommends the department develop strategies to improve its efficiency in providing continuity of care for offenders released into the community.

The board notes that the department continued to utilize contracted benefits workers within the institutions to apply for, and secure, federal and state benefit entitlements. The board reiterates the importance of the pre-release benefit application process in order to provide continuity of care for offenders released into the community. The department should develop strategies to improve its efficiency in this area.

The board recommends that pre-release reentry COMPAS assessments be performed on all offenders.

While assessment and case management are extremely important functions on the front end, the board reiterates its desire to see pre-release reentry COMPAS assessments performed on all offenders.

The board recommends the department implement an incentive-based system to encourage substance abuse treatment completion rates.

The most recent reported community SAT completion rate of 36 percent is 11 percent lower than the national average of 47 percent, as reported by the Substance Abuse and Mental Health Services Administration. The data clearly indicates that the number of exits far exceeds the number of completions. The board underscores the importance of the Expert Panel Report's recommendation to *"Enact legislation to expand [CDCR's] system of positive reinforcements for offenders who successfully complete their rehabilitation program requirements, comply with institutional rules in prison, and fulfill their parole obligations in the community."* The board would like to see an increase in the community aftercare SAT completion rates and recommends an incentive-based system to encourage completion.

The board would like clarity regarding the data, including the categories and what factors determine whether all, some, or none of the needs were met. The board recognizes that there are a number of factors during this blueprint transition year that may have affected the outcomes in the post-realignment needs met percentages. The department may have been unable to meet a need because the program is being established. Conversely, an inmate may have been reported as having a need met after spending only one day in a program. The board recommends the department modify its reporting of progress to ensure the data captured accurately reflects the challenges and successes of addressing offenders' needs. One day in a program should not be counted as meeting a need. The board will continue to monitor the department's progress as more offender assessments are completed and programs are activated.

Questions for the OIG. The OIG should be prepared to answer the following questions:

1. In addition to looking at the number of people who are or were provided with treatment services and the completion rates, does C-ROB evaluate the effectiveness of the actual treatment and education programs in the institutions? If so, can you please discuss the effectiveness of the programs and how widely the programs vary among institutions?
2. Please provide more detail on how CDCR could improve access to the CalPIA programs.

3. Please provide more detail on what an incentive-based substance abuse treatment program would entail.
4. Outside of the recommendation that a new COMPAS assessment and case management be done toward the end of a person's sentence, have you found that CDCR does an effective job of providing a rehabilitation plan and case management throughout an inmate's incarceration? In addition, can you tell us what happens to any rehabilitation planning if an inmate is moved to another institution?
5. Do you have any recommendations for changes in C-ROB's statutory requirements? Are there requirements that are no longer relevant and those that you believe the Legislature should add to C-ROB's mission?

Questions for CDCR. CDCR should be prepared to respond to the C-ROB report recommendations and answer the following questions:

1. Some of the recommendations in the C-ROB report are not new and have been made in the past. Please explain how you have attempted to incorporate the C-ROB recommendations into your programs and if you have not implemented them, please explain why not.
2. Please address the concern raised in the report that an inmate who participates one day in a program is counted toward the completion goals.

Staff Comment. C-ROB's biannual reports have been helpful in providing information regarding the types of programs and program utilization within CDCR. However, given the changes, including realignment and the recent ruling by the federal three-judge panel, that have impacted the department since C-ROB was established, the subcommittee may wish to assess whether some of C-ROB's statutory requirements should be revised to include additional evaluations or to remove any requirements that are no longer relevant.

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created, pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Juvenile: Operations and Offender Programs, Academic and Vocational Education, Health Care Services
- Adult Corrections and Rehabilitation Operations: Security, Inmate Support, Contracted Facilities, Institution Administration
- Parole Operations: Adult Supervision, Adult Community-Based Programs, Administration
- Board of Parole Hearings: Adult Hearings, Administration
- Adult: Education, Vocation, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2013 Budget Act projected an adult inmate average daily population of 128,885 in the current year. However, the current year adult inmate population is now projected to exceed budget act projections by 6,101 inmates, a 4.7 percent increase, for a total population of 134,986. The budget year adult inmate population is projected to be 137,788, a 6.9 percent increase of 8,903 inmates over the revised current year. Current projections also reflect an increase in the parolee population of 3,439 in the current year compared to budget act projections, for a total average daily population of 45,934. The parolee population is projected to be 36,652 in 2014-15, a decrease of 5,843.

The Governor's budget proposes \$9.8 billion (\$9.5 billion General Fund and \$320 million other funds) and 60,598.7 positions for CDCR in 2014-15. The following table shows CDCR's total operational expenditures and positions for 2012-13 through 2014-15.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$8,534,272	\$9,263,117	\$9,494,977
General Fund, Prop 98	16,824	17,910	17,698
Other Funds	53,534	62,690	63,053
Reimbursements	138,275	179,647	185,043
Recidivism Reduction Fund	-	-81,109	72,811
SCC Performance Incentive Fund	-615	-1,000	-1,001
Total	\$8,742,290	\$9,441,255	\$9,932,581
Positions	50,728.7	60,790.1	60,598.7

Issue 2: LAO's Population Reduction Recommendations

Background. In 2009, a federal three-judge panel declared that overcrowding in the state prison system was the primary reason that CDCR was unable to provide inmates with constitutionally adequate health care. The court ruled that in order for CDCR to provide such care, overcrowding would have to be reduced. Specifically, the court ruled that by June 2013, the state must reduce the inmate population to no more than 137.5 percent of the "design capacity" in the 33 prisons operated by CDCR. Design capacity generally refers to the number of beds CDCR would operate if it housed only one inmate per cell and did not use temporary beds, such as housing inmates in gyms. Inmates housed in contract facilities or fire camps are not counted toward the overcrowding limit. In May 2011, the U.S. Supreme Court upheld the three-judge panel's ruling. Under the population cap imposed by the federal court, the state would need to reduce the number of inmates housed in its 33 state prisons by about 34,000 inmates, relative to the prison population at the time of the ruling.

In October 2012, the federal three-judge panel ordered the state to present two plans for how it would further reduce the state's prison population either by the original deadline of June 2013, or by a deadline of December 2013. On January 7, 2013, the Administration released its response to the court. The Administration requested that the court modify or vacate its population reduction order altogether. While the three-judge panel did not issue judgment on whether to vacate the population limit, it did extend the deadline for meeting the limit from June 2013 to December 2013. It also ordered the Administration to continue working toward meeting the limit in December but did not order the Administration to take any specific actions.

In June of 2013, the court ordered Governor Brown to reduce the prison population by 9,600 inmates by the end of the year. The state's response was reflected in part by the passage of SB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013, which provided CDCR with an additional \$315 million in General Fund support in 2013-14 and authorized the department to enter into contracts to secure a sufficient amount of inmate housing to meet the court order and to avoid the early release of inmates which might otherwise be necessary to comply with the order. The measure also required that if the federal court modifies its order capping the prison population, a share of the \$315 million appropriation in Chapter 310 would be deposited into a newly-established Recidivism Reduction Fund. The Governor's proposed budget estimates that approximately \$82 million will be available in the Recidivism Reduction Fund.

Recent Court Order. On February 10, 2014, the court granted the state's request for a two-year extension to meet the population cap and largely adopted the plan submitted by the Administration. The order established the following benchmarks:

Benchmark Date	Percent of Capacity	Number of Inmates ²	Reduction from Projected Population
June 30, 2014	143%	116,651 ³	1,266 ⁴
February 28, 2015	141.5%	117,030 ⁵	12,193 ⁶
February 28, 2016	137.5%	116,989 ⁷	17,927 ⁸

In addition, the court order established the following requirements for the state:

1. Prohibits an increase in the number of inmates housed in out-of-state facilities.
2. Requires an immediate increase in credits prospectively for non-violent second-strike offenders and minimum custody inmates. In addition, allows non-violent second-strikers to earn good time credits at 33.3 percent and earn milestone credits.
3. Requires implementation of a new parole determination process which will allow non-violent second-strikers to be eligible for parole once they have completed 50 percent of their sentence.
4. Requires the parole of certain inmates serving indeterminate sentences who have already been granted parole by the Board of Parole Hearings but have future parole dates.
5. Requires the implementation of an expanded parole process for the following types of inmates:
 - a. Medically incapacitated inmates.
 - b. Inmates who are 60 years of age or older and have already served 25 years.
6. Requires the activation of 13 reentry hubs by February 10, 2015.
7. Requires the pursuit of the expansion of the state's pilot reentry program to include additional counties.

² Based on a current prison capacity of 81,574, which grows to 85,083 with the activation of DeWitt and the three infill projects.

³ Assumes DeWitt is not activated in time to meet this deadline.

⁴ Based on the 1/31/2014 institution population of 117,917.

⁵ Assumes DeWitt is activated and increases the state's capacity by 1,133 beds.

⁶ Based on the Department of Finance "Three-Judge Court Compliance Projections with Two-Year Extension" Prison Population, with Blueprint projection of 129,233.

⁷ Assumes activation of all three infill projects approved in the Blueprint, which will increase capacity by 2,376 beds.

⁸ Based on the Department of Finance "Three-Judge Court Compliance Projections with Two-Year Extension" Prison Population, with Blueprint projection of 134,916.

8. Requires an expanded alternative custody program for female inmates.
9. Requires monthly status reports to the court.
10. Appoints a Compliance Officer who will release inmates in the event that the established benchmarks are not reached.
11. Waives all statutory, constitutional, and regulatory provisions, except the California Public Resources Code, which may impede the implementation of the order.

Legislative Analyst's Office (LAO) Analysis. On February 28, the LAO released their analysis of the recent court order and the Governor's plan to reduce the prison population. While the LAO agreed that the plan will likely allow the state to reach the 137.5 percent cap by the deadline of February 26, 2016, they did find that the plan is very costly and will not allow the state to maintain compliance with the cap in the long run. The LAO found that the centerpiece of the Governor's plan is to place almost 17,000 inmates in contract beds, 9,000 out of state and 8,000 within the state. They estimate the on-going cost of those beds to be approximately \$500 million per year.

The report notes:

While the plan is likely to achieve compliance with the court order in the short run, current projections indicate that CDCR is on track to eventually exceed the cap. CDCR is currently projecting that the prison population will increase by several thousand inmates in the next few years and will reach the cap by June 2018 and exceed it by 1,000 inmates by June 2019. However, we note that this projection is subject to considerable uncertainty. Given the inherent difficulty of accurately projecting the inmate population several years in the future, it is possible that the actual population could be above or below the court imposed limit by several thousand inmates.

In addition, we are concerned that the plan's heavy reliance on contract beds makes it a very costly approach. As we note earlier, the Administration is currently considering alternatives to contracting for additional prison beds indefinitely to maintain long-term compliance with the cap. However, until such alternatives are implemented, the state will likely need to continue spending nearly \$500 million annually on contract beds in order to maintain compliance with the prison population cap. In contrast, other options available to the Legislature could actually decrease state expenditures.

LAO Recommendations. The LAO makes the following recommendations for the Legislature to consider:

- Reject funding for the Integrated Services for Mentally Ill Parolees (ISMIP) program expansion and require an evaluation.
- Approve the drug treatment expansion but require an evaluation.
- Withhold funding for rehabilitation programming in contract facilities and direct the department to provide a more comprehensive plan during the spring budget hearings.
- Reject the Northern California Reentry Facility (NCRF) proposal.
- Reject the \$40 million jail and community reentry facility proposal.
- Evaluate CDCR's current rehabilitative programs.
- Expand the program created by SB 678 (Leno), Chapter 608, Statutes of 2009, commonly referred to as SB 678, which provides counties a fiscal incentive to reduce the number of felony probationers that fail on probation and are incarcerated.
- Reclassify certain felonies and wobblers as misdemeanors.
- Reduce sentences for certain crimes.
- Increase the earned release credits inmates can earn.
- Expand the Alternative Custody Program (ACP) to male inmates.
- Modify rehabilitative programs based on the evaluation recommended above.

Questions for the LAO. The LAO should be prepared to present their recommendations and to address the following questions:

1. Please provide details on how you would expand the SB 678 incentives program.
2. Please provide details on the types of earned release credits you are proposing.
3. You recommend adopting the Governor's proposal to expand drug treatment. What evidence shows that the program is worth expanding at this time and that it is

effective? Why didn't you make the same recommendation for drug treatment that you made for ISMIP and other CDCR programming?

4. Have you been able to estimate how your recommendations might allow the state to reach the 137.5 percent cap by February 2016 and maintain the population below that cap into the future?

Specifically, if the information is available, can you please tell the subcommittee how much you estimate each of the following policies will reduce the prison population:

- a. The proposed sentencing changes.
- b. Expansion of SB 678.
- c. Creating an ACP for male inmates.
- d. The increase of early release credits.

Issue 3: Recidivism BCP

Background. In September 2013, the Legislature passed, and the Governor signed, SB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013, to address the federal three-judge panel order requiring the state to reduce the prison population to no more than 137.5 percent of design capacity by December 31, 2013. SB 105 provided CDCR with an additional \$315 million in General Fund (GF) support in 2013-14 and authorized the department to enter into contracts to secure a sufficient amount of inmate housing to meet the court order and to avoid the early release of inmates, which might otherwise be necessary to comply with the order. The measure also required that if the federal court modifies its order capping the prison population, a share of the \$315 million appropriation in Chapter 310 would be deposited into a newly-established Recidivism Reduction Fund.

Budget Proposal. The Governor's budget reflects total expenditures of \$228 million from the \$315 million appropriated in AB 105. The proposed plan would set aside \$82 million for recidivism reduction efforts. The following proposals are contained in the Governor's proposed recidivism BCP:

- \$11.3 million to increase the number of slots in the Integrated Services for Mentally Ill Parolees program from 600 to 900.
- \$40 million to support state reentry programs in the community, either through programs provided in jails or for services provided within communities.
- \$6 million GF for the workload associated with accelerating lifer hearings from 180 days to 120 days, expanding medical parole and implementing an elderly parole process.
- \$1.1 million GF for case records overtime for the processing of enhanced credit earnings for non-violent second strike inmates.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. Please provide details as to how you reached the \$40 million amount for community reentry.
2. The Governor's two-year plan assumes that 500 offenders will move to community reentry beds. Please provide information on how you arrived at that number and where you assume those reentry beds will be located.
3. Please provide an update on the status of expanded parole and the processing of enhanced credit earnings.

4. Over the next two years, your court compliance projections show that approximately 185 people will be paroled due to the expansion of medical and elderly parole. The BCP asks for \$12 million GF (\$6 million for 2014-15 and \$6 million for 2015-16) for the associated increased workload for the Board of Parole Hearings and CDCR. That equals to \$65,000 per parolee for the hearing process. Please explain why this process is so expensive.

Legislative Analyst's Office (LAO) Recommendations. The LAO makes the following recommendations directly related to the Recidivism BCP, for the Legislature to consider:

- Reject funding for the Integrated Services for Mentally Ill Parolees (ISMIP) program expansion and require an evaluation.
- Reject the \$40 million jail and community reentry facility proposal.

Staff Comment. In the 2013-14 budget, CDCR was given the authorization to provide up to \$5 million in funding to enter into a three-year Reentry and Community Transition pilot program with Los Angeles, Marin, San Diego, and San Francisco counties. Those projects are not underway yet, in fact the San Francisco Board of Supervisors only recently granted permission for the county to participate in the project. The Legislature may wish to consider whether it is prudent to provide an additional \$40 million toward this effort, prior to knowing if the projects will be successful. Further, the Administration has indicated that the \$40 million in funding for community reentry is not based upon an assessment of county's willingness or interest in providing reentry services.

Additionally, the Administration has noted that the funding amounts for expanded parole and processing enhanced credit earnings are placeholder amounts and need to be further refined.

Issue 4: SB 260 Youth Offender Parole Services BCP

Background. SB 260 (Hancock), Chapter 312, Statutes of 2013, requires the Board of Parole Hearings (BPH) to establish parole suitability hearings for offenders who were under 18 at the time they committed their crime and were sentenced to state prison. The bill also expanded the type of youth offender eligible for a parole consideration hearing, which historically only included indeterminately sentenced inmates. Now, under the changes enacted by SB 260, determinately sentenced offenders who meet certain criteria are entitled to a youthful offender parole hearing. Specifically, an offender is ineligible if he or she is sentenced under the “Three Strikes” law, the “One-Strike” sex law, or sentenced to life in prison without the possibility of parole. In addition, an offender is ineligible if, subsequent to attaining 18 years of age, he or she commits an additional crime for which the person is sentenced to life in prison or commits murder. The bill also requires that all currently eligible youthful offenders have their parole hearing date by July 1, 2015.

Budget Proposal. The Governor's budget includes \$1.586 million (General Fund) and 3.5 positions on a one-year limited-term basis (decreasing to approximately \$315,000 and 1.5 positions in 2015-16) to conduct the additional youthful offender parole hearings required by SB 260. Of the \$1.586 million, \$1.298 million and 3.5 positions are for BPH and the remaining \$288,235 is for CDCR's Case Records Unit.

Issue 5: Status Update on Reentry Hubs

Background. In April 2012, CDCR released *The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight, and improve the prison system* — the *Blueprint* — detailing the Administration's plan to reorganize various aspects of CDCR operations, facilities, and budgets in response to the effects of the 2011 realignment of adult offenders, as well as to meet federal court requirements. The blueprint was intended to build upon realignment, create a comprehensive plan for CDCR to significantly reduce the state's investment in prisons, satisfy the Supreme Court's ruling to reduce overcrowding in the prisons (to 145 percent of design capacity as proposed by the Administration at the time as an alternative of 137.5 percent), and get the department out from under federal court oversight.

The Legislature, through the Budget Act of 2012 and its related trailer bills, approved funding augmentations and reductions associated with the blueprint and adopted necessary statutory changes. In addition, the Legislature made several changes to the blueprint to increase transparency and accountability, including creating a separate budget item for CDCR's rehabilitative programs and giving the Office of the Inspector General (OIG) oversight over the implementation of certain aspects of the blueprint.

The blueprint included the establishment of reentry hubs at designated prisons. Those reentry hubs are to contain career technical education programs, cognitive-behavioral therapy programs, substance abuse treatment programs for the last six to twelve months of incarceration, employment training, state-issued identification cards, academic programs, and a variety of self-help and volunteer programs.

Thirteen reentry hubs are in the process of being established in the existing designated institutions to provide relevant services to inmates who are within four years of release and who demonstrate a willingness to maintain appropriate behavior to take advantage of these services. The services for those reentry hubs will be available for inmates who are deemed to have a moderate to high risk of reoffending.

CDCR asserts that reentry hub programming will be geared toward ensuring that, upon release, offenders are ready for the transition back into society. The core of the programming is Cognitive Behavioral Treatment (CBT), an evidence-based program designed for inmates who have a moderate-to-high risk to reoffend, as assessed by the California Static Risk Assessment (CSRA), or who have an assessed criminogenic need, as identified by the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) and/or other assessment(s) identified by CDCR. CBT programs address the following major areas:

- Substance Abuse
- Criminal Thinking
- Anger Management
- Family relationships

In addition, reentry hubs will include the California Identification Card (Cal-ID) Program to ensure that offenders obtain a valid California identification card upon release, which is critical for employment and other services. The Transitions Program is also offered to provide inmates with job readiness and search skills and practical financial literacy to facilitate successful reentry into their communities.

The following table includes the locations of the 13 reentry hubs, their activation date or status and the security level of the hub.

Reentry Hub Location	Location	Activation Date	Security Level
Avenal State Prison (ASP)	Avenal	Within 45 to 60 days	II
California Institution for Men (CIM)	Chico	Within 45 to 60 days	I
California Institution for Women (CIW)	Corona	September 2013	I - IV
California Men's Colony (CMC)	San Luis Obispo	September 2013	II
California Treatment Facility (CTF)	Soledad	Within 45 to 60 days	II
Central California Women's Facility (CCWF)	Chowchilla	September 2013	I - IV
Chuckawalla Valley State Prison (CVSP)	Blythe	Within 45 to 60 days	II
Folsom Women's Facility (FWF)	Folsom	April 2014	I - III
High Desert State Prison (HDSP)	Susanville	Pending DGS approval	III
Ironwood State Prison (ISP)	Blythe	September 2013	III
California State Prison – Los Angeles (LAC)	Lancaster	No vendor – out for bid	IV
Substance Abuse Treatment Facility (SATF)	Corcoran	Pending DGS approval	II
Valley State Prison (VSP)	Chowchilla	Pending DGS approval	II

Questions for the Administration. The department should be prepared to provide an update on the 13 reentry hubs and to address the following questions:

1. According to the blueprint, all of the reentry hubs are to be operating by June 30, 2014. Please provide a status update.

2. Three reentry facilities are pending DGS approval. Can you please tell the subcommittee how long the DGS contracting process takes in general and how this part of the approval process takes? Are there things that can be done through trailer bill that would help expedite the contracting process?
3. Why does CDCR have to rebid the contract for the reentry hub at the California State Prison in Los Angeles? How long do you anticipate that process taking?
4. The reentry hub model calls for substance abuse treatment only in the last 6 to 12 months of a person's sentence. Why wait until the end of a person's sentence to provide treatment for addiction? Wouldn't it be more effective to provide upfront treatment when a person enters prison and then provide on-going maintenance/therapy for the duration of the sentence?
5. As discussed earlier, C-ROB recommends that a pre-release reentry COMPAS assessment be performed on all offenders. Has the department considered adopting this recommendation to better assess the needs of individuals who will be receiving reentry services and programming? If CDCR will not be implementing this recommendation, please explain why not.
6. Is the Strategic Offender Management System (SOMS) used in choosing inmates for the various reentry hubs, monitoring their programs, and measuring their success?
7. Will all offenders at medium to high risk of reoffending be placed in a reentry hub before their release? In determining the reentry hub, will CDCR be taking into account the proximity of the county they will ultimately be released to?
8. Will offenders be receiving in-reach services from the officers who will be supervising them upon their release and other providers, such as mental health treatment or substance abuse treatment providers, who may be responsible for providing services upon the offender's release?

Issue 6: Northern California Reentry Facility Capital Outlay BCP

Background. The Northern California Reentry Facility (NCRF) would be located at the former Northern California Women's Facility (NCWF) in Stockton, which has been closed since 2003. The facility is adjacent to the California Health Care Facility (CHCF) in Stockton and would be overseen by the warden of CHCF. In addition, the facility would share services, such as warehousing and food preparation with CHCF and the DeWitt-Nelson facility. When completed in Spring of 2017, the facility will house approximately 600 male inmates.

CDCR argues that this facility is necessary because other existing Northern California institutions were deemed unsuitable for a reentry hub due to either their remote location or because they primarily house inmates participating in other special programs.

Budget Proposal. The Governor's budget proposes \$8.3 million (Recidivism Reduction Fund) for the design phase of a new project to add new construction and renovate existing buildings at the new Northern California Reentry Facility (previously known as the Northern California Women's Facility) in Stockton. This entire project is expected to cost roughly \$130.3 million (\$3.3 million for planning, \$5 million for working drawings, and \$122 million for construction). The on-going costs to run the facility are approximately \$50 million per year.

Questions for the Administration. The department should be prepared to introduce the proposal and to address the following questions:

1. Please explain why the Administration believes that capital outlay planning is an appropriate use of the Recidivism Fund?
2. Given the severe overcrowding in two of the three women's facilities in the state, has the Administration considered rehabilitating and reopening NCWF to house female inmates? If not, please tell the committee how you plan to significantly reduce the population in the female institutions?

Legislative Analyst's Office (LAO) Analysis. The LAO has several concerns with the Administration's plan to allocate \$8.3 million from the Recidivism Reduction Fund to support the design of NCRF. First, they are concerned that the proposal is an inappropriate use of the Recidivism Reduction Fund. The Legislature created the Recidivism Reduction Fund to support programs designed to reduce recidivism, such as substance abuse treatment and cognitive behavioral therapy. As such, they are concerned that the Governor's proposed use of these funds to support the design of a new prison is inconsistent with legislative intent, particularly since the department has not provided any information on how NCRF would reduce recidivism. Second, they are concerned about the potential cost of NCRF. In 2010, the department estimated that the total construction costs would be \$115 million and that the facility would cost about \$90,000 per inmate to operate—one and a half times the current average cost to house an inmate in state prison. Thus, even if NCRF is operated in a way that would reduce

recidivism, its potential cost makes it unlikely to be the most cost-effective approach for doing so.

LAO Recommendation. The LAO recommends that the Legislature reject the administration's plan to allocate \$8.3 million from the Recidivism Reduction Fund to support the design of NCRF.

Staff Comment. When completed, the facility would house approximately 600 male inmates who have four years or less to serve on their sentences. The facility is not scheduled to be completed until May of 2017 and therefore will not help meet the February 2016 deadline to reduce the state's prison population to 137.5 percent of the state's institutional capacity. However, it may help the state maintain that reduced population if the population continues to increase and if CDCR does not employ any effective rehabilitation efforts that succeed in reducing the prison population over the long-term.

Two of the three women's prisons are the most over-crowded institutions in the state (Central California Women's Facility at 183 percent and California Institution for Women at 151 percent). In addition, the Inspector General found that approximately one-third of the 160 women spending time in segregated housing units at these institutions are there not because they have done something that caused them to be placed in segregation but because none of the women's prisons have a special needs yard for women who are unsafe in the general population. Finally, the population reduction plan proposed by the Administration has very little in it that would reduce overcrowding at these women's institution. The plan focuses primarily on increasing capacity for male inmates. Therefore, the Legislature may wish to explore whether or not the former Northern California Women's Facility in Stockton, which will be the site of NCRF, might not be put to better use as a women's institution and that the institution include a special needs yard for women who are unsafe in the general population.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Outcomes

Thursday, March 20, 2014
9:30 a.m. or Upon Adjournment of Session
State Capitol - Room 113
Consultant: Julie Salley-Gray

Special Presentation

“Guiding Rage Into Power” Insight-Out’s Program at San Quentin Prison

Items Proposed for Discussion

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

SPECIAL PRESENTATION

INSIGHT-OUT'S GRIP PROGRAM: GUIDING RAGE INTO POWER (A COMPREHENSIVE OFFENDER ACCOUNTABILITY PROGRAM)

The Guiding Rage Into Power (GRIP) approach has been developed over 17 years of working with thousands of prisoners, mostly in San Quentin State Prison. This program offers an in-depth journey into the participants' ability to understand and transform violent behavior and replaces it with an attitude of emotional intelligence. The one-year long program helps participants to comprehend the origins of their violence and develop the skills to track and manage strong impulses before they are acted out in destructive ways. Students become "emotionally literate" by fully understanding feelings of anger and rage, learning to recognize the body signals that accompany those emotions, and engage in a process to stop and discharge the buildup of tension in a safe manner. The course helps participants to identify and communicate the feelings underneath anger and process 'the feelings within the feelings' such as sadness, fear, and shame. Students also develop the skills to understand and express the unmet needs that are covered up by the experience of rage.

The GRIP program has a distinct focus. Most rehabilitation programs singularly zero in on either academic or vocational purposes or addiction recovery. These are important efforts, yet they would be optimized if the root causes of what leads someone to offend were addressed directly. The GRIP methodology consists of a transformational re-education modality that commits the participants to a process of deep self-inquiry and healing. The program examines the origins of criminogenic conduct and undoes the characteristic destructive behavioral patterns (including addiction) that lead to transgressions. Participants learn to:

1. Stop their violence
2. Develop emotional intelligence
3. Cultivate mindfulness
4. Understand victim impact

The program is a trauma treatment-based model that integrates the latest brain research. One of the goals of the program is to heal the unprocessed pain from which people lash out. Participants partake in a process of creating an inventory of 'unfinished business' that relate to traumatic experiences that have become formative defense mechanisms which generate triggered reactions. They also make a personal history of 'violence suffered' and 'violence perpetrated' to gain insight into origins and patterns of behavior. Students sign a pledge to become a non-violent person and a peacemaker. A major component of the program is that it functions as a peer education model where experienced students co-facilitate the classes and mentor newer students. All participants are to become fully engaged as integral stakeholders of the program. The program employs a methodology that is called 'normative culture' wherein the students cultivate intrinsic motivation by being actively involved in both setting and enforcing the standards and norms that are integral to the course. This central value of the program

ensures maximum ownership of the participants for their own learning process. Through its status as a service provider through the Marin Probation Department, the program is certified to meet the needs of parolees that must take a 52-week court ordered domestic violence program before release to the community. It also is able to certify prisoners as facilitators of domestic violence as a job skill. The program actively interacts with the community by inviting in guest teachers, victims, California Department of Corrections and Rehabilitation (CDCR) officials, law enforcement, and other community members.

The program integrates three principal modalities:

- Instruction functions as a means to teach the information that is crucial to the program's theoretical framework.
- Process refers to the various exercises employed to work with a deep layer of emotional material that must be acknowledged, expressed, and integrated in order for insight and understanding to occur.
- Practice anchors the acquired insights into a durable behavior by spending time learning how to embody what has been learned.

Practicing the GRIP tools makes the insight operational as a behavioral skillset.¹

Staff Comment. Prisons, such as San Quentin, that are located in highly populated areas often are able to provide a wide array of innovative programming through volunteer efforts and non-profit organizations, such as Insight-Out, the Prison Yoga Project, or the Insight Garden Program. However, remote institutions such as Pelican Bay in Crescent City or Ironwood State Prison in Blythe, do not have the same opportunities to use volunteers and community-based organizations to expand the availability of rehabilitative programs. The Legislature may want to consider creating a grant program that would provide funding for non-profit organizations who would like to expand their programs into underserved institutions.

¹ Program information provided by Jacques Verduin, Executive Director, Insight-Out

ITEMS TO BE HEARD

0552 Office of the Inspector General

The Office of the Inspector General (OIG) protects public safety by safeguarding the integrity of California's correctional system. The OIG is responsible for contemporaneous oversight of the California Department of Corrections and Rehabilitation's (CDCR) internal affairs investigations, use of force, and the employee disciplinary process. When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Inspector General reviews the policies, practices, and procedures of CDCR. The Inspector General reviews the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities; conducts metric-oriented inspection programs to periodically review delivery of medical care at each state prison and the delivery of reforms identified in the department's document, released in April 2012, entitled "The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight, and improve the prison system" (blueprint). The OIG receives communications from individuals alleging improper governmental activity and maintains a toll-free public telephone number to receive allegations of wrongdoing by employees of CDCR; conducts formal reviews of complaints of retaliation from CDCR employees against upper management where a legally cognizable cause of action is present; and reviews the mishandling of sexual abuse incidents within correctional institutions. The OIG provides critical public transparency for the state correctional system by publicly reporting its findings.

In addition, the Public Safety and Offender Rehabilitation Services Act of 2007, established by AB 900 (Solorio), Chapter 7, Statutes of 2007, created the California Rehabilitation Oversight Board (C-ROB) within the OIG. C-ROB's mandate is to examine CDCR's various mental health, substance abuse, educational, and employment programs for inmates and parolees. (C-ROB is discussed in more detail in the next section.)

Following is the total funding and positions for the OIG, as proposed in the Governor's Budget. The OIG is funded exclusively from the General Fund.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$13,507	\$15,762	\$17,031
Total	\$13,507	\$16,366	\$17,031
Positions	87.2	93.4	95.4

Issue 1: C-ROB Update

Background. AB 900 (Solorio), Chapter 7, Statutes of 2007, established the California Rehabilitation Oversight Board (C-ROB) within the Office of the Inspector General (OIG). C-ROB is made up of state and local law enforcement, education, treatment, and rehabilitation professionals who are mandated to examine and report biannually on rehabilitative programming provided by CDCR. The board meets quarterly to recommend modifications, additions, and eliminations of offender rehabilitation and treatment programs. The board also submits biannual reports to the Governor, the Legislature, and the public to convey its findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in offender rehabilitation services, and levels of offender participation and success. In performing its duties, C-ROB is required by statute to use the work of the Expert Panel on Adult Offender Reentry and Recidivism Reduction Programs.

C-ROB uses the California Logic Model as the framework by which to evaluate CDCR's progress in implementing rehabilitative programming. The California Logic Model is eight evidence-based principles and practices, identified by the expert panel, that show what effective rehabilitation programming could look like as an offender moves through the state's correctional system. The eight areas are: (a) assess high risk; (b) assess need; (c) develop behavior management plan; (d) deliver programs; (e) measure progress; (f) preparation for reentry; (g) reintegrate; and (h) follow-up.

On March 15, C-ROB released the fourteenth biannual report, which examines the progress the CDCR made in providing and implementing rehabilitative programming between July and December 2013.

C-ROB Recommendations. The following are the board's findings, and the department's progress in response to those findings, regarding effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in rehabilitation services, and levels of offender participation and success.

The board recommends CDCR's Division of Rehabilitative Programs continue to work closely with CDCR's Division of Adult Institutions' Female Offenders' Mission to provide female offenders with gender-responsive treatment, services, and gender-specific curricula that increase opportunities for successful reintegration into their communities to reduce their rate of recidivism.

The characteristics of the female offender population have, and will continue, to change. The board is focused on how the department administers programs for female offenders and has identified a gap in rehabilitation services as it applies to the female offender population. The department is working with the Division of Adult Institution's Female Offenders' Mission, and future reports will include information about progress implementing a curriculum to meet this need.

The board recommends the department work with the California Arts Council and California Lawyers for the Arts to develop a dedicated “Arts in Corrections” program to be administered statewide.

The board is pleased with the initial results from the Arts in Corrections pilot program, and is aware that offenders who engage in arts programs experience better parole outcomes and lower rates of recidivism. Studies indicate that prison arts education results in a reduction of disciplinary actions and reduced tension within the institution. The department’s own study of parolees between 1980 and 1987 showed that offenders who had engaged in the Arts in Corrections programs experienced better parole outcomes and lower rates of recidivism. The California Arts Council, in conjunction with the California Lawyers for the Arts, is proposing a \$1.214 million budget proposal, which will fund an arts institution program in nine California prisons for two years. Included in the proposal is an integrated evaluation system to provide an assessment of the program’s effectiveness and allow the department and the California Arts Council to focus future funding on the most effective programs.

The board recommends the department work collaboratively with CalPIA to improve access to PIA programs.

The California Prison Industry Authority (CalPIA) has proven to be effective at reducing recidivism. The department and CalPIA strive to increase public and prison safety and reduce recidivism. Therefore, in addition to increasing access to career technical education (CTE), the department should enhance access to CalPIA. The board recommends the department work collaboratively with CalPIA to leverage the programs offered to offenders.

The board reports that the department and CalPIA continue to work collaboratively to improve access to rehabilitative programs offered to offenders. CalPIA is mandated to operate a work program for prisoners that will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay program expenses.

The board recommends the department develop strategies to improve its efficiency in providing continuity of care for offenders released into the community.

The board notes that the department continued to utilize contracted benefits workers within the institutions to apply for, and secure, federal and state benefit entitlements. The board reiterates the importance of the pre-release benefit application process in order to provide continuity of care for offenders released into the community. The department should develop strategies to improve its efficiency in this area.

The board recommends that pre-release reentry COMPAS assessments be performed on all offenders.

While assessment and case management are extremely important functions on the front end, the board reiterates its desire to see pre-release reentry COMPAS assessments performed on all offenders.

The board recommends the department implement an incentive-based system to encourage substance abuse treatment completion rates.

The most recent reported community SAT completion rate of 36 percent is 11 percent lower than the national average of 47 percent, as reported by the Substance Abuse and Mental Health Services Administration. The data clearly indicates that the number of exits far exceeds the number of completions. The board underscores the importance of the Expert Panel Report's recommendation to "*Enact legislation to expand [CDCR's] system of positive reinforcements for offenders who successfully complete their rehabilitation program requirements, comply with institutional rules in prison, and fulfill their parole obligations in the community.*" The board would like to see an increase in the community aftercare SAT completion rates and recommends an incentive-based system to encourage completion.

The board would like clarity regarding the data, including the categories and what factors determine whether all, some, or none of the needs were met. The board recognizes that there are a number of factors during this blueprint transition year that may have affected the outcomes in the post-realignment needs met percentages. The department may have been unable to meet a need because the program is being established. Conversely, an inmate may have been reported as having a need met after spending only one day in a program. The board recommends the department modify its reporting of progress to ensure the data captured accurately reflects the challenges and successes of addressing offenders' needs. One day in a program should not be counted as meeting a need. The board will continue to monitor the department's progress as more offender assessments are completed and programs are activated.

Questions for the OIG. The OIG should be prepared to answer the following questions:

1. In addition to looking at the number of people who are or were provided with treatment services and the completion rates, does C-ROB evaluate the effectiveness of the actual treatment and education programs in the institutions? If so, can you please discuss the effectiveness of the programs and how widely the programs vary among institutions?
2. Please provide more detail on how CDCR could improve access to the CalPIA programs.

3. Please provide more detail on what an incentive-based substance abuse treatment program would entail.
4. Outside of the recommendation that a new COMPAS assessment and case management be done toward the end of a person's sentence, have you found that CDCR does an effective job of providing a rehabilitation plan and case management throughout an inmate's incarceration? In addition, can you tell us what happens to any rehabilitation planning if an inmate is moved to another institution?
5. Do you have any recommendations for changes in C-ROB's statutory requirements? Are there requirements that are no longer relevant and those that you believe the Legislature should add to C-ROB's mission?

Questions for CDCR. CDCR should be prepared to respond to the C-ROB report recommendations and answer the following questions:

1. Some of the recommendations in the C-ROB report are not new and have been made in the past. Please explain how you have attempted to incorporate the C-ROB recommendations into your programs and if you have not implemented them, please explain why not.
2. Please address the concern raised in the report that an inmate who participates one day in a program is counted toward the completion goals.

Staff Comment. C-ROB's biannual reports have been helpful in providing information regarding the types of programs and program utilization within CDCR. However, given the changes, including realignment and the recent ruling by the federal three-judge panel, that have impacted the department since C-ROB was established, the subcommittee may wish to assess whether some of C-ROB's statutory requirements should be revised to include additional evaluations or to remove any requirements that are no longer relevant.

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created, pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Juvenile: Operations and Offender Programs, Academic and Vocational Education, Health Care Services
- Adult Corrections and Rehabilitation Operations: Security, Inmate Support, Contracted Facilities, Institution Administration
- Parole Operations: Adult Supervision, Adult Community-Based Programs, Administration
- Board of Parole Hearings: Adult Hearings, Administration
- Adult: Education, Vocation, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2013 Budget Act projected an adult inmate average daily population of 128,885 in the current year. However, the current year adult inmate population is now projected to exceed budget act projections by 6,101 inmates, a 4.7 percent increase, for a total population of 134,986. The budget year adult inmate population is projected to be 137,788, a 6.9 percent increase of 8,903 inmates over the revised current year. Current projections also reflect an increase in the parolee population of 3,439 in the current year compared to budget act projections, for a total average daily population of 45,934. The parolee population is projected to be 36,652 in 2014-15, a decrease of 5,843.

The Governor's budget proposes \$9.8 billion (\$9.5 billion General Fund and \$320 million other funds) and 60,598.7 positions for CDCR in 2014-15. The following table shows CDCR's total operational expenditures and positions for 2012-13 through 2014-15.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$8,534,272	\$9,263,117	\$9,494,977
General Fund, Prop 98	16,824	17,910	17,698
Other Funds	53,534	62,690	63,053
Reimbursements	138,275	179,647	185,043
Recidivism Reduction Fund	-	-81,109	72,811
SCC Performance Incentive Fund	-615	-1,000	-1,001
Total	\$8,742,290	\$9,441,255	\$9,932,581
Positions	50,728.7	60,790.1	60,598.7

Issue 2: LAO's Population Reduction Recommendations

Background. In 2009, a federal three-judge panel declared that overcrowding in the state prison system was the primary reason that CDCR was unable to provide inmates with constitutionally adequate health care. The court ruled that in order for CDCR to provide such care, overcrowding would have to be reduced. Specifically, the court ruled that by June 2013, the state must reduce the inmate population to no more than 137.5 percent of the "design capacity" in the 33 prisons operated by CDCR. Design capacity generally refers to the number of beds CDCR would operate if it housed only one inmate per cell and did not use temporary beds, such as housing inmates in gyms. Inmates housed in contract facilities or fire camps are not counted toward the overcrowding limit. In May 2011, the U.S. Supreme Court upheld the three-judge panel's ruling. Under the population cap imposed by the federal court, the state would need to reduce the number of inmates housed in its 33 state prisons by about 34,000 inmates, relative to the prison population at the time of the ruling.

In October 2012, the federal three-judge panel ordered the state to present two plans for how it would further reduce the state's prison population either by the original deadline of June 2013, or by a deadline of December 2013. On January 7, 2013, the Administration released its response to the court. The Administration requested that the court modify or vacate its population reduction order altogether. While the three-judge panel did not issue judgment on whether to vacate the population limit, it did extend the deadline for meeting the limit from June 2013 to December 2013. It also ordered the Administration to continue working toward meeting the limit in December but did not order the Administration to take any specific actions.

In June of 2013, the court ordered Governor Brown to reduce the prison population by 9,600 inmates by the end of the year. The state's response was reflected in part by the passage of SB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013, which provided CDCR with an additional \$315 million in General Fund support in 2013-14 and authorized the department to enter into contracts to secure a sufficient amount of inmate housing to meet the court order and to avoid the early release of inmates which might otherwise be necessary to comply with the order. The measure also required that if the federal court modifies its order capping the prison population, a share of the \$315 million appropriation in Chapter 310 would be deposited into a newly-established Recidivism Reduction Fund. The Governor's proposed budget estimates that approximately \$82 million will be available in the Recidivism Reduction Fund.

Recent Court Order. On February 10, 2014, the court granted the state's request for a two-year extension to meet the population cap and largely adopted the plan submitted by the Administration. The order established the following benchmarks:

Benchmark Date	Percent of Capacity	Number of Inmates ²	Reduction from Projected Population
June 30, 2014	143%	116,651 ³	1,266 ⁴
February 28, 2015	141.5%	117,030 ⁵	12,193 ⁶
February 28, 2016	137.5%	116,989 ⁷	17,927 ⁸

In addition, the court order established the following requirements for the state:

1. Prohibits an increase in the number of inmates housed in out-of-state facilities.
2. Requires an immediate increase in credits prospectively for non-violent second-strike offenders and minimum custody inmates. In addition, allows non-violent second-strikers to earn good time credits at 33.3 percent and earn milestone credits.
3. Requires implementation of a new parole determination process which will allow non-violent second-strikers to be eligible for parole once they have completed 50 percent of their sentence.
4. Requires the parole of certain inmates serving indeterminate sentences who have already been granted parole by the Board of Parole Hearings but have future parole dates.
5. Requires the implementation of an expanded parole process for the following types of inmates:
 - a. Medically incapacitated inmates.
 - b. Inmates who are 60 years of age or older and have already served 25 years.
6. Requires the activation of 13 reentry hubs by February 10, 2015.
7. Requires the pursuit of the expansion of the state's pilot reentry program to include additional counties.

² Based on a current prison capacity of 81,574, which grows to 85,083 with the activation of DeWitt and the three infill projects.

³ Assumes DeWitt is not activated in time to meet this deadline.

⁴ Based on the 1/31/2014 institution population of 117,917.

⁵ Assumes DeWitt is activated and increases the state's capacity by 1,133 beds.

⁶ Based on the Department of Finance "Three-Judge Court Compliance Projections with Two-Year Extension" Prison Population, with Blueprint projection of 129,233.

⁷ Assumes activation of all three infill projects approved in the Blueprint, which will increase capacity by 2,376 beds.

⁸ Based on the Department of Finance "Three-Judge Court Compliance Projections with Two-Year Extension" Prison Population, with Blueprint projection of 134,916.

8. Requires an expanded alternative custody program for female inmates.
9. Requires monthly status reports to the court.
10. Appoints a Compliance Officer who will release inmates in the event that the established benchmarks are not reached.
11. Waives all statutory, constitutional, and regulatory provisions, except the California Public Resources Code, which may impede the implementation of the order.

Legislative Analyst's Office (LAO) Analysis. On February 28, the LAO released their analysis of the recent court order and the Governor's plan to reduce the prison population. While the LAO agreed that the plan will likely allow the state to reach the 137.5 percent cap by the deadline of February 26, 2016, they did find that the plan is very costly and will not allow the state to maintain compliance with the cap in the long run. The LAO found that the centerpiece of the Governor's plan is to place almost 17,000 inmates in contract beds, 9,000 out of state and 8,000 within the state. They estimate the on-going cost of those beds to be approximately \$500 million per year.

The report notes:

While the plan is likely to achieve compliance with the court order in the short run, current projections indicate that CDCR is on track to eventually exceed the cap. CDCR is currently projecting that the prison population will increase by several thousand inmates in the next few years and will reach the cap by June 2018 and exceed it by 1,000 inmates by June 2019. However, we note that this projection is subject to considerable uncertainty. Given the inherent difficulty of accurately projecting the inmate population several years in the future, it is possible that the actual population could be above or below the court imposed limit by several thousand inmates.

In addition, we are concerned that the plan's heavy reliance on contract beds makes it a very costly approach. As we note earlier, the Administration is currently considering alternatives to contracting for additional prison beds indefinitely to maintain long-term compliance with the cap. However, until such alternatives are implemented, the state will likely need to continue spending nearly \$500 million annually on contract beds in order to maintain compliance with the prison population cap. In contrast, other options available to the Legislature could actually decrease state expenditures.

LAO Recommendations. The LAO makes the following recommendations for the Legislature to consider:

- Reject funding for the Integrated Services for Mentally Ill Parolees (ISMIP) program expansion and require an evaluation.
- Approve the drug treatment expansion but require an evaluation.
- Withhold funding for rehabilitation programming in contract facilities and direct the department to provide a more comprehensive plan during the spring budget hearings.
- Reject the Northern California Reentry Facility (NCRF) proposal.
- Reject the \$40 million jail and community reentry facility proposal.
- Evaluate CDCR's current rehabilitative programs.
- Expand the program created by SB 678 (Leno), Chapter 608, Statutes of 2009, commonly referred to as SB 678, which provides counties a fiscal incentive to reduce the number of felony probationers that fail on probation and are incarcerated.
- Reclassify certain felonies and wobblers as misdemeanors.
- Reduce sentences for certain crimes.
- Increase the earned release credits inmates can earn.
- Expand the Alternative Custody Program (ACP) to male inmates.
- Modify rehabilitative programs based on the evaluation recommended above.

Questions for the LAO. The LAO should be prepared to present their recommendations and to address the following questions:

1. Please provide details on how you would expand the SB 678 incentives program.
2. Please provide details on the types of earned release credits you are proposing.
3. You recommend adopting the Governor's proposal to expand drug treatment. What evidence shows that the program is worth expanding at this time and that it is

effective? Why didn't you make the same recommendation for drug treatment that you made for ISMIP and other CDCR programming?

4. Have you been able to estimate how your recommendations might allow the state to reach the 137.5 percent cap by February 2016 and maintain the population below that cap into the future?

Specifically, if the information is available, can you please tell the subcommittee how much you estimate each of the following policies will reduce the prison population:

- a. The proposed sentencing changes.
- b. Expansion of SB 678.
- c. Creating an ACP for male inmates.
- d. The increase of early release credits.

COMMITTEE ACTION

1. LAO is directed to work with DOF, CDCR and Pew Charitable Trust to develop cost estimates for an independent, comprehensive evaluation of all of CDCR's rehabilitative programs and report back during the May Revise hearings.
2. LAO is directed to develop alternatives and cost estimates for the expansion of SB 678 to include offenders on mandatory supervision, Post-Release Community Supervision (PRCS), and any other performance improvement incentives they recommend and report back during May Revise hearings. Included in those alternatives should be the LAO's assessment of the pros and cons of each alternative in terms of the impact on public safety and victims' rights.

VOTE: 3 – 0

Issue 3: Recidivism BCP

Background. In September 2013, the Legislature passed, and the Governor signed, SB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013, to address the federal three-judge panel order requiring the state to reduce the prison population to no more than 137.5 percent of design capacity by December 31, 2013. SB 105 provided CDCR with an additional \$315 million in General Fund (GF) support in 2013-14 and authorized the department to enter into contracts to secure a sufficient amount of inmate housing to meet the court order and to avoid the early release of inmates, which might otherwise be necessary to comply with the order. The measure also required that if the federal court modifies its order capping the prison population, a share of the \$315 million appropriation in Chapter 310 would be deposited into a newly-established Recidivism Reduction Fund.

Budget Proposal. The Governor's budget reflects total expenditures of \$228 million from the \$315 million appropriated in AB 105. The proposed plan would set aside \$82 million for recidivism reduction efforts. The following proposals are contained in the Governor's proposed recidivism BCP:

- \$11.3 million to increase the number of slots in the Integrated Services for Mentally Ill Parolees program from 600 to 900.
- \$40 million to support state reentry programs in the community, either through programs provided in jails or for services provided within communities.
- \$6 million GF for the workload associated with accelerating lifer hearings from 180 days to 120 days, expanding medical parole and implementing an elderly parole process.
- \$1.1 million GF for case records overtime for the processing of enhanced credit earnings for non-violent second strike inmates.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. Please provide details as to how you reached the \$40 million amount for community reentry.
2. The Governor's two-year plan assumes that 500 offenders will move to community reentry beds. Please provide information on how you arrived at that number and where you assume those reentry beds will be located.
3. Please provide an update on the status of expanded parole and the processing of enhanced credit earnings.

4. Over the next two years, your court compliance projections show that approximately 185 people will be paroled due to the expansion of medical and elderly parole. The BCP asks for \$12 million GF (\$6 million for 2014-15 and \$6 million for 2015-16) for the associated increased workload for the Board of Parole Hearings and CDCR. That equals to \$65,000 per parolee for the hearing process. Please explain why this process is so expensive.

Legislative Analyst's Office (LAO) Recommendations. The LAO makes the following recommendations directly related to the Recidivism BCP, for the Legislature to consider:

- Reject funding for the Integrated Services for Mentally Ill Parolees (ISMIP) program expansion and require an evaluation.
- Reject the \$40 million jail and community reentry facility proposal.

Staff Comment. In the 2013-14 budget, CDCR was given the authorization to provide up to \$5 million in funding to enter into a three-year Reentry and Community Transition pilot program with Los Angeles, Marin, San Diego, and San Francisco counties. Those projects are not underway yet, in fact the San Francisco Board of Supervisors only recently granted permission for the county to participate in the project. The Legislature may wish to consider whether it is prudent to provide an additional \$40 million toward this effort, prior to knowing if the projects will be successful. Further, the Administration has indicated that the \$40 million in funding for community reentry is not based upon an assessment of county's willingness or interest in providing reentry services.

Additionally, the Administration has noted that the funding amounts for expanded parole and processing enhanced credit earnings are placeholder amounts and need to be further refined.

COMMITTEE ACTION

The proposal is rejected without prejudice.

VOTE: 3 – 0

Issue 4: SB 260 Youth Offender Parole Services BCP

Background. SB 260 (Hancock), Chapter 312, Statutes of 2013, requires the Board of Parole Hearings (BPH) to establish parole suitability hearings for offenders who were under 18 at the time they committed their crime and were sentenced to state prison. The bill also expanded the type of youth offender eligible for a parole consideration hearing, which historically only included indeterminately sentenced inmates. Now, under the changes enacted by SB 260, determinately sentenced offenders who meet certain criteria are entitled to a youthful offender parole hearing. Specifically, an offender is ineligible if he or she is sentenced under the “Three Strikes” law, the “One-Strike” sex law, or sentenced to life in prison without the possibility of parole. In addition, an offender is ineligible if, subsequent to attaining 18 years of age, he or she commits an additional crime for which the person is sentenced to life in prison or commits murder. The bill also requires that all currently eligible youthful offenders have their parole hearing date by July 1, 2015.

Budget Proposal. The Governor's budget includes \$1.586 million (General Fund) and 3.5 positions on a one-year limited-term basis (decreasing to approximately \$315,000 and 1.5 positions in 2015-16) to conduct the additional youthful offender parole hearings required by SB 260. Of the \$1.586 million, \$1.298 million and 3.5 positions are for BPH and the remaining \$288,235 is for CDCR's Case Records Unit.

COMMITTEE ACTION**Approved as budgeted.****VOTE: 2 – 1 (Anderson, no)**

Issue 5: Status Update on Reentry Hubs

Background. In April 2012, CDCR released *The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight, and improve the prison system* — the *Blueprint* — detailing the Administration's plan to reorganize various aspects of CDCR operations, facilities, and budgets in response to the effects of the 2011 realignment of adult offenders, as well as to meet federal court requirements. The blueprint was intended to build upon realignment, create a comprehensive plan for CDCR to significantly reduce the state's investment in prisons, satisfy the Supreme Court's ruling to reduce overcrowding in the prisons (to 145 percent of design capacity as proposed by the Administration at the time as an alternative of 137.5 percent), and get the department out from under federal court oversight.

The Legislature, through the Budget Act of 2012 and its related trailer bills, approved funding augmentations and reductions associated with the blueprint and adopted necessary statutory changes. In addition, the Legislature made several changes to the blueprint to increase transparency and accountability, including creating a separate budget item for CDCR's rehabilitative programs and giving the Office of the Inspector General (OIG) oversight over the implementation of certain aspects of the blueprint.

The blueprint included the establishment of reentry hubs at designated prisons. Those reentry hubs are to contain career technical education programs, cognitive-behavioral therapy programs, substance abuse treatment programs for the last six to twelve months of incarceration, employment training, state-issued identification cards, academic programs, and a variety of self-help and volunteer programs.

Thirteen reentry hubs are in the process of being established in the existing designated institutions to provide relevant services to inmates who are within four years of release and who demonstrate a willingness to maintain appropriate behavior to take advantage of these services. The services for those reentry hubs will be available for inmates who are deemed to have a moderate to high risk of reoffending.

CDCR asserts that reentry hub programming will be geared toward ensuring that, upon release, offenders are ready for the transition back into society. The core of the programming is Cognitive Behavioral Treatment (CBT), an evidence-based program designed for inmates who have a moderate-to-high risk to reoffend, as assessed by the California Static Risk Assessment (CSRA), or who have an assessed criminogenic need, as identified by the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) and/or other assessment(s) identified by CDCR. CBT programs address the following major areas:

- Substance Abuse
- Criminal Thinking
- Anger Management
- Family relationships

In addition, reentry hubs will include the California Identification Card (Cal-ID) Program to ensure that offenders obtain a valid California identification card upon release, which is critical for employment and other services. The Transitions Program is also offered to provide inmates with job readiness and search skills and practical financial literacy to facilitate successful reentry into their communities.

The following table includes the locations of the 13 reentry hubs, their activation date or status and the security level of the hub.

Reentry Hub Location	Location	Activation Date	Security Level
Avenal State Prison (ASP)	Avenal	Within 45 to 60 days	II
California Institution for Men (CIM)	Chico	Within 45 to 60 days	I
California Institution for Women (CIW)	Corona	September 2013	I - IV
California Men's Colony (CMC)	San Luis Obispo	September 2013	II
California Treatment Facility (CTF)	Soledad	Within 45 to 60 days	II
Central California Women's Facility (CCWF)	Chowchilla	September 2013	I - IV
Chuckawalla Valley State Prison (CVSP)	Blythe	Within 45 to 60 days	II
Folsom Women's Facility (FWF)	Folsom	April 2014	I - III
High Desert State Prison (HDSP)	Susanville	Pending DGS approval	III
Ironwood State Prison (ISP)	Blythe	September 2013	III
California State Prison – Los Angeles (LAC)	Lancaster	No vendor – out for bid	IV
Substance Abuse Treatment Facility (SATF)	Corcoran	Pending DGS approval	II
Valley State Prison (VSP)	Chowchilla	Pending DGS approval	II

Questions for the Administration. The department should be prepared to provide an update on the 13 reentry hubs and to address the following questions:

1. According to the blueprint, all of the reentry hubs are to be operating by June 30, 2014. Please provide a status update.

2. Three reentry facilities are pending DGS approval. Can you please tell the subcommittee how long the DGS contracting process takes in general and how this part of the approval process takes? Are there things that can be done through trailer bill that would help expedite the contracting process?
3. Why does CDCR have to rebid the contract for the reentry hub at the California State Prison in Los Angeles? How long do you anticipate that process taking?
4. The reentry hub model calls for substance abuse treatment only in the last 6 to 12 months of a person's sentence. Why wait until the end of a person's sentence to provide treatment for addiction? Wouldn't it be more effective to provide upfront treatment when a person enters prison and then provide on-going maintenance/therapy for the duration of the sentence?
5. As discussed earlier, C-ROB recommends that a pre-release reentry COMPAS assessment be performed on all offenders. Has the department considered adopting this recommendation to better assess the needs of individuals who will be receiving reentry services and programming? If CDCR will not be implementing this recommendation, please explain why not.
6. Is the Strategic Offender Management System (SOMS) used in choosing inmates for the various reentry hubs, monitoring their programs, and measuring their success?
7. Will all offenders at medium to high risk of reoffending be placed in a reentry hub before their release? In determining the reentry hub, will CDCR be taking into account the proximity of the county they will ultimately be released to?
8. Will offenders be receiving in-reach services from the officers who will be supervising them upon their release and other providers, such as mental health treatment or substance abuse treatment providers, who may be responsible for providing services upon the offender's release?

Issue 6: Northern California Reentry Facility Capital Outlay BCP

Background. The Northern California Reentry Facility (NCRF) would be located at the former Northern California Women's Facility (NCWF) in Stockton, which has been closed since 2003. The facility is adjacent to the California Health Care Facility (CHCF) in Stockton and would be overseen by the warden of CHCF. In addition, the facility would share services, such as warehousing and food preparation with CHCF and the DeWitt-Nelson facility. When completed in Spring of 2017, the facility will house approximately 600 male inmates.

CDCR argues that this facility is necessary because other existing Northern California institutions were deemed unsuitable for a reentry hub due to either their remote location or because they primarily house inmates participating in other special programs.

Budget Proposal. The Governor's budget proposes \$8.3 million (Recidivism Reduction Fund) for the design phase of a new project to add new construction and renovate existing buildings at the new Northern California Reentry Facility (previously known as the Northern California Women's Facility) in Stockton. This entire project is expected to cost roughly \$130.3 million (\$3.3 million for planning, \$5 million for working drawings, and \$122 million for construction). The on-going costs to run the facility are approximately \$50 million per year.

Questions for the Administration. The department should be prepared to introduce the proposal and to address the following questions:

1. Please explain why the Administration believes that capital outlay planning is an appropriate use of the Recidivism Fund?
2. Given the severe overcrowding in two of the three women's facilities in the state, has the Administration considered rehabilitating and reopening NCWF to house female inmates? If not, please tell the committee how you plan to significantly reduce the population in the female institutions?

Legislative Analyst's Office (LAO) Analysis. The LAO has several concerns with the Administration's plan to allocate \$8.3 million from the Recidivism Reduction Fund to support the design of NCRF. First, they are concerned that the proposal is an inappropriate use of the Recidivism Reduction Fund. The Legislature created the Recidivism Reduction Fund to support programs designed to reduce recidivism, such as substance abuse treatment and cognitive behavioral therapy. As such, they are concerned that the Governor's proposed use of these funds to support the design of a new prison is inconsistent with legislative intent, particularly since the department has not provided any information on how NCRF would reduce recidivism. Second, they are concerned about the potential cost of NCRF. In 2010, the department estimated that the total construction costs would be \$115 million and that the facility would cost about \$90,000 per inmate to operate—one and a half times the current average cost to house an inmate in state prison. Thus, even if NCRF is operated in a way that would reduce

recidivism, its potential cost makes it unlikely to be the most cost-effective approach for doing so.

LAO Recommendation. The LAO recommends that the Legislature reject the administration's plan to allocate \$8.3 million from the Recidivism Reduction Fund to support the design of NCRF.

Staff Comment. When completed, the facility would house approximately 600 male inmates who have four years or less to serve on their sentences. The facility is not scheduled to be completed until May of 2017 and therefore will not help meet the February 2016 deadline to reduce the state's prison population to 137.5 percent of the state's institutional capacity. However, it may help the state maintain that reduced population if the population continues to increase and if CDCR does not employ any effective rehabilitation efforts that succeed in reducing the prison population over the long-term.

Two of the three women's prisons are the most over-crowded institutions in the state (Central California Women's Facility at 183 percent and California Institution for Women at 151 percent). In addition, the Inspector General found that approximately one-third of the 160 women spending time in segregated housing units at these institutions are there not because they have done something that caused them to be placed in segregation but because none of the women's prisons have a special needs yard for women who are unsafe in the general population. Finally, the population reduction plan proposed by the Administration has very little in it that would reduce overcrowding at these women's institution. The plan focuses primarily on increasing capacity for male inmates. Therefore, the Legislature may wish to explore whether or not the former Northern California Women's Facility in Stockton, which will be the site of NCRF, might not be put to better use as a women's institution and that the institution include a special needs yard for women who are unsafe in the general population.

COMMITTEE ACTION

- 1. The proposal is rejected.**
- 2. The Administration is directed to work with experts to determine whether or not a public/private partnership with a non-profit organization would be possible that would allow the facility to be repurposed in a more timely manner as a facility for female inmates designed to provide promising and innovative programming, and a special needs yard for female inmates who are currently being held in administrative segregation or a segregated housing unit due to concerns for their safety in the general population.**
- 3. The Administration is required to report back during May Revise hearings.**

VOTE: 3 – 0

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, March 27, 2014
9:30 a.m. - State Capitol Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY**5225 Department of Corrections and Rehabilitation**

1. **California Correctional Center Arnold Unit & Antelope Camp Kitchen/Dining Area BCP.** The Governor's budget proposes \$1 million (General Fund) to support the planning phase of two kitchen/dining facility replacements at the California Correctional Center in Susanville. The Administration has identified numerous health and safety risks to inmates and staff as justification for this facility upgrade. This entire project is expected to cost roughly \$16.4 million (\$1 million for planning, \$1.1 million for working drawings, and \$14.3 million for construction).
2. **Avenal State Prison Medical Inmate Waiting Room BCP.** Requests \$575,000 GF in funding to construct a new medical inmate waiting building to comply with the Medical Health Care Facility Components established by the healthcare receiver. The project would provide three separate secure waiting areas, a custody station, inmate restroom, and staff restroom.
3. **California Correctional Center (CCC) Air Cooling at Lassen Yard BCP.** Requests \$597,000 GF to install evaporative cooling units on the Lassen Yard housing units at the CCC in Susanville which will help ensure that the temperatures in the housing units are maintained at or below 89 degrees, as required by CDCR Design Criteria Guidelines.
4. **Folsom State Prison Storm Drain Containment Pond and Pump BCP.** Requests \$395,000 GF in funding to construct a storm water containment pond and pump system to capture tainted storm water runoff and pump the water into the facility's wastewater system for processing.
5. **Healthcare Facility Improvement Program (HCFIP) Inmate Ward/Labor Services BCP.** Request \$1,123,237 (bond construction project funding) to pay for 10 Construction Supervisors and one Associate Governmental Program Analyst/Staff Services Analyst to expand the Inmate/Ward Labor Program in order to assist in HCFIP projects. The Inmate Ward/Labor program was developed in 1983 and allows inmates to gain experience in the construction trades. HCFIP is a plan adopted in 2012 that is designed to upgrade the existing health care facilities infrastructure within CDCR. Over the next four years, HCFIP is scheduled to produce approximately \$220 million in additional construction work for the Inmate Ward/Labor program.

ITEMS TO BE HEARD

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created, pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Juvenile: Operations and Offender Programs, Academic and Vocational Education, Health Care Services
- Adult Corrections and Rehabilitation Operations: Security, Inmate Support, Contracted Facilities, Institution Administration
- Parole Operations: Adult Supervision, Adult Community-Based Programs, Administration
- Board of Parole Hearings: Adult Hearings, Administration
- Adult: Education, Vocation, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2013 Budget Act projected an adult inmate average daily population of 128,885 in the current year. However, the current year adult inmate population is now projected to exceed budget act projections by 6,101 inmates, a 4.7 percent increase, for a total population of 134,986. The budget year adult inmate population is projected to be 137,788, a 6.9 percent increase of 8,903 inmates over the revised current year. Current projections also reflect an increase in the parolee population of 3,439 in the current year compared to budget act projections, for a total average daily population of 45,934. The parolee population is projected to be 36,652 in 2014-15, a decrease of 5,843.

The Governor's budget proposes \$9.8 billion (\$9.5 billion General Fund and \$320 million other funds) and 60,598.7 positions for CDCR in 2014-15. The following table shows CDCR's total operational expenditures and positions for 2012-13 through 2014-15.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$8,534,272	\$9,263,117	\$9,494,977
General Fund, Prop 98	16,824	17,910	17,698
Other Funds	53,534	62,690	63,053
Reimbursements	138,275	179,647	185,043
Recidivism Reduction Fund	-	-81,109	72,811
SCC Performance Incentive Fund	-615	-1,000	-1,001
Total	\$8,742,290	\$9,441,255	\$9,932,581
Positions	50,728.7	60,790.1	60,598.7

Issue 1: Overtime/Custody Relief/Permanent Intermittent Officers

Background. Staffing the 34 adult prisons operated by CDCR represents a unique challenge. This is because many duty assignments (referred to as “posts”) must be filled 24 hours per day, 365 days per year. In particular, many assignments filled by correctional officers, sergeants, and lieutenants are posted positions. If a staff member is unavailable to fill a post, the prison generally cannot leave the post unfilled. Staff in these posts typically work one of three eight hour shifts (referred to as “watches”) each day, five days per week and have two regular days off (RDOs). Thus, a single post is typically filled by three different employees over the course of a day. Staff members assigned to the prison’s “watch office” are employed to ensure that all the posts are filled and are responsible for finding an employee capable of filling posts that are left empty when another employee is unavailable.

Steps Taken to Fill Posts Left Empty When Staff Are Unavailable. There are different reasons why an employee is unavailable to fill an assigned post, with employee leave use being the most common. Each correctional employee used, on average, 365 hours of leave in 2011-12. The most common type of leave used by correctional employees is sick leave. Other types of leave include vacation leave, annual leave (a type of leave employees may choose to earn in lieu of vacation and sick leave), and leave taken by staff to complete professional training and development or to fulfill military duty. In addition, posts can be empty if a position is vacant, such as when CDCR fails to hire enough staff. When a post becomes empty due to vacancies or staff absences, the watch office at the prison takes a series of sequential steps to identify certain employees to fill the absent post as follows:

Relief Officers. When posts become empty because staff is unavailable, the watch office attempts to first fill the empty posts with relief officers. Relief officers are full-time correctional employees who are assigned to a specific prison. These officers arrive at the prison for a predetermined shift, but may not know which post they will be assigned to on a given day until they arrive at the prison. If there are not enough empty posts on a given watch, relief officers can be assigned other duties, such as searching the prison for contraband. Relief officers receive the same pay and benefits as other correctional officers assigned to regular posts.

Officers Redirected From Other Posts. If relief officers are not available to fill empty posts, the watch office may then determine whether any correctional employees can be redirected from other posts that do not need continual staffing during the watch in question. Examples of posts that do not require continual staffing include posts in prison investigation units.

Permanent Intermittent Correctional Officers (PICO). If the empty posts are correctional officer assignments (and not for correctional sergeants or lieutenants), the watch office will then attempt to use PICOs to fill the empty posts. Like relief officers, PICOs generally are assigned to a specific prison. However, unlike relief officers, PICOs only work if they are called in by the watch office to fill an empty post—similar to how a substitute teacher fills in for a sick school teacher. The pay and benefits of PICOs are contingent on the number of hours they work.

Overtime. If the posts are still empty after the above steps are taken, a watch office will then offer correctional employees the opportunity to earn overtime on a voluntary basis, with more senior officers being offered the opportunity first. If no employees volunteer to work overtime, a watch office will then use involuntary overtime to fill empty posts. Under these circumstances, overtime is assigned in reverse seniority order, with the most junior correctional employee on the previous watch being required to stay and fill the empty post on the next watch.

In addition to the need to fill posts, workload that falls outside each watch can also drive the need for correctional employee staffing and overtime. The most significant workload that results in the need for additional staffing and overtime is associated with medical guarding and transportation. Such workload occurs when inmates require certain types of medical care that cannot be provided on-site and correctional staff must transport them to their appointments and guard them while they are there. This often results in overtime because the total time to transport and guard inmates can extend beyond the end of an officer's shift. Other workload also contributes to the need for correctional staffing and overtime. Examples include the need to conduct investigations, transport inmates to and from their court dates, and various emergencies, such as prison riots.¹

Governor's Budget. The Governor's 2014-15 budget proposes \$207.2 million in General Fund support for overtime costs. This represents a slight increase from the \$201.3 million included in the 2013-14 budget for overtime costs.

The budget also proposes eliminating the separate budget item for custody overtime (Program 26) and including those overtime costs in the general custody salaries and wages budget item (Program 25).

In addition, the budget proposes to change the methodology CDCR uses to calculate the relief factor. Under the proposal, the relief factor would be calculated based solely on statewide actual leave usage rather than a combination of actual leave usage and accrual rates. In addition, the proposed methodology would incorporate types of leave (such as furlough days) that are not accounted for in the current relief factor. These changes result in the need for an additional \$9 million in General Fund support and 84 positions in 2014-15. Under the Governor's proposal, the relief factor would be adjusted annually based on updated data on actual usage of staff leave in the prior year. In addition, CDCR indicates that while the proposed relief factor change is based on statewide data, it is currently in the process of calculating specific relief factors for individual prisons that could be used to make annual adjustments at each prison in the future.

Questions for the Administration. The department should be prepared to present the proposals and to address the following questions:

1. How often do institutions find themselves with a full complement of regular custodial staff and relief staff? In those cases, what is the policy regarding the over-staffing?

¹ Background provided by *The 2014-15 Budget: Governor's Criminal Justice Proposals*, February 19, 2014, Legislative Analyst's Office.

2. Please be prepared to respond to the LAO's finding that CDCR underutilizes PICO staff.
3. Please explain why CDCR has used overtime funding as a source for other budgetary expenses, such as lump-sum payouts to employees leaving state service and workers' compensation costs.

Legislative Analyst's Office (LAO).

Overtime. The LAO's analysis of the way CDCR staffs its prisons and manages overtime indicates that CDCR's overtime budget is unnecessarily large. While budgeting for overtime related to workload and some absences is necessary, the department does not need to set aside funding specifically for overtime required to cover vacancies and most of the types of leave that result in posts being empty. This is because funding for these types of overtime can be redirected from savings resulting from vacant positions. For example, when overtime is needed to fill a post that is empty due to a vacancy, the department can redirect funding tied to the vacant position to pay for the overtime, as that funding is not being used to pay correctional employees. Similarly, because the department budgets for enough relief officers to cover nearly all of the leave taken by correctional employees, overtime is only necessary to cover for such leave if there are vacant relief officer positions.

The LAO also notes that the amount of funding derived from vacant positions is sufficient to fully cover overtime costs. This is because the amount budgeted for each correctional position on a per hour basis, including benefits and other non-salary costs, exceeds the cost of the overtime necessary to cover the number of hours typically worked by correctional employees. While staff are generally paid one and a half times their usual pay for overtime hours, the increased costs for the higher hourly wage is more than offset by other factors. For example, when the state hires additional correctional staff it must pay for their retirement and benefits, whereas there are no such costs incurred for each additional hour of overtime worked.

However, when CDCR incurs costs for overtime related to workload (such as medical guarding and transportation) and leave not covered by relief officers (such as leave earned when correctional employees work through furlough days), there is no source of funding available to be redirected to cover such costs. Thus, CDCR only needs to set aside overtime funds in its budget exclusively for these purposes.

CDCR's overtime budget in recent years is far larger than what has been required to fund overtime related to workload and absences not covered by relief officers.

Relief Officers. CDCR establishes the relief factor by taking into account the amount of leave time accrued and used by correctional employees in prior years, which is then used to estimate the number of relief officer positions for which to budget. Currently, this amounts to three relief officer positions for every ten correctional officer positions and slightly more for correctional sergeants and lieutenants. (The Administration's proposed changes to the relief factor would marginally increase these ratios for correctional officers, and slightly reduce them for sergeants and lieutenants.) This represents the amount of relief officers CDCR needs on average over the course of a year, while, in actuality, the amount of leave taken—

and by extension the number of relief officers needed—is subject to seasonal variation. For example, officers tend to take more leave in the summer months and during December, with less leave taken in the remaining months. By basing the number of relief officers needed on an annual average, CDCR ends up budgeting for too many relief officers in most months of the year, and not enough in the summer and December. This means that, if there were no vacancies in relief officer positions, more correctional employees would likely report to work than necessary eight months of the year. Although vacancies can prevent this from occurring, it still demonstrates that CDCR's budget includes more funding for relief officers than necessary in most months of the year. This mismatch is illustrated in Figure 14, which compares the number of hours of leave correctional employees are currently likely to use in each month with the number of hours of staffing that relief officers are likely to provide under CDCR's current approach to staffing, assuming there are no vacancies in relief officer positions.

The mismatch between an institution's need for coverage and the number of relief positions it is budgeted for is further compounded by a flaw in CDCR's method for allocating relief officers among prisons. Currently, CDCR allocates relief positions among institutions based solely on the number of non-relief positions it has, despite the fact that staff leave usage—and thus the need for relief officers—varies significantly among institutions. Such variation in leave usage occurs primarily because each institution has a different mix of more and less senior officers and more senior officers tend to accrue and use leave at higher rates. For example, staff at Pelican Bay State Prison in Crescent City, which has relatively fewer senior officers, used about 29 percent less leave per employee than those at Valley State Prison for Women in Chowchilla in 2011-12, which has a higher allocation of senior officers. However, under the current allocation procedure, each of these institutions would be allocated relief positions at the same rate.

In contrast to relief officers, who are scheduled for work irrespective of the amount of need on the day they are scheduled, institutions can use PICOs only when needed. This flexibility makes PICOs uniquely suited to address the seasonal and institutional variability in the need to cover for officers using leave. In addition, PICOs generally cost less on an hourly basis—after adjusting for the number of hours a relief officer is likely to work—than relief officers. Moreover, PICOs earn their benefits based on the number of hours they work, in contrast to relief officers whose benefits are generally independent of the amount of time they work.

LAO Recommendation. (1) Require CDCR to revise its budgeting methodology for relief officers and PICOs and (2) adjust CDCR's overtime budget to more closely reflect its need for overtime spending. The LAO estimates these changes would free up a total of \$129 million, relative to the Governor's proposed budget for 2014-15.

Staff Comments. In discussions, the Administration has agreed with the LAO's finding that the overtime funding has been over-budgeted and used to fund other CDCR costs. The Administration has asked, however, for time to review the LAO's findings and work with the Legislature to determine the true amount of over-funding. Given the tendency to use the overtime funding as a slush fund for other budget items, it concerns the staff that the Administration proposes eliminating the separate budget item for overtime and including that funding in salaries and wages. In making this shift, the Legislature would likely no longer be able to determine whether or not CDCR continues to use the overtime budget as a fund for other budget expenditures.

Issue 2: Workers' Compensation Shortfall

Governor's Budget. The Governor's budget includes a one-time \$75 million (General Fund) augmentation to address the CDCR's rising workers' compensation costs. From 2009-10 to 2012-13, CDCR's workers' compensation costs grew by nearly \$90 million due to increases in open claims, cost-of-living adjustments, retirement and medical benefits, and State Compensation Insurance Fund fees. CDCR has committed to enhancing cost containment strategies; however, it is still anticipated that the department will have at least a \$75 million shortfall in 2014-15.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. How much does CDCR generally divert from the overtime budget to pay for workers' compensation costs?
2. Why has the Administration taken the approach of using the overtime budget as a slush fund, rather than budgeting for the full workers' compensation costs?
3. The budget proposal notes that even with this augmentation, the Administration anticipates that there will still be a \$75 million shortfall in 2014-15. Why does the Administration plan on continuing to under-budget for workers' compensation? What approach is the administration taking to contain those costs? How does the Administration plan on paying for the additional \$75 million?
4. If this \$75 million augmentation brings workers' compensation funding to a more appropriate level, why hasn't the Administration reduced the proposed overtime funding to account for this shift in funding?

Issue 3: Basic Correctional Officer Academy Expansion
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Governor's Budget. The Governor's budget proposal includes \$61.7 million (General Fund) and 147 positions to increase the CDCR's Basic Correctional Officer Academy capacity from 720 in 2013-14 to 3,400 in 2014-15. This augmentation will allow CDCR to fill an increasing number of vacancies in its correctional officer classification due to retirements and other attrition.

Of the \$61.7 million, the Office of Peace Officer Selection (OPOS) would receive \$14.5 million and 69 positions to recruit and process up to 32,500 applicants annually, and process the applicants through the screening process.

The Office of Training and Professional Development, under this proposal, would receive \$47.3 million and 78 positions. \$38 million of that funding would be directly related to funding the Academy.

To facilitate an increased number of cadets, the Administration proposes shifting from a 16-week Academy to a 12-week Academy, with the final four weeks of training provided at an institution. The following chart illustrates the changes in curriculum CDCR is planning, in order to shift to a 12-week academy.

Lesson Title	16-wk Hrs	12-wk Hrs
Application of Restraint Gear	6	6
Apprenticeship Program	1	1
Arrest and Control	60	40
Armstrong Overview	2	2
Body, Cell, Area, Search	13	0 ²
Cadet On-site Institutional Training	58	25
CDCR Form 22: Request for Interview, Item, or Service	1	1
Cell Extractions	7	7
Chemical Agents	10	10
Child Victimization and Mandated Reporting	2	0 ³
Custody Staff Responsibilities (court mandated)	2	2
Courtroom Testimony	1	0 ⁴
CPR/First Aid	8	8
DDP, Overview of the (court mandated)	2	2
Domestic Violence	2	0 ⁵
Drug Awareness	3	3
EEO and Sexual Harassment Prevention	4	4
Emergency Operations/Alarm Response	30	30
Escape Prevention	2	2

² Body, Cell, Area, Search was merged into Search/Inmate Property.

³ Child Victimization and Mandated Reporting was merged into Victims of Crime.

⁴ Courtroom Testimony was merged into Report Writing.

⁵ Domestic Violence was merged into Victims of Crime

Ethics	4	4
Expandable Baton	20	20
Female Offenders	1	1
Fire Safety	2	2
Firearms Familiarization/Qualification	60	60
Impact Munitions/Armed Posts	16	16
Information Security Awareness	2	1
Inmate Count	4	3
Inmate Disciplinary Process	4	4
Inmate/Parolee Appeals	1	1
Inmate Property	5	0 ⁶
Inmate Staff Relations	6	4
Inmate Work/Training Incentive Program	4	4
Integrated Housing	1	1
Key and Tool Control	4	4
Legal Issues	2	2
Managing Effective Integration And Conflict	16	8
Managing Stress	2	2
Mental Health Services Delivery System	8	8
Orientation To CDCR	2	2
PC 832 Arrest	26	26
Physical Fitness Training	37	24
Peace Officer Bill of Rights & Office of Internal Affairs	2	2
Prevention of Infectious Diseases	4	4
Prison Rape Elimination Act	4	2
Radio Communication/Alarm Devices	4	4
Report Writing	8	20
Report Writing II-V	26	0 ⁷
Searches and Inmate Property	0	16
Security Threat Group Management	8	6
Staff Rights and Assignment Responsibilities	2	2
Staff Suicide Prevention	0	1
Strategic Offender Management System (SOMS)	4	4
Supervision of Inmates I	8	12
Supervision of Inmates II	8	0 ⁸
Tactical Simulator	4	0 ⁹
Transportation of Inmates	2	2
Use of Force	8	4
Victims of Crime	3	3
Workplace Health and Safety	4	4

⁶ Inmate Property was merged into Searches and Inmate Property.

⁷ Report Writing II-V was merged into Report Writing.

⁸ Supervision of Inmates II was merged into Supervision of Inmates I.

⁹ Training not mandated; removed per recommendation of Subject Matter Expert.

Administrative & Practicum/Scenario Curricula		
CCPOA	2	2
Company Meetings	17.5	7
Leadership	16	0
Equipment Return	4	2
Evaluations	8	4
Examinations	12.5	10
Graduation and Graduation Practice	12	12
Knowledge, Skills, & Abilities	4	
Registration and Orientation	24	17

Included in the \$61.7 million is a request for \$292,500 to assist CDCR in its transition to the use of Glock semi-automatic weapons. CDCR is transitioning to the semi-automatic handgun because they have found it to be easier to use and more cost-effective due to the increasing cost of ammunition for .38 caliber handguns. The \$292,500 would allow the academy to purchase 140 handguns, almost 2 million bullets, 45 training guns, 2,500 dummy rounds, 200 holsters, and 200 magazine pouches.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. Given the problems associated with correctional officers being ill-prepared to handle the large numbers of mentally ill prisoners and other challenges they face in the state’s institutions on a day-to day-basis, it would seem that shortening the academy and the training of these officers would exacerbate those problems, rather than alleviate them. Has the Administration considered the impact of shortening the training on the culture of the institutions and the safety of the staff and people who are incarcerated?
2. Please explain in detail the type of training that will occur in the institutions during the last four weeks of the training program, and who will be providing that training.
3. How are candidates assessed in terms of their suitability to work as correctional officers?
4. Please provide the subcommittee with information on the percentage of correctional officers who have a high school diploma, a general education development certificate (GED), an Associate of Arts degree, or a degree from a four-year college or university when they are accepted into the academy?
5. Are candidates usually from the communities near the institutions where they end up working? How are candidates assigned to institutions?

Legislative Analyst’s Office (LAO). The growing number of correctional officer vacancies presents significant operational challenges for the department. While the Governor’s proposal is a reasonable approach to addressing the problem, we are concerned that the problem could have been mitigated—or even avoided altogether—if CDCR had been conducting regular forecasts of its correctional officer need as part of the annual budget process.

Even though the department currently tracks data (such as correctional officer vacancies and attrition rate) that could be used to project the need for future academy graduates, this data and adjustments to its recruitment and training capacity are not part of the department's biannual budget adjustments or any other regularly scheduled budget process.

This lack of planning can result in the department not recruiting and training the appropriate number of cadets to meet its needs. For example, during the personnel reductions related to the 2011 realignment, the department assumed that it would be eliminating more positions than it would be required to fill. Accordingly, the department did not run a basic academy between March 2011 and May 2013. (The LAO notes the department did operate transitional academies which allowed employees in one classification—like parole agents—to transfer into new classifications—like correctional officers.) However, correctional staff left the department at higher rates than expected. As a result, CDCR will likely be facing a staffing shortfall for the next couple of years as it tries to recruit and train enough officers to fill these vacancies. If the Administration had routinely taken into account CDCR's training and recruiting needs as part of the biannual budget process, the department would have likely recruited and trained enough officers to prevent the significant shortfall it currently faces.

LAO Recommendation. The LAO recommends that the Legislature direct the department to incorporate adjustments to its correctional officer recruitment and training capacity into its biannual budget adjustment process. Such adjustments should be based on projections of its need for additional correctional officers at least 18 months into the future, to account for the time required to recruit and train new officers. This would allow the department to better prepare for its future need for correctional officers and to avoid mismatches between the number of vacancies and the number of new academy graduates.

Staff Comment. The Legislature may wish to consider ways of expanding the training for both new correctional officers and existing institution staff that is designed to provide the skills and knowledge staff need to safely and successfully protect other staff and the people incarcerated in the state's prison system. For example, providing training in rehabilitation programming, motivational interviewing, violence de-escalation, and recognizing and appropriately dealing with inmates with mental illnesses may improve not only the environment within the institutions, but also reduce the number of individuals returning to prison.

Issue 4: Enhanced Drug and Contraband Interdiction and Non-Reentry Hub Substance Abuse Treatment Program**Background.**

Drug Interdiction. Data provided by CDCR indicate that drug use is prevalent in prison. For example, in June 2013, 23 percent of randomly selected inmates tested positive for drug use. In addition, another 30 percent refused to submit to testing, which suggests that the actual percentage of inmates using drugs is likely considerable.

Drug use in prison is problematic for several reasons. For example, according to the department, the prison drug trade strengthens prison gangs and leads to disputes among inmates that can escalate into violence. Such violence often leads to security lock-downs which interfere with rehabilitation by restricting inmate access to programming. In addition, the presence of drugs in prison allows inmates to continue using them, thereby reducing the effectiveness of drug treatment programs.

In recent years, the department has supplemented its base funding of \$3 million for drug and contraband (such as cell phones) interdiction with one-time funds from asset forfeitures. According to CDCR, its current interdiction efforts have been hampered by a lack of sufficient permanent funding.

Substance Abuse Treatment. CDCR's current substance abuse treatment plan largely limits substance abuse treatment to individuals in the 13 reentry hubs (four of which have been activated) and limits treatment to the last six to 12 months of a person's sentence.

Governor's Budget. The Governor's budget for 2014-15 proposes an augmentation of \$14 million in General Fund support and 81 positions to expand CDCR's interdiction program. Under the proposal, these levels would increase to \$18.5 million and 148 positions in 2015-16. The proposal consists of four separate initiatives aimed at deterring the smuggling of drugs and contraband into prison and deterring inmates from using drugs. These initiatives involve: (1) increasing from 29 to 100 the number of trained canines to detect contraband possessed by inmates; (2) increasing from 7 to 35 the number of ion scanners available to detect drugs possessed by inmates, visitors, or staff; (3) purchasing an additional 240,000 urinalysis kits to randomly drug test inmates; and (4) equipping inmate visiting rooms with video surveillance technology and requiring inmates in visiting rooms to wear special clothing intended to prevent the smuggling of drugs and other contraband.

In addition, for 2014-15, the proposal requests \$11.8 million from the Recidivism Reduction Fund and 44 positions to contract with substance abuse treatment providers and administer the program at 10 institutions that do not have a reentry hub. In 2015-16, CDCR requests a total of 91 positions and \$23.9 million General Fund to further expand substance abuse treatment programs to the 11 remaining institutions that do not house reentry hubs.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. The proposal is ambiguous as to whether it would apply to everyone entering the prison grounds, including staff and vendors. Does the Administration intend to apply the interdiction policy to everyone? If so, how does the Administration intend to implement the enhanced drug and contraband interdiction process?
2. Is the requested level of funding enough to implement the interdiction process, including the installation of ion scanners and use of passive search dogs, at all institutions?
3. Please provide the committee with the most recent contraband statistics. What types of contraband are typically found, how much, and how often? In addition, do some institutions have more of a problem with contraband than others? If so, which specific institutions and why?
4. How many individuals currently receive substance abuse treatment while in prison? For how long does the treatment last? What percentage actually completes the treatment? How many participate in on-going maintenance programs such as narcotics anonymous, alcoholics anonymous, or any other maintenance programs that are available?
5. Do inmates have access to medical treatment through drugs such as Vivitrol or Methadone to assist with on-going prevention as part of their treatment plan?
6. The current approach to substance abuse addiction in prison is to provide treatment only in the last 6 to 12 months of a person's sentence. Why wait until the end of a person's sentence to provide treatment for addiction? Wouldn't it be more effective to provide upfront treatment when a person enters prison and then provide on-going maintenance/therapy for the duration of the sentence, thus allowing someone to work on their sobriety and the underlying causes of their addiction potentially for years before returning to the community?
7. What steps does CDCR take to ensure that individuals with substance abuse problems have access to and continue treatment once they are released from prison?
8. Who is your current substance abuse treatment contractor(s)? Is it the same at all institutions that provide substance abuse treatment? How was that contractor selected?

Legislative Analyst's Office (LAO). While the Governor's proposal to expand CDCR's drug and contraband interdiction efforts has merit, it is unclear what is the most cost-effective combination of interdiction initiatives. Thus, the LAO recommends that the Legislature modify the proposal to conduct a pilot of the various initiatives proposed by the Governor. Specifically, the LAO recommends the Legislature reduce the request from \$14 million in General Fund support in 2014-15 (\$18.5 million in 2015-16) to \$3 million annually on a three-year limited-term basis. The reduced funding amount would allow the department to pilot test the four proposed interdiction initiatives—urinalysis testing, canine units, ion scanners, and

visiting room surveillance—in different combinations in order to assess the relative effectiveness of the initiatives. The Legislature could use the outcomes of the pilot to determine which, if any, of the various initiatives should be expanded to all of the state's prisons.

The actual cost of the pilot program could vary depending on how it is designed. Accordingly, the LAO recommends that the Legislature adopt budget bill language requiring that the department (1) contract with independent researcher experts (such as a university) to design and evaluate the pilot program, (2) not expend any funds for the expanded interdiction initiatives until it has notified the Legislature of the design and cost of the pilot program, (3) revert any unspent funds to the General Fund, and (4) report to the Legislature on the outcomes (including the relative cost-effectiveness of each initiative) of the pilot program, by April 1, 2017. This would allow the evaluation to incorporate two full years of data and for the results to inform the 2017-18 budget process.

Staff Comment. The May Revision proposed \$6.6 million GF to fund a similar drug interdiction proposal. The Legislature did not adopt that proposal. Part of the concern for the proposal was that it only included the searching of inmates and visitors and did not include staff and vendors in the institutions. Despite the rejection of the proposal during May Revise, the department redirected funding from the Asset Forfeiture Fund to add 12 additional canines to the 29 already being used in the prisons.

CDCR has indicated that the Secretary is committed to expanding the interdiction efforts to include all staff and vendors. However, to date, those commitments have been verbal ones and are not clearly reflected in the budget proposal submitted by the Administration.

Issue 5: Statewide Budget Packages and Advanced Planning

Governor's Budget. The Governor's budget proposes \$500,000 (General Fund) to support workload associated with planning capital outlay projects at youth and adult correctional facilities. This workload typically consists of site assessments, environmental reviews, and the development of scope, cost, and schedule projections.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. How do you decide which capital outlay projects to go forward with each year? Who is involved in the decision making?
2. Do your decisions take into account prioritizing projects that would increase capacity or improve programming space in order to better comply with the population reduction federal court order?
3. Please provide a list of the project needs you have identified at the women's institutions. Why aren't any of those projects on the current capital outlay list?
4. It is our understanding that two units at the California Institution for Women (CIW) in Corona are currently closed and in need of significant repair. In the proposed budget, the Administration asks for almost \$160 million in funding for CDCR's capital outlay projects. Given the overcrowding concerns with the women's facilities, why aren't the repairs to CIW included in the list of projects in order to increase capacity for female inmates and relieve overcrowding?

Issue 6: Ironwood State Prison Air Conditioning

Governor's Budget. The Governor's budget proposes \$145 million (lease-revenue bond financing) for a previously approved project to replace the heating, ventilation, and air conditioning system at Ironwood State Prison in Blythe. This entire project is expected to cost roughly \$156.2 million (\$5.8 million for planning, \$5.4 million for working drawings, and \$145 million for construction).

Issue 7: Salinas Valley State Prison Sump Pump

Governor's Budget. This capital outlay proposal requests \$610,000 to fund the installation of sump pumps and drainage piping for 30 underground electrical and communications vaults at Salinas Valley State Prison (SVSP). The Administration states that the pumps will prevent work hazards and systems degradation and failure due to water infiltration into the electrical and communication vaults. Currently, the plant operations staff at SVSP uses a portable pump to extract water from the vaults, which is labor intensive and dangerous for the staff.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. This is a relatively new facility, built in 1996. At that time, was a grading plan done that should have identified the potential for this problem and mitigated the problem? If not, why not? Grading plans should be a standard practice in construction, are they not? Alternatively, was an assessment done by a soils expert that may have identified this as a problem?
2. The proposal notes that this flooding problem poses a serious danger to both inmates and staff, including the potential for a hydrogen gas explosion, injury to staff pumping water from the vaults, and security risks due to power and communications outages. At the same time, the proposal notes that this problem has been an on-going one over the last 18 year, since the activation of the facility, and that the vaults flood approximately 15 times per year. Can you please tell us how many explosions, injuries, or security problems have arisen as a result of this flooding over the last two decades?
3. Even with the installation of sump pumps, water would still be able to get into the vaults through the vault lids. So, the problem of moisture damage would remain. Has the department considered other alternatives such as waterproof vault lids, increasing drainage, or re-grading that section of the site to at least raise the openings above the grade and reduce or eliminate the flooding?

Staff Comment. The budget proposal asserts that this problem is caused by water getting into the vaults through the vault lids. However, during discussions of the proposal CDCR states that they are unsure how the water is getting into the vaults and that it may be seepage from the ground. In addition, according to the BCP, no other alternatives were explored, other than either providing sump pumps or continuing to hand pump the water when the flooding occurs. Because CDCR has not determined the cause of the flooding, they are likely unable to look at the range of alternatives that may allow them to fix the flooding problem. Finally, the BCP notes that this flooding has been a problem since the activation of the prison in 1996, which would suggest that this was either a flaw in the grading of the grounds, the placement of the vaults, or the proper sealing of the vaults. However, CDCR states that to their knowledge, at the time they did not work with the appropriate contractors when the problem was first discovered to fix the mistake in the planning or construction of the vaults.

Issue 8: Ventura Youth Correctional Facility – Non-Contact Visiting

Governor’s Budget. This capital outlay proposal requests \$590,000 to fund the installation of four non-contact visiting booths in the old visiting hall at the Ventura Youth Correctional Facility (VYCF). These booths would be used for youth requiring enhanced security precautions when they have visitors.

The Administration notes that there have been a variety of incidents during visiting hours with Behavioral Treatment Program (BTP) offenders, including fights and attempts to introduce contraband into VYCF. According to the Administration’s proposal, noncontact booths would limit the occurrence of these incidents. The proposed project would begin August 2014 and construction would conclude in September 2015.

The budget proposal notes the following six incidents that have recently occurred at VYCF:

- Upon entering one of the visiting halls, a ward walked up to a second ward and the two began fighting. A third ward and family members became involved shortly thereafter. (7/12)
- Once un-cuffed for a visit, one ward began fighting with a second ward. (12/12)
- A family member attempted to pass a baggie of methamphetamine to a ward during a visit. (5/13)
- A family member was found in possession of two large bags of marijuana and razor blades. (8/13)
- A family member attempted to pass a cell phone to a ward during a visit. (8/13)
- A ward attempted to switch shoes with a family member during a visit, in an effort to introduce contraband shoes into the facility. (9/13)

Legislative Analyst’s Office (LAO) Recommendation. The LAO recommends that the Legislature deny the request to construct noncontact visiting booths at VYCF. Given the likelihood that the population of offenders needing these booths will continue to decline, noncontact visiting booths could become largely unnecessary by the time they are completed in September 2015. To the extent that the population of BTP offenders remains at VYCF, the LAO recommends that Department of Juvenile Justice (DJJ) use alternative means to provide these offenders with visits. For example, VYCF could consult with N.A. Chaderjian (NAC) and O.H. Close (OHC) Correctional Facilities in Stockton to determine whether strategies used at the northern facilities could be employed at VYCF.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. Please explain why VYCF seems to have problems with their BTP offenders that the other two institutions do not appear to have.
2. Please confirm that given the new leadership at VYCF, the Administration is no longer pursuing the non-contact visiting booths as the best way to deal with the problems highlighted in the budget proposal.

Staff Comment. The Administration has informed the Legislature that this proposal was developed under the previous superintendent at VYCF and that the current superintendent does not believe that the non-contact booths are necessarily the proper approach. They are considering other possible alterations to their visiting areas. Given, that the Administration has moved away from the proposed approach, the Legislature may wish to consider rejecting this proposal and the Administration can come back with a new approach.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



OUTCOMES

Thursday, March 27, 2014
9:30 a.m. - State Capitol Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY**5225 Department of Corrections and Rehabilitation**

1. **California Correctional Center Arnold Unit & Antelope Camp Kitchen/Dining Area BCP.** The Governor's budget proposes \$1 million (General Fund) to support the planning phase of two kitchen/dining facility replacements at the California Correctional Center in Susanville. The Administration has identified numerous health and safety risks to inmates and staff as justification for this facility upgrade. This entire project is expected to cost roughly \$16.4 million (\$1 million for planning, \$1.1 million for working drawings, and \$14.3 million for construction).
2. **Avenal State Prison Medical Inmate Waiting Room BCP.** Requests \$575,000 GF in funding to construct a new medical inmate waiting building to comply with the Medical Health Care Facility Components established by the healthcare receiver. The project would provide three separate secure waiting areas, a custody station, inmate restroom, and staff restroom.
3. **California Correctional Center (CCC) Air Cooling at Lassen Yard BCP.** Requests \$597,000 GF to install evaporative cooling units on the Lassen Yard housing units at the CCC in Susanville which will help ensure that the temperatures in the housing units are maintained at or below 89 degrees, as required by CDCR Design Criteria Guidelines.
4. **Folsom State Prison Storm Drain Containment Pond and Pump BCP.** Requests \$395,000 GF in funding to construct a storm water containment pond and pump system to capture tainted storm water runoff and pump the water into the facility's wastewater system for processing.
5. **Healthcare Facility Improvement Program (HCFIP) Inmate Ward/Labor Services BCP.** Request \$1,123,237 (bond construction project funding) to pay for 10 Construction Supervisors and one Associate Governmental Program Analyst/Staff Services Analyst to expand the Inmate/Ward Labor Program in order to assist in HCFIP projects. The Inmate Ward/Labor program was developed in 1983 and allows inmates to gain experience in the construction trades. HCFIP is a plan adopted in 2012 that is designed to upgrade the existing health care facilities infrastructure within CDCR. Over the next four years, HCFIP is scheduled to produce approximately \$220 million in additional construction work for the Inmate Ward/Labor program.

Action: Items 1 through 5 approved.

VOTE: 3 – 0

ITEMS TO BE HEARD

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created, pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Juvenile: Operations and Offender Programs, Academic and Vocational Education, Health Care Services
- Adult Corrections and Rehabilitation Operations: Security, Inmate Support, Contracted Facilities, Institution Administration
- Parole Operations: Adult Supervision, Adult Community-Based Programs, Administration
- Board of Parole Hearings: Adult Hearings, Administration
- Adult: Education, Vocation, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2013 Budget Act projected an adult inmate average daily population of 128,885 in the current year. However, the current year adult inmate population is now projected to exceed budget act projections by 6,101 inmates, a 4.7 percent increase, for a total population of 134,986. The budget year adult inmate population is projected to be 137,788, a 6.9 percent increase of 8,903 inmates over the revised current year. Current projections also reflect an increase in the parolee population of 3,439 in the current year compared to budget act projections, for a total average daily population of 45,934. The parolee population is projected to be 36,652 in 2014-15, a decrease of 5,843.

The Governor's budget proposes \$9.8 billion (\$9.5 billion General Fund and \$320 million other funds) and 60,598.7 positions for CDCR in 2014-15. The following table shows CDCR's total operational expenditures and positions for 2012-13 through 2014-15.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$8,534,272	\$9,263,117	\$9,494,977
General Fund, Prop 98	16,824	17,910	17,698
Other Funds	53,534	62,690	63,053
Reimbursements	138,275	179,647	185,043
Recidivism Reduction Fund	-	-81,109	72,811
SCC Performance Incentive Fund	-615	-1,000	-1,001
Total	\$8,742,290	\$9,441,255	\$9,932,581
Positions	50,728.7	60,790.1	60,598.7

Issue 1: Overtime/Custody Relief/Permanent Intermittent Officers

Background. Staffing the 34 adult prisons operated by CDCR represents a unique challenge. This is because many duty assignments (referred to as “posts”) must be filled 24 hours per day, 365 days per year. In particular, many assignments filled by correctional officers, sergeants, and lieutenants are posted positions. If a staff member is unavailable to fill a post, the prison generally cannot leave the post unfilled. Staff in these posts typically work one of three eight hour shifts (referred to as “watches”) each day, five days per week and have two regular days off (RDOs). Thus, a single post is typically filled by three different employees over the course of a day. Staff members assigned to the prison’s “watch office” are employed to ensure that all the posts are filled and are responsible for finding an employee capable of filling posts that are left empty when another employee is unavailable.

Steps Taken to Fill Posts Left Empty When Staff Are Unavailable. There are different reasons why an employee is unavailable to fill an assigned post, with employee leave use being the most common. Each correctional employee used, on average, 365 hours of leave in 2011-12. The most common type of leave used by correctional employees is sick leave. Other types of leave include vacation leave, annual leave (a type of leave employees may choose to earn in lieu of vacation and sick leave), and leave taken by staff to complete professional training and development or to fulfill military duty. In addition, posts can be empty if a position is vacant, such as when CDCR fails to hire enough staff. When a post becomes empty due to vacancies or staff absences, the watch office at the prison takes a series of sequential steps to identify certain employees to fill the absent post as follows:

Relief Officers. When posts become empty because staff is unavailable, the watch office attempts to first fill the empty posts with relief officers. Relief officers are full-time correctional employees who are assigned to a specific prison. These officers arrive at the prison for a predetermined shift, but may not know which post they will be assigned to on a given day until they arrive at the prison. If there are not enough empty posts on a given watch, relief officers can be assigned other duties, such as searching the prison for contraband. Relief officers receive the same pay and benefits as other correctional officers assigned to regular posts.

Officers Redirected From Other Posts. If relief officers are not available to fill empty posts, the watch office may then determine whether any correctional employees can be redirected from other posts that do not need continual staffing during the watch in question. Examples of posts that do not require continual staffing include posts in prison investigation units.

Permanent Intermittent Correctional Officers (PICO). If the empty posts are correctional officer assignments (and not for correctional sergeants or lieutenants), the watch office will then attempt to use PICOs to fill the empty posts. Like relief officers, PICOs generally are assigned to a specific prison. However, unlike relief officers, PICOs only work if they are called in by the watch office to fill an empty post—similar to how a substitute teacher fills in for a sick school teacher. The pay and benefits of PICOs are contingent on the number of hours they work.

Overtime. If the posts are still empty after the above steps are taken, a watch office will then offer correctional employees the opportunity to earn overtime on a voluntary basis, with more senior officers being offered the opportunity first. If no employees volunteer to work overtime, a watch office will then use involuntary overtime to fill empty posts. Under these circumstances, overtime is assigned in reverse seniority order, with the most junior correctional employee on the previous watch being required to stay and fill the empty post on the next watch.

In addition to the need to fill posts, workload that falls outside each watch can also drive the need for correctional employee staffing and overtime. The most significant workload that results in the need for additional staffing and overtime is associated with medical guarding and transportation. Such workload occurs when inmates require certain types of medical care that cannot be provided on-site and correctional staff must transport them to their appointments and guard them while they are there. This often results in overtime because the total time to transport and guard inmates can extend beyond the end of an officer's shift. Other workload also contributes to the need for correctional staffing and overtime. Examples include the need to conduct investigations, transport inmates to and from their court dates, and various emergencies, such as prison riots.¹

Governor's Budget. The Governor's 2014-15 budget proposes \$207.2 million in General Fund support for overtime costs. This represents a slight increase from the \$201.3 million included in the 2013-14 budget for overtime costs.

The budget also proposes eliminating the separate budget item for custody overtime (Program 26) and including those overtime costs in the general custody salaries and wages budget item (Program 25).

In addition, the budget proposes to change the methodology CDCR uses to calculate the relief factor. Under the proposal, the relief factor would be calculated based solely on statewide actual leave usage rather than a combination of actual leave usage and accrual rates. In addition, the proposed methodology would incorporate types of leave (such as furlough days) that are not accounted for in the current relief factor. These changes result in the need for an additional \$9 million in General Fund support and 84 positions in 2014-15. Under the Governor's proposal, the relief factor would be adjusted annually based on updated data on actual usage of staff leave in the prior year. In addition, CDCR indicates that while the proposed relief factor change is based on statewide data, it is currently in the process of calculating specific relief factors for individual prisons that could be used to make annual adjustments at each prison in the future.

Questions for the Administration. The department should be prepared to present the proposals and to address the following questions:

1. How often do institutions find themselves with a full complement of regular custodial staff and relief staff? In those cases, what is the policy regarding the over-staffing?

¹ Background provided by *The 2014-15 Budget: Governor's Criminal Justice Proposals*, February 19, 2014, Legislative Analyst's Office.

2. Please be prepared to respond to the LAO's finding that CDCR underutilizes PICO staff.
3. Please explain why CDCR has used overtime funding as a source for other budgetary expenses, such as lump-sum payouts to employees leaving state service and workers' compensation costs.

Legislative Analyst's Office (LAO).

Overtime. The LAO's analysis of the way CDCR staffs its prisons and manages overtime indicates that CDCR's overtime budget is unnecessarily large. While budgeting for overtime related to workload and some absences is necessary, the department does not need to set aside funding specifically for overtime required to cover vacancies and most of the types of leave that result in posts being empty. This is because funding for these types of overtime can be redirected from savings resulting from vacant positions. For example, when overtime is needed to fill a post that is empty due to a vacancy, the department can redirect funding tied to the vacant position to pay for the overtime, as that funding is not being used to pay correctional employees. Similarly, because the department budgets for enough relief officers to cover nearly all of the leave taken by correctional employees, overtime is only necessary to cover for such leave if there are vacant relief officer positions.

The LAO also notes that the amount of funding derived from vacant positions is sufficient to fully cover overtime costs. This is because the amount budgeted for each correctional position on a per hour basis, including benefits and other non-salary costs, exceeds the cost of the overtime necessary to cover the number of hours typically worked by correctional employees. While staff are generally paid one and a half times their usual pay for overtime hours, the increased costs for the higher hourly wage is more than offset by other factors. For example, when the state hires additional correctional staff it must pay for their retirement and benefits, whereas there are no such costs incurred for each additional hour of overtime worked.

However, when CDCR incurs costs for overtime related to workload (such as medical guarding and transportation) and leave not covered by relief officers (such as leave earned when correctional employees work through furlough days), there is no source of funding available to be redirected to cover such costs. Thus, CDCR only needs to set aside overtime funds in its budget exclusively for these purposes.

CDCR's overtime budget in recent years is far larger than what has been required to fund overtime related to workload and absences not covered by relief officers.

Relief Officers. CDCR establishes the relief factor by taking into account the amount of leave time accrued and used by correctional employees in prior years, which is then used to estimate the number of relief officer positions for which to budget. Currently, this amounts to three relief officer positions for every ten correctional officer positions and slightly more for correctional sergeants and lieutenants. (The Administration's proposed changes to the relief factor would marginally increase these ratios for correctional officers, and slightly reduce them for sergeants and lieutenants.) This represents the amount of relief officers CDCR needs on average over the course of a year, while, in actuality, the amount of leave taken—

and by extension the number of relief officers needed—is subject to seasonal variation. For example, officers tend to take more leave in the summer months and during December, with less leave taken in the remaining months. By basing the number of relief officers needed on an annual average, CDCR ends up budgeting for too many relief officers in most months of the year, and not enough in the summer and December. This means that, if there were no vacancies in relief officer positions, more correctional employees would likely report to work than necessary eight months of the year. Although vacancies can prevent this from occurring, it still demonstrates that CDCR's budget includes more funding for relief officers than necessary in most months of the year. This mismatch is illustrated in Figure 14, which compares the number of hours of leave correctional employees are currently likely to use in each month with the number of hours of staffing that relief officers are likely to provide under CDCR's current approach to staffing, assuming there are no vacancies in relief officer positions.

The mismatch between an institution's need for coverage and the number of relief positions it is budgeted for is further compounded by a flaw in CDCR's method for allocating relief officers among prisons. Currently, CDCR allocates relief positions among institutions based solely on the number of non-relief positions it has, despite the fact that staff leave usage—and thus the need for relief officers—varies significantly among institutions. Such variation in leave usage occurs primarily because each institution has a different mix of more and less senior officers and more senior officers tend to accrue and use leave at higher rates. For example, staff at Pelican Bay State Prison in Crescent City, which has relatively fewer senior officers, used about 29 percent less leave per employee than those at Valley State Prison for Women in Chowchilla in 2011-12, which has a higher allocation of senior officers. However, under the current allocation procedure, each of these institutions would be allocated relief positions at the same rate.

In contrast to relief officers, who are scheduled for work irrespective of the amount of need on the day they are scheduled, institutions can use PICOs only when needed. This flexibility makes PICOs uniquely suited to address the seasonal and institutional variability in the need to cover for officers using leave. In addition, PICOs generally cost less on an hourly basis—after adjusting for the number of hours a relief officer is likely to work—than relief officers. Moreover, PICOs earn their benefits based on the number of hours they work, in contrast to relief officers whose benefits are generally independent of the amount of time they work.

LAO Recommendation. (1) Require CDCR to revise its budgeting methodology for relief officers and PICOs and (2) adjust CDCR's overtime budget to more closely reflect its need for overtime spending. The LAO estimates these changes would free up a total of \$129 million, relative to the Governor's proposed budget for 2014-15.

Staff Comments. In discussions, the Administration has agreed with the LAO's finding that the overtime funding has been over-budgeted and used to fund other CDCR costs. The Administration has asked, however, for time to review the LAO's findings and work with the Legislature to determine the true amount of over-funding. Given the tendency to use the overtime funding as a slush fund for other budget items, it concerns the staff that the Administration proposes eliminating the separate budget item for overtime and including that funding in salaries and wages. In making this shift, the Legislature would likely no longer be able to determine whether or not CDCR continues to use the overtime budget as a fund for other budget expenditures.

Action:

Rejected the Governor's proposal to shift the Correctional Officers Overtime budget item (Program 26) into the Salaries and Wages budget item (Program 25).

Directed the LAO, CDCR, and DOF to determine exactly how much of the CDCR overtime budget is being used for overtime and how much is being shifted to fund worker's compensation and lump-sum salary payouts.

Held open the Custody Relief item.

Vote: 3 – 0

Issue 2: Workers' Compensation Shortfall

Governor's Budget. The Governor's budget includes a one-time \$75 million (General Fund) augmentation to address the CDCR's rising workers' compensation costs. From 2009-10 to 2012-13, CDCR's workers' compensation costs grew by nearly \$90 million due to increases in open claims, cost-of-living adjustments, retirement and medical benefits, and State Compensation Insurance Fund fees. CDCR has committed to enhancing cost containment strategies; however, it is still anticipated that the department will have at least a \$75 million shortfall in 2014-15.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. How much does CDCR generally divert from the overtime budget to pay for workers' compensation costs?
2. Why has the Administration taken the approach of using the overtime budget as a slush fund, rather than budgeting for the full workers' compensation costs?
3. The budget proposal notes that even with this augmentation, the Administration anticipates that there will still be a \$75 million shortfall in 2014-15. Why does the Administration plan on continuing to under-budget for workers' compensation? What approach is the administration taking to contain those costs? How does the Administration plan on paying for the additional \$75 million?
4. If this \$75 million augmentation brings workers' compensation funding to a more appropriate level, why hasn't the Administration reduced the proposed overtime funding to account for this shift in funding?

Action: Held Open.

Issue 3: Basic Correctional Officer Academy Expansion
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Governor's Budget. The Governor's budget proposal includes \$61.7 million (General Fund) and 147 positions to increase the CDCR's Basic Correctional Officer Academy capacity from 720 in 2013-14 to 3,400 in 2014-15. This augmentation will allow CDCR to fill an increasing number of vacancies in its correctional officer classification due to retirements and other attrition.

Of the \$61.7 million, the Office of Peace Officer Selection (OPOS) would receive \$14.5 million and 69 positions to recruit and process up to 32,500 applicants annually, and process the applicants through the screening process.

The Office of Training and Professional Development, under this proposal, would receive \$47.3 million and 78 positions. \$38 million of that funding would be directly related to funding the Academy.

To facilitate an increased number of cadets, the Administration proposes shifting from a 16-week Academy to a 12-week Academy, with the final four weeks of training provided at an institution. The following chart illustrates the changes in curriculum CDCR is planning, in order to shift to a 12-week academy.

Lesson Title	16-wk Hrs	12-wk Hrs
Application of Restraint Gear	6	6
Apprenticeship Program	1	1
Arrest and Control	60	40
Armstrong Overview	2	2
Body, Cell, Area, Search	13	0 ²
Cadet On-site Institutional Training	58	25
CDCR Form 22: Request for Interview, Item, or Service	1	1
Cell Extractions	7	7
Chemical Agents	10	10
Child Victimization and Mandated Reporting	2	0 ³
Custody Staff Responsibilities (court mandated)	2	2
Courtroom Testimony	1	0 ⁴
CPR/First Aid	8	8
DDP, Overview of the (court mandated)	2	2
Domestic Violence	2	0 ⁵
Drug Awareness	3	3
EEO and Sexual Harassment Prevention	4	4
Emergency Operations/Alarm Response	30	30
Escape Prevention	2	2

² Body, Cell, Area, Search was merged into Search/Inmate Property.

³ Child Victimization and Mandated Reporting was merged into Victims of Crime.

⁴ Courtroom Testimony was merged into Report Writing.

⁵ Domestic Violence was merged into Victims of Crime

Ethics	4	4
Expandable Baton	20	20
Female Offenders	1	1
Fire Safety	2	2
Firearms Familiarization/Qualification	60	60
Impact Munitions/Armed Posts	16	16
Information Security Awareness	2	1
Inmate Count	4	3
Inmate Disciplinary Process	4	4
Inmate/Parolee Appeals	1	1
Inmate Property	5	0 ⁶
Inmate Staff Relations	6	4
Inmate Work/Training Incentive Program	4	4
Integrated Housing	1	1
Key and Tool Control	4	4
Legal Issues	2	2
Managing Effective Integration And Conflict	16	8
Managing Stress	2	2
Mental Health Services Delivery System	8	8
Orientation To CDCR	2	2
PC 832 Arrest	26	26
Physical Fitness Training	37	24
Peace Officer Bill of Rights & Office of Internal Affairs	2	2
Prevention of Infectious Diseases	4	4
Prison Rape Elimination Act	4	2
Radio Communication/Alarm Devices	4	4
Report Writing	8	20
Report Writing II-V	26	0 ⁷
Searches and Inmate Property	0	16
Security Threat Group Management	8	6
Staff Rights and Assignment Responsibilities	2	2
Staff Suicide Prevention	0	1
Strategic Offender Management System (SOMS)	4	4
Supervision of Inmates I	8	12
Supervision of Inmates II	8	0 ⁸
Tactical Simulator	4	0 ⁹
Transportation of Inmates	2	2
Use of Force	8	4
Victims of Crime	3	3
Workplace Health and Safety	4	4

⁶ Inmate Property was merged into Searches and Inmate Property.

⁷ Report Writing II-V was merged into Report Writing.

⁸ Supervision of Inmates II was merged into Supervision of Inmates I.

⁹ Training not mandated; removed per recommendation of Subject Matter Expert.

Administrative & Practicum/Scenario Curricula		
CCPOA	2	2
Company Meetings	17.5	7
Leadership	16	0
Equipment Return	4	2
Evaluations	8	4
Examinations	12.5	10
Graduation and Graduation Practice	12	12
Knowledge, Skills, & Abilities	4	
Registration and Orientation	24	17

Included in the \$61.7 million is a request for \$292,500 to assist CDCR in its transition to the use of Glock semi-automatic weapons. CDCR is transitioning to the semi-automatic handgun because they have found it to be easier to use and more cost-effective due to the increasing cost of ammunition for .38 caliber handguns. The \$292,500 would allow the academy to purchase 140 handguns, almost 2 million bullets, 45 training guns, 2,500 dummy rounds, 200 holsters, and 200 magazine pouches.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. Given the problems associated with correctional officers being ill-prepared to handle the large numbers of mentally ill prisoners and other challenges they face in the state's institutions on a day-to-day basis, it would seem that shortening the academy and the training of these officers would exacerbate those problems, rather than alleviate them. Has the Administration considered the impact of shortening the training on the culture of the institutions and the safety of the staff and people who are incarcerated?
2. Please explain in detail the type of training that will occur in the institutions during the last four weeks of the training program, and who will be providing that training.
3. How are candidates assessed in terms of their suitability to work as correctional officers?
4. Please provide the subcommittee with information on the percentage of correctional officers who have a high school diploma, a general education development certificate (GED), an Associate of Arts degree, or a degree from a four-year college or university when they are accepted into the academy?
5. Are candidates usually from the communities near the institutions where they end up working? How are candidates assigned to institutions?

Legislative Analyst's Office (LAO). The growing number of correctional officer vacancies presents significant operational challenges for the department. While the Governor's proposal is a reasonable approach to addressing the problem, we are concerned that the problem could have been mitigated—or even avoided altogether—if CDCR had been conducting regular forecasts of its correctional officer need as part of the annual budget process.

Even though the department currently tracks data (such as correctional officer vacancies and attrition rate) that could be used to project the need for future academy graduates, this data and adjustments to its recruitment and training capacity are not part of the department's biannual budget adjustments or any other regularly scheduled budget process.

This lack of planning can result in the department not recruiting and training the appropriate number of cadets to meet its needs. For example, during the personnel reductions related to the 2011 realignment, the department assumed that it would be eliminating more positions than it would be required to fill. Accordingly, the department did not run a basic academy between March 2011 and May 2013. (The LAO notes the department did operate transitional academies which allowed employees in one classification—like parole agents—to transfer into new classifications—like correctional officers.) However, correctional staff left the department at higher rates than expected. As a result, CDCR will likely be facing a staffing shortfall for the next couple of years as it tries to recruit and train enough officers to fill these vacancies. If the Administration had routinely taken into account CDCR's training and recruiting needs as part of the biannual budget process, the department would have likely recruited and trained enough officers to prevent the significant shortfall it currently faces.

LAO Recommendation. The LAO recommends that the Legislature direct the department to incorporate adjustments to its correctional officer recruitment and training capacity into its biannual budget adjustment process. Such adjustments should be based on projections of its need for additional correctional officers at least 18 months into the future, to account for the time required to recruit and train new officers. This would allow the department to better prepare for its future need for correctional officers and to avoid mismatches between the number of vacancies and the number of new academy graduates.

Staff Comment. The Legislature may wish to consider ways of expanding the training for both new correctional officers and existing institution staff that is designed to provide the skills and knowledge staff need to safely and successfully protect other staff and the people incarcerated in the state's prison system. For example, providing training in rehabilitation programming, motivational interviewing, violence de-escalation, and recognizing and appropriately dealing with inmates with mental illnesses may improve not only the environment within the institutions, but also reduce the number of individuals returning to prison.

Action: Held Open.

Issue 4: Enhanced Drug and Contraband Interdiction and Non-Reentry Hub Substance Abuse Treatment Program**Background.**

Drug Interdiction. Data provided by CDCR indicate that drug use is prevalent in prison. For example, in June 2013, 23 percent of randomly selected inmates tested positive for drug use. In addition, another 30 percent refused to submit to testing, which suggests that the actual percentage of inmates using drugs is likely considerable.

Drug use in prison is problematic for several reasons. For example, according to the department, the prison drug trade strengthens prison gangs and leads to disputes among inmates that can escalate into violence. Such violence often leads to security lock-downs which interfere with rehabilitation by restricting inmate access to programming. In addition, the presence of drugs in prison allows inmates to continue using them, thereby reducing the effectiveness of drug treatment programs.

In recent years, the department has supplemented its base funding of \$3 million for drug and contraband (such as cell phones) interdiction with one-time funds from asset forfeitures. According to CDCR, its current interdiction efforts have been hampered by a lack of sufficient permanent funding.

Substance Abuse Treatment. CDCR's current substance abuse treatment plan largely limits substance abuse treatment to individuals in the 13 reentry hubs (four of which have been activated) and limits treatment to the last six to 12 months of a person's sentence.

Governor's Budget. The Governor's budget for 2014-15 proposes an augmentation of \$14 million in General Fund support and 81 positions to expand CDCR's interdiction program. Under the proposal, these levels would increase to \$18.5 million and 148 positions in 2015-16. The proposal consists of four separate initiatives aimed at deterring the smuggling of drugs and contraband into prison and deterring inmates from using drugs. These initiatives involve: (1) increasing from 29 to 100 the number of trained canines to detect contraband possessed by inmates; (2) increasing from 7 to 35 the number of ion scanners available to detect drugs possessed by inmates, visitors, or staff; (3) purchasing an additional 240,000 urinalysis kits to randomly drug test inmates; and (4) equipping inmate visiting rooms with video surveillance technology and requiring inmates in visiting rooms to wear special clothing intended to prevent the smuggling of drugs and other contraband.

In addition, for 2014-15, the proposal requests \$11.8 million from the Recidivism Reduction Fund and 44 positions to contract with substance abuse treatment providers and administer the program at 10 institutions that do not have a reentry hub. In 2015-16, CDCR requests a total of 91 positions and \$23.9 million General Fund to further expand substance abuse treatment programs to the 11 remaining institutions that do not house reentry hubs.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. The proposal is ambiguous as to whether it would apply to everyone entering the prison grounds, including staff and vendors. Does the Administration intend to apply the interdiction policy to everyone? If so, how does the Administration intend to implement the enhanced drug and contraband interdiction process?
2. Is the requested level of funding enough to implement the interdiction process, including the installation of ion scanners and use of passive search dogs, at all institutions?
3. Please provide the committee with the most recent contraband statistics. What types of contraband are typically found, how much, and how often? In addition, do some institutions have more of a problem with contraband than others? If so, which specific institutions and why?
4. How many individuals currently receive substance abuse treatment while in prison? For how long does the treatment last? What percentage actually completes the treatment? How many participate in on-going maintenance programs such as narcotics anonymous, alcoholics anonymous, or any other maintenance programs that are available?
5. Do inmates have access to medical treatment through drugs such as Vivitrol or Methadone to assist with on-going prevention as part of their treatment plan?
6. The current approach to substance abuse addiction in prison is to provide treatment only in the last 6 to 12 months of a person's sentence. Why wait until the end of a person's sentence to provide treatment for addiction? Wouldn't it be more effective to provide upfront treatment when a person enters prison and then provide on-going maintenance/therapy for the duration of the sentence, thus allowing someone to work on their sobriety and the underlying causes of their addiction potentially for years before returning to the community?
7. What steps does CDCR take to ensure that individuals with substance abuse problems have access to and continue treatment once they are released from prison?
8. Who is your current substance abuse treatment contractor(s)? Is it the same at all institutions that provide substance abuse treatment? How was that contractor selected?

Legislative Analyst's Office (LAO). While the Governor's proposal to expand CDCR's drug and contraband interdiction efforts has merit, it is unclear what is the most cost-effective combination of interdiction initiatives. Thus, the LAO recommends that the Legislature modify the proposal to conduct a pilot of the various initiatives proposed by the Governor. Specifically, the LAO recommends the Legislature reduce the request from \$14 million in General Fund support in 2014-15 (\$18.5 million in 2015-16) to \$3 million annually on a three-year limited-term basis. The reduced funding amount would allow the department to pilot test the four proposed interdiction initiatives—urinalysis testing, canine units, ion scanners, and

visiting room surveillance—in different combinations in order to assess the relative effectiveness of the initiatives. The Legislature could use the outcomes of the pilot to determine which, if any, of the various initiatives should be expanded to all of the state's prisons.

The actual cost of the pilot program could vary depending on how it is designed. Accordingly, the LAO recommends that the Legislature adopt budget bill language requiring that the department (1) contract with independent researcher experts (such as a university) to design and evaluate the pilot program, (2) not expend any funds for the expanded interdiction initiatives until it has notified the Legislature of the design and cost of the pilot program, (3) revert any unspent funds to the General Fund, and (4) report to the Legislature on the outcomes (including the relative cost-effectiveness of each initiative) of the pilot program, by April 1, 2017. This would allow the evaluation to incorporate two full years of data and for the results to inform the 2017-18 budget process.

Staff Comment. The May Revision proposed \$6.6 million GF to fund a similar drug interdiction proposal. The Legislature did not adopt that proposal. Part of the concern for the proposal was that it only included the searching of inmates and visitors and did not include staff and vendors in the institutions. Despite the rejection of the proposal during May Revise, the department redirected funding from the Asset Forfeiture Fund to add 12 additional canines to the 29 already being used in the prisons.

CDCR has indicated that the Secretary is committed to expanding the interdiction efforts to include all staff and vendors. However, to date, those commitments have been verbal ones and are not clearly reflected in the budget proposal submitted by the Administration.

Action: Held Open.

Issue 5: Statewide Budget Packages and Advanced Planning

Governor's Budget. The Governor's budget proposes \$500,000 (General Fund) to support workload associated with planning capital outlay projects at youth and adult correctional facilities. This workload typically consists of site assessments, environmental reviews, and the development of scope, cost, and schedule projections.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. How do you decide which capital outlay projects to go forward with each year? Who is involved in the decision making?
2. Do your decisions take into account prioritizing projects that would increase capacity or improve programming space in order to better comply with the population reduction federal court order?
3. Please provide a list of the project needs you have identified at the women's institutions. Why aren't any of those projects on the current capital outlay list?
4. It is our understanding that two units at the California Institution for Women (CIW) in Corona are currently closed and in need of significant repair. In the proposed budget, the Administration asks for almost \$160 million in funding for CDCR's capital outlay projects. Given the overcrowding concerns with the women's facilities, why aren't the repairs to CIW included in the list of projects in order to increase capacity for female inmates and relieve overcrowding?

Action: Held Open.

Issue 6: Ironwood State Prison Air Conditioning

Governor's Budget. The Governor's budget proposes \$145 million (lease-revenue bond financing) for a previously approved project to replace the heating, ventilation, and air conditioning system at Ironwood State Prison in Blythe. This entire project is expected to cost roughly \$156.2 million (\$5.8 million for planning, \$5.4 million for working drawings, and \$145 million for construction).

Action: Approved as budgeted.

Vote: 3 – 0

Issue 7: Salinas Valley State Prison Sump Pump

Governor's Budget. This capital outlay proposal requests \$610,000 to fund the installation of sump pumps and drainage piping for 30 underground electrical and communications vaults at Salinas Valley State Prison (SVSP). The Administration states that the pumps will prevent work hazards and systems degradation and failure due to water infiltration into the electrical and communication vaults. Currently, the plant operations staff at SVSP uses a portable pump to extract water from the vaults, which is labor intensive and dangerous for the staff.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. This is a relatively new facility, built in 1996. At that time, was a grading plan done that should have identified the potential for this problem and mitigated the problem? If not, why not? Grading plans should be a standard practice in construction, are they not? Alternatively, was an assessment done by a soils expert that may have identified this as a problem?
2. The proposal notes that this flooding problem poses a serious danger to both inmates and staff, including the potential for a hydrogen gas explosion, injury to staff pumping water from the vaults, and security risks due to power and communications outages. At the same time, the proposal notes that this problem has been an on-going one over the last 18 year, since the activation of the facility, and that the vaults flood approximately 15 times per year. Can you please tell us how many explosions, injuries, or security problems have arisen as a result of this flooding over the last two decades?
3. Even with the installation of sump pumps, water would still be able to get into the vaults through the vault lids. So, the problem of moisture damage would remain. Has the department considered other alternatives such as waterproof vault lids, increasing drainage, or re-grading that section of the site to at least raise the openings above the grade and reduce or eliminate the flooding?

Staff Comment. The budget proposal asserts that this problem is caused by water getting into the vaults through the vault lids. However, during discussions of the proposal CDCR states that they are unsure how the water is getting into the vaults and that it may be seepage from the ground. In addition, according to the BCP, no other alternatives were explored, other than either providing sump pumps or continuing to hand pump the water when the flooding occurs. Because CDCR has not determined the cause of the flooding, they are likely unable to look at the range of alternatives that may allow them to fix the flooding problem. Finally, the BCP notes that this flooding has been a problem since the activation of the prison in 1996, which would suggest that this was either a flaw in the grading of the grounds, the placement of the vaults, or the proper sealing of the vaults. However, CDCR states that to their knowledge, at the time they did not work with the appropriate contractors when the problem was first discovered to fix the mistake in the planning or construction of the vaults.

Action: Proposal Rejected.

Vote: 3 – 0

Issue 8: Ventura Youth Correctional Facility – Non-Contact Visiting

Governor’s Budget. This capital outlay proposal requests \$590,000 to fund the installation of four non-contact visiting booths in the old visiting hall at the Ventura Youth Correctional Facility (VYCF). These booths would be used for youth requiring enhanced security precautions when they have visitors.

The Administration notes that there have been a variety of incidents during visiting hours with Behavioral Treatment Program (BTP) offenders, including fights and attempts to introduce contraband into VYCF. According to the Administration’s proposal, noncontact booths would limit the occurrence of these incidents. The proposed project would begin August 2014 and construction would conclude in September 2015.

The budget proposal notes the following six incidents that have recently occurred at VYCF:

- Upon entering one of the visiting halls, a ward walked up to a second ward and the two began fighting. A third ward and family members became involved shortly thereafter. (7/12)
- Once un-cuffed for a visit, one ward began fighting with a second ward. (12/12)
- A family member attempted to pass a baggie of methamphetamine to a ward during a visit. (5/13)
- A family member was found in possession of two large bags of marijuana and razor blades. (8/13)
- A family member attempted to pass a cell phone to a ward during a visit. (8/13)
- A ward attempted to switch shoes with a family member during a visit, in an effort to introduce contraband shoes into the facility. (9/13)

Legislative Analyst’s Office (LAO) Recommendation. The LAO recommends that the Legislature deny the request to construct noncontact visiting booths at VYCF. Given the likelihood that the population of offenders needing these booths will continue to decline, noncontact visiting booths could become largely unnecessary by the time they are completed in September 2015. To the extent that the population of BTP offenders remains at VYCF, the LAO recommends that Department of Juvenile Justice (DJJJ) use alternative means to provide these offenders with visits. For example, VYCF could consult with N.A. Chaderjian (NAC) and O.H. Close (OHC) Correctional Facilities in Stockton to determine whether strategies used at the northern facilities could be employed at VYCF.

Questions for the Administration. The department should be prepared to present the proposal and to address the following questions:

1. Please explain why VYCF seems to have problems with their BTP offenders that the other two institutions do not appear to have.
2. Please confirm that given the new leadership at VYCF, the Administration is no longer pursuing the non-contact visiting booths as the best way to deal with the problems highlighted in the budget proposal.

Staff Comment. The Administration has informed the Legislature that this proposal was developed under the previous superintendent at VYCF and that the current superintendent does not believe that the non-contact booths are necessarily the proper approach. They are considering other possible alterations to their visiting areas. Given, that the Administration has moved away from the proposed approach, the Legislature may wish to consider rejecting this proposal and the Administration can come back with a new approach.

Action: Proposal Rejected.

Vote: 3 – 0

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, April 3, 2014
9:30 a.m. or upon adjournment - State Capitol Room 113

Consultant: Joe Stephenshaw

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PROPOSED FOR VOTE ONLY**7320 Public Employment Relations Board****Issue 1 Increased Litigation Workload**

Governor's Budget Proposal. The Governor's budget includes \$360,000 General Fund and four positions to address increased workload due to new statutory requirements as well as increased workload due to a contract expiring, and expanding support functions in two regional offices.

Background. The Public Employment Relations Board (PERB) is a quasi-judicial administrative agency charged with overseeing the collective bargaining statutes covering California public employees. Since 2001, PERB's jurisdiction expanded to cover additional public sector employees and their employers. Recent expansion to PERB's jurisdiction, caused by new legislation, has resulted in an increased workload. The new statutory requirements are:

- SB 1036 (Budget and Fiscal Review Committee, Chapter 45, Statutes of 2012), the In-Home Supportive Services Employer-Employee Relations Act, which expanded PERB's responsibility to include the creation of a statewide authority to negotiate terms and conditions of employment for a specialized segment of the healthcare system.
- AB 646 (Atkins, Chapter 680, Statutes of 2012), which amended the Meyers-Milas-Brown Act to establish fact finding as a mandatory method of resolving bargaining impasses.
- SB 1038 (Budget and Fiscal Review Committee, Chapter 46, Statutes of 2012), which expanded PERB's authority with the merger of state mediation and conciliation services.

Recommendation. Approve as proposed.

7350 Department of Industrial Relations**Issue 1 Enhanced Labor Enforcement Compliance from 2013 Legislation**

Governor's Budget Proposal. The Governor's budget includes \$1.1 million and 5.5 positions (\$624,000 ongoing) from the Labor Enforcement and Compliance Fund to fulfill the provisions of various legislative bills: AB 10 (Alejo), Chapter 351, Statutes of 2013; AB 241 (Ammiano), Chapter 374, Statutes of 2013; AB 263 (Hernández), Chapter 732, Statutes of 2013; SB 390 (Wright), Chapter 718, Statutes of 2013; SB 400 (Jackson), Chapter 759, Statutes of 2013; SB 530 (Wright), Chapter 721, Statutes of 2013; and SB 666 (Steinberg), Chapter 577, Statutes of 2013.

Background. This proposal will allow the Department of Industrial Relations to carry-out new statutory requirements pursuant to recent legislation, specifically:

- AB 10 (Minimum Wage Adjustment) – The Division of Labor Standards Enforcement (DLSE) is mandated with issuing the new minimum wage order to employers.
- AB 241 (Expanded Overtime Coverage for Personal Attendants) – DLSE anticipates an additional 200 citations will be issued annually pursuant to the requirements of AB 241 as well as an additional 551 new wage claims.
- AB 263, SB 400, SB 530, and SB 666 (Retaliation Complaint Investigations) – DLSE requires additional resources to review and investigate increased complaints resulting from the passage of these four bills.
- SB 390 (Employee Wage Withholdings: Failure to Remit) – DLSE will add an additional investigator to handle the workload associated with the criminal misdemeanor created by this bill.

Staff Recommendation: Approve as budgeted.

7501 Department of Human Resources**Issue 1 Examination and Certification Online System Project**

Governor's Budget Proposal. The Governor's budget includes \$630,000 (\$359,000 GF and \$271,000 Central Service Cost Recovery Fund) to support the Examination and Certification Online System (ECOS) project.

Background. The proposal requests resources for the remaining three years of the ECOS project, which will eliminate outdated manual processes, reduce the cost and time required for exam administration, create real-time exam results for hiring departments, and mitigate risks by integrating seven disparate systems.

The State Personnel Board (SPB) was responsible for the creation and administration of civil service examinations, certification of hiring lists, and the review of appointments. Pursuant to the Governor's Reorganization Plan (GRP) No. 1, selection-related responsibilities were transferred from SPB to CalHR, including the ECOS project.

The ECOS project is intended to upgrade the current electronic exam and list certification systems, which are comprised of the following: Examinations, Certifications, Web Exam, Profile, State Restriction of Appointment (SROA), Reemployment, Vacant Position Online Search (VPOS) and the manual Career Executive Assignment (CEA) Examinations and Certification systems.

Almost all state departments use CalHR's systems to process their exams. The alternative to using CalHR's systems for an individual department include manual processing of exams or using their own systems. All current state employees will or have used the exam system to obtain positions within the state or to be eligible for promotion. The public also utilizes the exam system to apply for exams, and check their score and ranking.

CalHR is charged with maintaining the eligibility list for all state departments and ensuring that the applicable rules and laws are applied by all. State personnel offices use the eligibility certification listing on a daily basis to look for candidates.

In 2013-14, CalHR submitted a Spring Finance Letter requesting \$1.9 million over four fiscal years. The Legislature approved funding for the ECOS project for the 2013-14 year, and required quarterly reports on the status of the project. The Legislature also required CalHR to submit a 2014-15 budget change proposal for the remaining three years of the project.

CalHR has reported quarterly to the Legislative Analyst's Office on the project and has taken actions to correct the schedule and identify additional needs of the project. The project is on schedule and ready to move forward.

Staff Recommendation. Approve as budgeted.

Issue 2 CalHR Indian Gaming

Governor's Budget Proposal. The Governor's budget proposes \$75,000 from the Indian Gaming Special Distribution Fund for disbursement to the Tribal Labor Panel to provide support for its labor relation duties.

Background. In September 1999, as authorized by Section 10.7 of the Tribal-State gaming compacts, a Tribal Labor Relations Ordinance was adopted that provided for administration of labor relations concerns by a body referred to as the "Tribal Labor Panel." The Tribal Labor Panel has authority to handle dispute resolutions. The panel can hire staff as well as take other necessary actions to fulfill its obligations under the Tribal Relations Ordinance. The Department of Human Resources (CalHR) contracts with the American Arbitration Association to serve as the administrator of the Tribal Labor Panel.

In 2012, the Tribal Labor Panel was added to CalHR's budget. Subsequently, CalHR conducted a program review to determine what appropriation authority and program modification was needed on an ongoing level. Based on the review, CalHR determined that an annual appropriation of \$75,000 should cover the dispute resolution costs and that any fund authority not used would revert to the Indian Gaming Special Distribution Fund.

Staff Recommendation. Approve as budgeted.

7900 Public Employees' Retirement System**Issue 1 Trailer Bill Language – Contingency Reserve Fund**

Governor's Budget Proposal. The Governor proposes trailer bill language that enables state employee and employer contributions toward their Health Maintenance Organization premiums to be deposited into the Contingency Reserve Fund.

Background. The proposed language is consistent with how existing statute permits local contracting agency contributions for HMO premiums to be deposited in the Contingency Reserve Fund.

In April 2013, the CalPERS Board adopted health care contracts with five additional non-Kaiser HMO plans, consistent with AB 2142 (Furutani, Chapter 445, Statutes of 2012). The new HMO contracts include both capitation and a risk-adjusted fee for service component, which require a designated fund to process health care payments. This is a technical change to the current statute to enable CalPERS to deposit HMO premiums into the Contingency Reserve Fund and process health care payments, consistent with the new HMO contracts.

Staff Recommendation. Approve as budgeted.

7920 California Teachers' Retirement System**Issue 1 CalSTRS Budget Proposals**

Governor's Budget Proposal. The following eight CalSTRS budget proposals are recommended for vote only:

- **Member Service Center Inland Empire.** CalSTRS requests an augmentation of one-time funding of \$1.4 million in 2014-15, and \$446,000 in 2015-16, and four full-time positions to support the establishment of the Inland-Empire CalSTRS-operated Member Service Center. This Member Service Center will be similar to other full-service counseling offices in Glendale, Santa Clara, and Orange County.
- **Expansion of Sustainability Program.** CalSTRS requests a permanent augmentation of \$100,000 and one permanent full-time position to expand existing sustainability efforts by creating a corporate sustainability program in accordance with the CalSTRS Strategic Plan. This new position will be responsible for developing a comprehensive corporate sustainability program at CalSTRS.
- **Legal Administrative Support.** The CalSTRS budget includes a request for permanent funding in the amount of \$57,000 and one position to support administrative functions associated with increased attorney workload from new audits stemming from the hiring of an attorney and legal analyst in 2013-14.
- **Investment Portfolio Internal Management.** CalSTRS requests a permanent funding augmentation of \$2.2 million and 19 permanent positions to address an increase in internal management and growing complexity of the investment portfolio. Thirteen positions will be assigned to the Investment Branch to manage a portfolio and the additional six positions will be assigned to work in the Financial Services Branch.
- **Member Service Improvement.** CalSTRS requests \$205,000 and three permanent positions to increase customer service levels in the contact center.
- **Reduce Reliance on Contractor Staff.** CalSTRS requests a permanent augmentation of nine full-time staff to reduce the reliance on external contractors. No additional funding is requested because contractor dollars will be redirected to cover staffing costs.
- **IT Infrastructure Security and ISO Workload Growth and Risk Management.** CalSTRS requests a permanent augmentation of \$544,000 and five permanent positions to ensure the proper completion of on-going preventive maintenance and security activities and coordination of annual security audits. Over the past four years, CalSTRS IT infrastructure assets have grown significantly in volume but the resources to manage them have not increased accordingly. Additional resources are needed to address the increase in workload hours to manage these IT assets.
- **Actuarial Resources.** CalSTRS requests \$165,000 and one full-time position to perform new actuarial and benefit administration functions. In 2012-13 these duties were backfilled by Milliman, Inc., which is an outside consultant that performs other work for CalSTRS. It has been determined that having a contractor perform the new actuarial and benefit administration functions is not the most cost effective way of addressing the increased workload.

Staff Recommendation. Approve as proposed.

9800 Augmentation of Employee Compensation**Issue 1 Trailer Bill Language - Phase in of Pay Increases Counting Toward Pensionable Compensation**

Governor's Budget Proposal. This trailer bill language would affect any supervisor or manager of state Bargaining Unit 9 or 10 whose monthly salary will increase effective July 1, 2014.

Background. The Governor's budget includes a salary adjustment for 14 supervisory scientist classifications. Beginning in 2006, the supervisory division of the California Association of Professional Scientists has argued their members were performing similar work as certain engineering supervisors and should, thereby, receive similar salaries. The Department of Personnel Administration held a hearing on the issue and on April 28, 2008, recommended salary increases for the supervisory scientist classifications.

The trailer bill language provides a phased approach for the application of the pay increase that would apply to a pension or benefit. This would ensure that those who are receiving the raises continue to have an incentive to remain in their positions; this prevents a rush of retirees after they receive their pay increases. This proposal is similar to language that was included in previous budgets when other groups received a salary increase, such as the Department of Water Resources employees.

Recommendation. Approve as proposed.

Items to be Heard**7920 California Teachers' Retirement System**

The California State Teachers' Retirement System (CalSTRS) administers retirement benefits for 868,493 (as of June 30, 2013) active and retired educators in public schools from pre-kindergarten through the community college system in California. Benefits include retirement, disability, and survivor's retirement benefits.

CalSTRS is governed by the Teachers' Retirement Board. The California Constitution provides that the Teachers' Retirement Board has authority over the administration of the retirement system; therefore, while the budget is subject to a Budget Act appropriation, the proposed appropriations are not reviewed or approved by the Governor. The following Governor's budget display shows the proposed funding and positions for CalSTRS.

3-YR EXPENDITURES AND POSITIONS

	Positions			Expenditures		
	2012-13	2013-14	2014-15	2012-13*	2013-14*	2014-15*
10 Service to Members and Employers	638.5	716.3	750.3	\$109,134	\$121,328	\$193,873
15 Corporate Governance	8.0	9.1	9.1	2,138	2,097	2,155
20 Administration	204.1	260.6	265.6	30,604	44,642	69,129
99 Unclassified (Benefit Payments)	-	-	-	11,649,299	12,457,431	13,301,405
TOTALS, POSITIONS AND EXPENDITURES (All Programs)	850.6	986.0	1,025.0	\$11,791,175	\$12,625,498	\$13,566,562
FUNDING				2012-13*	2013-14*	2014-15*
0835 Teachers' Retirement Fund				\$11,748,695	\$12,581,435	\$13,521,406
0995 Reimbursements				12	339	339
8001 Teachers' Health Benefits Fund				35,029	35,796	36,513
8005 Teacher's Replacement Benefits Program Fund				6,836	7,165	7,523
8041 Teachers' Deferred Compensation Fund				603	763	781
TOTALS, EXPENDITURES, ALL FUNDS				\$11,791,175	\$12,625,498	\$13,566,562

Issue 1 BusinessRenew – Pension Solution

Governor's Budget Proposal. CalSTRS proposes \$61.6 million in one-time funding in 2014-15, and an additional \$151.4 million in one-time funding in 2015-16 through 2019-20, for project resources, staff, and vendor costs to support the Pension Solution Project under the CalSTRS BusinessRenew program. The Pension Solution Project is a multi-year technology project to replace CalSTRS current pension administration system with a more modern one.

Background. The BusinessRenew project is intended to implement multiple projects to transform CalSTRS technology infrastructure. It will implement changes in how CalSTRS operates in order to become more efficient, effective, and nimble. Expected outcomes include a reduction in operational risk by ensuring CalSTRS has an adequate system for administering benefits and the fiscal management system required to support business processes so that CalSTRS can provide accurate and timely payments to members, and staff have the tools necessary to perform.

BusinessRenew is being delivered via concurrent projects that address the strategies outlined in CalSTRS Solutions Framework and Implementation Roadmap documents. The following is a description of each BusinessRenew project:

BusinessRenew Project	Project Objective and Scope
BusinessDirect	Acquisition and implementation of a new budgeting, procurement, accounting, and contract management solution to deploy automated internal controls and processes, increase the timeliness of financial and operational reporting, and reduce the risk of error.
Pension Solution	Acquisition and implementation of a new benefits program management member/beneficiary account, benefit calculation and case management solution to support program and policy changes, incorporate automated internal controls, and improve processing times.
Data Preparation	Analysis, cleansing, standardization, and preparation activities for data conversion of pension data from the old system to the new pension solution system.
Enterprise Information Management	Implementation of a comprehensive approach to information management including identification of data stewardship and governance to ensure future information integrity.
Requirements Management	Acquisition and implementation of an automated tool and supporting processes for the centralized management of technology requirements, which will allow traceability to business processes, laws, and regulations.

Beginning in 2003, CalSTRS established an annual \$20 million budget to fund all of its large, enterprise-wide technology projects. This budget covered both external and internal project costs including resources, equipment, and software, as well as the costs for the administration of the CalSTRS Project Management Office (PMO).

Effective in fiscal year 2012-13, a funding allocation change was made to allow for the use of technology project funding for up to three years. At the same time, the enterprise technology project budget was modified to reduce the annual project budget allocation from \$20 million to \$18.5 million, with a portion of the remaining \$1.5 million available to support the PMO.

The current annual budget appropriation is sufficient to fund the implementation of most phases of the BusinessRenew project. The resources requested in this proposal are necessary to complete implementation of the Pension Solution project.

Staff Comment. This proposal will allow CalSTRS to implement technology projects that will improve their business processes and significantly reduce risks associated with current outdated systems. However, given the recent history of state entities with large information technology projects, the subcommittee may wish to ask for an update from CalSTRS regarding efforts it has undertaken to avoid major pitfalls and mitigate implementation risks.

Staff Recommendation. Approve as proposed.

7100 Employment Development Department

The Employment Development Department (EDD) is designated to enhance California's economic growth and prosperity by collaboratively delivering valuable and innovative services to meet the evolving needs of employers, workers, and job seekers. The EDD connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Investment Act of 1998. Additionally, the EDD collects various employment payroll taxes including the Personal Income Tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce. The following Governor's budget display shows the proposed funding and positions for the EDD.

3-YR EXPENDITURES AND POSITIONS

	Positions			Expenditures		
	2012-13	2013-14	2014-15	2012-13*	2013-14*	2014-15*
10 Employment and Employment Related Services Program	941.3	1,338.7	1,338.7	\$120,644	\$181,949	\$180,765
21 Tax Collections and Benefit Payments Program	6,361.4	5,884.5	5,639.6	18,206,095	15,755,208	13,033,288
22 California Unemployment Insurance Appeals Board	645.8	663.0	586.0	91,092	78,045	68,167
30.01 Administration	695.2	701.0	701.0	51,279	53,780	53,390
30.02 Distributed Administration	-	-	-	-47,226	-51,004	-51,004
50 Employment Training Panel Program	85.2	85.1	85.1	52,131	49,689	60,632
61 Workforce Investment Act Program	147.1	144.2	144.2	415,247	406,463	409,312
62 National Emergency Grant Program	3.1	1.5	1.5	3,413	45,000	45,000
TOTALS, POSITIONS AND EXPENDITURES (All Programs)	8,879.1	8,818.0	8,496.1	\$18,892,675	\$16,519,130	\$13,799,550

Issue 1 Unemployment Insurance Program Administration

Governor's Budget Proposal. The Governor's budget proposes a \$64.0 million augmentation from the Employment Development Department (EDD) Contingent Fund in support of the state's Unemployment Insurance (UI) program. These funds are proposed to be used to minimize the degradation of UI services due to underfunding from the federal Department of Labor (DOL) and the reduction of federal funding due to sequestration. This proposal includes: 1) \$38 million from the Contingency Fund, 2) an increase in withholding penalties deposited into the Contingency Fund from 10 to 15 percent, and 3) a one-time suspension of the transfer of personal income tax withholdings to the GF, and instead retaining \$15.9 million for the program.

Joint Legislative Budget Committee Letter (JLBC). On February 7, 2014, the Department of Finance sent a letter to the JLBC notifying the Legislature that the Administration intended to take three steps to address UI customer services issues:

1. Spend \$43.3 million in federal funds in the current year to address the customer service backlogs.

2. Submit a budget request to augment the EDD budget with General Fund, likely by “tens of millions.”
3. Submit a Section 11 notification to the Legislature to augment resources for the UI Modernization project. The Legislature received this request on February 28, 2014, which anticipated \$3.6 million in project spending (this is in addition to \$1.7 million from a January Section 11 notification).

The DOF letter also included a letter from the Secretary of Labor and Workforce Development, David Lanier, to the EDD, which outlined the Administration’s approach to addressing problems with the department’s administration of the UI program. The elements of this approach are:

1. Hire 280 additional staff, starting March 1, 2014.
2. Retain 250 permanent intermittent staff currently, in place until June 30, 2015.
3. Continue overtime pay.
4. Rehire up to 50 program staff that are trained and can provide UI services immediately.
5. Hire 155 program staff to fill existing vacancies.
6. Implement Virtual Hold/Automatic Call notification technology for callers to EDD’s UI system to improve customer service.
7. Obtain additional information technology expertise at EDD.

Background. The UI program is a federal-state program that provides weekly UI payments to eligible workers who lose their jobs through no fault of their own. Benefits range from \$40 to \$450 per week, depending on the earnings during a 12-month base period. UI program benefits are financed by employers who pay state unemployment taxes, ranging between 1.5 and 6.2 percent, on the first \$7,000 in wages paid to each employee in a calendar year. Employers responsible for a high number of unemployment claims pay the highest tax rate.

During the recent economic recession, EDD struggled to pay unemployment benefits or answer phone calls from the public in a timely manner. The department recently launched a new system, called the Continued Claim Redesign (CCR), which was intended to allow customers to handle UI transactions through self-service phone and internet interactions. During the fall of 2013, bugs within the CCR system temporarily exacerbated the department’s customer service problems.

As of January 2014, only 31.1 percent of claims were paid in seven days or less and 68.7 percent were paid within 14 days. During the last week of December 2013, almost two million calls were made to EDD and over 1.6 million of these were unanswered. While these

performance challenges continue, a combination of an improved economy and 1.2 million Californians exhausting all benefit eligibility over the recession have reduced the overall workload for the department.

Notwithstanding workload reductions, the EDD continues to face a shortfall in federal funding to administer the UI program. The federal government is supposed to fund the cost of administering the program based on a forecasted workload model, known as the Resource Justification Model (RJM), provided by EDD. Persistently, the federal government has failed to provide one hundred percent of the funding for the UI program, based on its own RJM formula.

Due to this federal funding shortfall, the Governor's budget proposed a budget amount that would be 15 percent below full program funding; however, allow EDD to provide service levels at the 2012-13 level, which they believe is a reasonable level of service given the circumstances. The Governor's budget proposed a UI program administration funding need of \$522.5 million, which assumes the federal government provides California with \$366 million, and the \$156.5 million funding gap is addressed by the state. The budget proposal includes \$43.2 million in additional one-time special funds, which reduce the funding gap from \$156.5 to \$113.3 million. The Governor's budget proposed two strategies to address the remaining \$113 million funding gap:

1. \$64.0 million augmentation from the EDD Contingent Fund in support of the state's UI Program. These funds will be used to minimize the degradation of UI services due to underfunding from the federal Department of Labor (DOL) and the reduction of federal funding due to sequestration. The proposal also provides a corresponding decrease of \$64.0 million in the Unemployment Administration (UA) Fund
2. \$49.2 million and 295 positions reductions for efficiencies identified through what the Governor's proposal identifies as a zero-based budgeting effort. This effort identified the following efficiencies:
 - **Extending the Grace Period for Continued Claim Forms Arriving Late:** Eligibility for UI benefits is determined on a weekly basis. Previously, claimants were required to complete and return their continued claim form within 14 days of the date noted on the form. Extending this timeframe to 21 days will reduce the amount of follow-up work done by the EDD staff to determine if the claimant had good cause for returning the forms late. This will allow more staff to focus on providing other necessary services to claimants, while avoiding delays in paying benefits to claimants. This was implemented in February 2014 and will save an estimated \$6.3 million.
 - **Streamline Identity Verification System:** Currently, if the EDD is unable to verify a claimant's identity, the claimant receives a request to provide additional verifying information so that EDD can ensure benefits are paid appropriately. The EDD is working to streamline this process, resulting in greater efficiency and more staff being available to provide other necessary services to claimants. This will save an estimated \$1.6 million.

- **Shorten Initial Phone Message When Calling EDD:** When customers call the toll-free number for the UI program, they hear a lengthy recorded message providing general information. By shortening the length of this message, callers will spend less time in the phone system, at a reduced cost to the UI program, and will be able to get to their desired selection more quickly. This was implemented in late 2013 and will save an estimated \$900,000.
- **Eliminate Certain Requirements for those Enrolled in School:** Currently, a claimant who indicates they are attending school or training is scheduled for an eligibility interview, even if they also indicate they are still available for work and able to work. However, with the use of alternate school schedules such as night classes and online schooling increasing, claimants are increasingly able to attend school or training and also be able and available for work. Eliminating eligibility interviews in these cases will reduce unnecessary workload and assign additional staff to provide other services to claimants, while avoiding delays in payment of benefits to claimants. This was partially implemented in December 2013, and fully implemented in January 2014, saving an estimated \$500,000.
- **Review and Reduce Operational Costs:** The EDD conducted a thorough review of the operational costs of the UI program and has made changes resulting in savings in mailing, facility, administrative, hiring, and other overhead costs. In addition, the California Unemployment Insurance Appeals Board, which is the appellate body for the UI program and works closely with the EDD, is making process improvements and identifying additional efficiencies. These cost savings help close a budget gap without reducing staff that provide direct services to claimants. For example, the estimate savings from consolidating facilities (\$3.5 million) and implementing a hiring freeze of administrative staff (\$6.8 million) will result in saving an estimated \$10.3 million.

UI Trust Fund Condition. Beginning in January 2009, the state's UI Fund was exhausted due to an imbalance between benefit payments and annual employer contributions. To continue to make UI benefit payments without interruption, EDD began borrowing funds from the Federal Unemployment Account. The UI Fund deficit was \$10.2 billion at the end of 2012 and is projected to be \$8.8 billion at the end of 2014.

While annual interest payments were waived under the American Recovery and Reinvestment Act for 2010, interest payments totaling \$870.7 million were paid in 2011, 2012, and 2013. The budget includes \$231.6 million GF to make the 2014 interest payment. Interest will continue to accrue and be payable annually until the principal on the UI loan is repaid. The interest payment must come from state funds. As a result of the fund's insolvency, employers are negatively affected by a reduction in their Federal Unemployment Tax Act credit - meaning they are paying increasing levels of federal taxes each year until the fund is returned to solvency.

The Governor's budget contains a reference to meetings convened in February 2013 by the Secretary for Labor and Workforce Development to bring together key stakeholders, including business and labor, to identify preferred alternatives to meet annual federal interest obligations, repay the federal loan, and return the state's UI Trust Fund to solvency.

The Governor's 2014-15 Budget Summary makes the following statement:

"A solvency solution should be developed with the following goals and principles:

- Achieve a prudent reserve by 2021 substantial enough to withstand a recession.
- Repay the Disability Insurance Fund and General Fund for interest payments made by the state. Phase-in changes to the financing structure to smooth the impact on employers to the extent possible.
- Include reforms to improve the integrity of the unemployment insurance program."

Staff Comments. During this past year, EDD has faced many challenges in administering the UI program. Many of these challenges have received significant attention, including: 1) the September 2013 problems with the rollout of the first phase of the CCR, which delayed unemployment checks to approximately 150,000 recipients; 2) a Los Angeles Times report that, from October 2013 to January 2014, phone calls were answered by a live human only 10 percent to 17 percent of the time and, even then, some people had to call 40 times to reach an agent; and, 3) recent reports that at least half of EDD's denials of benefits are reversed on appeal. In addition to these issues with administration of the UI program, a recent audit by the California State Auditor found that EDD failed to participate in a federal program that would have allowed the state to collect hundreds of millions of dollars.

Primarily, the EDD attributes most of the challenges the department has faced in carrying out its UI program responsibilities to the lack of appropriate resources provided by the federal government. As such, it is encouraging that the Administration and department are aggressively pursuing efforts that enhance resources available to the EDD to administer the program. The EDD has recently reported that significant gains are being made. Following are examples of improvements recently cited by EDD:

- Nearly doubled the amount of calls answered between the week ending February 8, with more than 23,000 calls answered, and the week ending March 8, when more than 45,000 calls were answered.
- Increased the percentage of calls answered from a low of 11 percent in late November to 60 percent for the week ending March 8, 2014.
- Reduced the average number of times a person has to dial to access the call center by close to 89 percent since back in November. Over the last month, the average number of redials decreased from 30.9, for the week ending February 8, to 4.8, for the week ending March 8, a 84.4 percent decline.
- Reduced the average wait time to speak to an agent by more than 50 percent, to fewer than three minutes.
- Decreased the percentage of blocked calls from a high of 90 percent in November and December to 18 percent for the week ending March 8, 2014.

In addition to enhanced resources, it is worth noting that the Administration has recently named a director for the department, which will, hopefully, provide for stable leadership, something EDD has not had for some time.

Staff Recommendation: Hold Open.

7350	Department of Industrial Relations
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The Department of Industrial Relations (DIR) is responsible for protecting the workforce in California, improving working conditions, and advancing opportunities for profitable employment. The department is responsible for enforcing workers' compensation insurance laws, adjudicating workers' compensation claims, and working to prevent industrial injuries and deaths. The department also promulgates regulations and enforces laws relating to wages, hours, and conditions of employment, promotes apprenticeship and other on-the-job training, and analyzes and disseminates statistics which measure the condition of labor in the state. The following Governor's budget display shows the proposed funding and positions for DIR.

3-YR EXPENDITURES AND POSITIONS

	Positions			Expenditures		
	2012-13	2013-14	2014-15	2012-13*	2013-14*	2014-15*
10 Self-Insurance Plans	21.9	27.1	27.1	\$3,153	\$6,312	\$6,211
30 Division of Workers' Compensation	959.4	1,077.8	1,077.8	160,154	200,697	197,020
36 Commission on Health and Safety and Workers' Compensation	6.8	8.1	8.1	2,373	3,484	3,416
40 Division of Occupational Safety and Health	668.8	722.4	726.9	107,768	120,239	127,106
50 Division of Labor Standards Enforcement	430.5	516.9	509.4	56,860	68,479	72,250
60 Division of Apprenticeship Standards	54.6	55.3	55.3	9,854	10,476	10,511
80 Claims, Wages, and Contingencies	-	-	-	59,232	61,182	181,182
94.01 Administration	330.1	384.0	385.0	40,773	54,766	49,905
94.02 Distributed Administration	-	-	-	-40,773	-54,766	-49,905
TOTALS, POSITIONS AND EXPENDITURES (All Programs)	2,472.1	2,791.6	2,789.6	\$399,394	\$470,869	\$597,696

Issue 1	Process Safety Management Unit Expansion
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Governor's Budget Proposal. The Governor's budget proposes \$2.4 million from the Occupational Safety and Health Fund and 11 positions to expand the Process Safety Management (PSM) Unit to implement the recommendations of the Governor's Interagency Working Group on Refinery Safety in enforcement of workplace health and safety regulations in 15 refineries and over 1,600 other chemical facilities.

Background. In August 2012, a fire broke out at the Richmond Chevron refinery when a severely corroded pipe in the refinery's #4 Crude Unit began leaking. Chevron managers did not shut the unit down; instead, they instructed workers to remove insulation, which led to the pipe's rupture and a massive fire. While there were no serious worker injuries, a reported 15,000 residents of surrounding communities sought treatment after breathing emissions from the fire.

The PSM Unit within the Division of Occupational Safety and Health (DOSH) enforces "process safety management" procedures regarding potentially hazardous processes that

exist in a wide variety of industries, including oil refineries. The PSM Unit was established after the 1999 fire at the Tosco refinery in Martinez that killed four workers.

California is the only state to have a dedicated unit for this function, which, until actions taken by the Legislature in adopting the current year's budget, had a staff of 11 to inspect 15 refineries and over 1,600 other facilities that use, process, or store large quantities of toxic, flammable, or explosive chemicals. On average, from 2001-2012, this unit inspects 27 refineries as well as 112 other facilities per year. Last year, this subcommittee found that the PSM needed at least 15 additional positions to have enough personnel to ensure worker and citizen safety within these industries.

Labor Code Section 7870 states that the department "may fix and collect reasonable fees for consultation, inspection, adoption of standards, and other duties" in relation to process safety management at these hazardous sites. Prior to the adoption of the current year budget, the department did not collect such a fee. The 2013-14 Budget Act contained budget bill language directing the department to use its statutory authority to approve a fee to support an increase in funding and at least 15 new positions for the PSM Unit.

The Governor's budget proposes that positions related to refinery inspection be funded with the new fee on the refinery industry. The newly established regulatory fee for oil refineries is based on the amount of crude oil being processed at each refinery to fund inspections and enforce workplace health and safety regulations.

Instead of establishing 15 new positions, consistent with the intent of the Legislature's action from last year, the Governor's proposal establishes 11 new positions and redirects four positions from other areas within the department. This proposal would result in a staffing level of 26 employees for the PSM Unit, including 20 inspectors.

The increased number of staff and resources proposed in the Governor's budget will enable the PSM Unit to ensure greater refinery safety by conducting: 1) planned refinery inspections that would match the scope and duration of the federal OSHA's National Emphasis Program inspections; 2) intensive and targeted inspections of refinery "turnaround" maintenance operations when the most hazardous work is performed; and, 3) comprehensive inspections of non-refinery facilities.

Under this proposal, the PSM Unit will be divided into a refinery safety group and a non-refinery safety group. Both groups will conduct inspections prompted by worker complaints, reports of worker injuries and illness, referrals from government agencies, as well as comprehensive inspections designed to target the most hazardous operations and work processes on site.

Refinery Safety Group. Ninety percent of the Refinery Safety Group's time will be spent on in-depth, planned inspections to pro-actively target the most hazardous operations and processes in the refineries to ensure compliance. The following table displays the three types of planned inspection that will be performed by the Refinery Safety Group.

Refinery Safety Group Planned Inspections	
Type	Description
Turnaround Inspections	Inspections of refinery units undergoing “turnarounds,” or scheduled maintenance, repair and replacement work after the units have been shut down. The planned turnaround inspections will involve an average of 1,500 hours of inspector time for pre-turnaround analysis and on-site observation as work is completed.
National Emphasis Program Inspections	Inspections follow the methodology of the federal OSHA National Emphasis Program, which involve 1,200 hours per inspection and evaluate compliance with the 13 elements of the PSM regulation throughout the refinery.
Special Emphasis Program Inspections	Inspections will focus on specific hazards or processes in refineries that have generated incidents, injuries and illnesses, with 500 hours per inspection.
Contract Employee Inspections	Inspections of contractors working in the refineries during any of the other planned inspections.

The following table displays the projected number of refinery inspections, by type and hours.

Projected Inspections at Refineries (14 Inspectors)		
Inspection Type	Number of Inspections	Hours
Unplanned Inspections (Complaints, Accidents, Referrals)	25	2,000
National Emphasis Program	4	4,800
Turnaround Type	4	6,000
Special Emphasis Program	15	7,500
Contractors on Site	60	4,800
Total Refinery Inspections	108	25,100

Non-Refinery Safety Group. The Non-Refinery Safety Group will conduct unplanned and planned inspections in the over 1,600 other PSM-designated facilities that include fertilizer plants, chemical plants, refrigeration plants using ammonia, and water treatment and other facilities using chlorine. Inspections based on complaints, incident investigations and referrals will constitute approximately 20 percent of inspector hours, while the 80 percent balance will be enhanced, comprehensive inspections evaluating the facilities compliance

with program requirements of the PSM regulation. The following table displays the projected number of non-refinery inspections, by type and hours.

Projected Inspections at Non-Refinery PSM Facilities (6 Inspectors)		
Inspection Type	Number of Inspections	Hours
Unplanned Inspections (Complaints, Accidents, Referrals, Follow-ups)	50	4,500
Site Operator	70	4,900
Contractors on Site	5	250
Total Refinery Inspections	125	9,650

As a result of this new fee, the department is redirecting \$3.3 million of Occupational Safety and Health Fund revenues that once supported the PSM program to the overall Division of Occupational Safety and Health program. This allows the department to fill 26 existing positions that lacked funding.

Staff Comment. While the Legislature added staff last year to enhance PSM Unit resources in response to the Chevron refinery fire, work still must be done to ensure that DIR has the support it needs to perform its PSM responsibilities at both refinery and non-refinery facilities. The PSM Unit plays a critical role in protecting workers and the communities in which these facilities operate. Recent incidents at Tesoro Corp.'s Golden Eagle Refinery just outside Martinez, in which two workers suffered first- and second-degree burns when they were splashed with acid from a broken pipe on February 12 of this year, and two contractors doing maintenance work in the same processing unit suffered burns when they were splashed with sulfuric acid the following month, again-remind us of the critical need to ensure appropriate safety measures are in place in our state's refineries.

The PSM Units inspections of non-refinery facilities are no less important, as highlighted by the Central Texas fertilizer plant explosion last year that killed 14 people and injured approximately 200, and the incident in which chemicals used to clean coal leaked into the Elk River in Charleston, West Virginia this past January, contaminating the drinking water of some 300,000 residents.

Along these lines, it is encouraging that, in the aftermath of the fire at Chevron's Richmond oil refinery in August 2012, Governor Brown formed an interagency working group to examine ways to improve public and worker safety through enhanced oversight of refineries, and to strengthen emergency preparedness in anticipation of any future incident. The working group consists of participants from 13 agencies and departments, as well as the Governor's Office. Over an eight-month period, the working group met internally and with industry, labor, community, environmental, academic, local emergency response, and other stakeholders. The working group issued a draft report in July 2013 and received comment on the draft from local governments, industry stakeholders, nongovernmental and labor representatives, and members of the public. The working group issued its final report in February of this year, which included recommendations pertaining to the following areas:

- Oversight and Coordination
- Emergency Response and Preparedness
- Safety and Prevention of Hazardous Events
- Community Education and Alerts

Specifically, the working group's report recommends that existing state prevention programs, including PSM, should be strengthened to require refineries to:

1. Implement inherently safer systems
2. Perform periodic safety culture assessments
3. Conduct damage mechanism hazard reviews
4. Conduct a root cause analysis after significant accidents or releases
5. Explicitly account for human factors
6. Require structured methods to ensure effectiveness of safeguards

Staff notes that the DIR reports that they have initiated a five-part refinery safety effort within DIR that focuses on both prevention and enforcement, as follows:

1. **Staffing and training:** Pursuant to this Budget Change Proposal (BCP), the DIR is increasing the staffing numbers and training of the Cal/OSHA statewide PSM unit, which regulates the refineries and other hazardous industries.
2. **Regulatory modernization:** DIR is re-writing the state's PSM regulations, which apply to the state's refineries and other hazardous process industries.
3. **Policy collaboration:** DIR is coordinating regulatory changes with California EPA, the Governor's Office of Emergency Services, the State Health Department; and other agencies and departments of the Interagency Refinery Task Force.
4. **Enforcement collaboration:** In Northern California, DIR is collaborating refinery enforcement operations with U.S. EPA, the U.S. Chemical Safety Board, the Contra Costa County Health Services Agency, and the Bay Area Air Quality Management District.
5. **Outreach and transparency:** DIR is actively engaging with workers, the public, and industry leaders in our efforts to improve refinery safety.

Staff also notes that the DIR is proposing to have one full-time inspector for each refinery in the state, even though the U.S. Chemical Safety and Hazard Investigation Board (CSB) has recommended two full-time inspectors for each refinery in the state. The DIR reports that,

after some discussion, they made slight modifications to the staffing levels reflected in this BCP, and then reviewed their revised approach and program staffing levels with CSB staff, who have agreed that this approach is reasonable and should be reviewed annually for effectiveness.

To build upon efforts of this subcommittee last year to enhance DIR's PSM capabilities, the subcommittee should reassess whether this BCP adequately adds staffing as intended by the Legislature. In addition, the subcommittee should ask the Administration to report on the efforts and timeline of implementing the Governor's working group recommendations, as well as, how the DIR's efforts align with the recommendations of the working group.

Staff Recommendation: Hold open.

Issue 2 Occupational Safety and Health Staffing

The Governor's budget proposes \$3.3 million from the Occupational Safety and Health (OSH) Fund to support 26.0 of the 31.5 existing, unfunded positions in the Cal/OSHA program to help increase the overall capacity to perform statewide safety inspections.

Background. The Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, protects workers from health and safety hazards on the job in almost every workplace in California through research and standards, enforcement, and consultation programs. Cal/OSHA also oversees programs promoting public safety on elevators, amusement rides, and ski lifts. In addition, the division oversees programs promoting the safe use of pressure vessels (e.g., boilers and tanks).

In 2008-09, about \$24 million of Cal/OSHA's operations were funded by the GF. The 2009-10 budget eliminated GF support for Cal/OSHA and increased the assessment and funding in the OSH Fund to offset the reduction. Historically, funds generated by the OSH Fund were not sufficient to fund the level of staffing authorized in the budget. For example, the department reports that the 2012-13 budget authorized 724.4 positions for DOSH, but OSH Fund revenue only provided sufficient funding for 673 of these staff, leaving 51.4 positions vacant.

Actions taken by this subcommittee last year eliminated a sunset on the employer assessment and provided the Department of Industrial Relations (DIR) the authority to increase the assessment amount, based upon the level of appropriation authorized in the budget. In 2013-14 this provided DIR additional funding to fill vacant positions.

As mentioned previously, the Governor's budget redirects \$3.3 million (OSH Fund) savings associated with the new refinery fee to support 26.0 of 31.5 existing, unfunded positions in the Cal/OSHA program within the DOSH without an increase to the current assessment level. The remaining 5.5 positions are proposed to be abolished.

Staff Comments. In the past few years, DOSH staffing has been determined by available funding and cash flow rather than the safety needs of the state. As the funding for the program stabilizes, the subcommittee may wish to consider what the appropriate standards for safety enforcement should be and what level of staffing is necessary to achieve that level of performance.

For example, a recent federal OSHA audit included the following findings regarding DOSH's performance in meeting federal benchmarks:

- DOSH cannot open inspections in response to worker complaints fast enough to meet the federal OSHA benchmark (5 days). DOSH's average was 14.9 days.
- DOSH cannot complete either safety or health inspections fast enough to meet the federal OSHA benchmarks (55.9 days, and 67.9 days, respectively). DOSH's average time for closing safety inspections was 85.8 days and closing time for health inspections was 97.4 days.

- DOSH cannot open inspections of non-fatal accidents that result in serious worker injuries in a timely fashion.
- DOSH cannot conduct the number of "follow-up" inspections at workplaces where serious citations have been issued that are required by law (Labor Code 6320).
- DOSH cannot conduct the inspections of the state's mining and tunneling projects that are required by law.

The resources requested by this proposal will address these program gaps; however, they will not fully close them. The department reports that the ability to deploy staff, which has not previously been funded is a significant step toward improving overall program efficacy and that the federal benchmarks and other indicators listed above are too narrow to provide an accurate gauge of the value of the division's efforts to help ensure workplace safety. Even so, it is critical that the department provide the Legislature with reasonable measurements of its resource needs, including, those needed to meet federal program standards.

Staff Recommendation: Hold open.

Issue 3 Public Works Contracting Enforcement

Governor's Budget Proposal. The Governor's budget proposes to stabilize and consolidate funding support for the public works program within the Department of Industrial Relations (DIR), Division of Labor Standards (DLSE), by supporting the function with a new fee on public works contractors. This proposal includes an annual \$300 fee on all contractors, both prime and sub-contractors, who wish to bid on public works projects each year.

Background. Since 2009, public works enforcement activities of the Division of Labor Standards and Enforcement have been supported by either:

1. a set aside of 0.25 percent of bond funds for a public project for bond funded projects; or,
2. a surcharge on employee compensation premiums for non-bond funded public works projects.

These funding mechanisms did not provide stable and predictable revenue necessary to support the positions needed for enforcement for various reasons including cash flow timing and a mismatch between the projects with funding and those that may need enforcement. In last year's budget, the Administration indicated that it would begin work on a replacement funding plan to fix this problem.

The 2013 Budget Act contained a provision that allowed the department to request a \$5 million loan from the Targeted Inspection Consultation Fund and statutory authority to bill other funding sources tied to public works projects to allow the program to run at near-full capacity during the current fiscal year, while working with the Department of Finance to develop a permanent funding solution.

In contemplating an alternative source of funding for the program, the department reviewed how other states have been supporting their public works enforcement functions, with a focus on approaches that would streamline and minimize administrative overhead, accelerate and make more reliable the capture of revenue, and eliminate barriers to the holistic enforcement of labor law on public works projects. According to the department, the approach selected most closely resembles models used in New Jersey and New Mexico.

The Governor's budget includes both budget and trailer bill language to implement the new model. The Administration's plan includes supporting the prevailing wage activities with a new fee, estimated at \$300 per contractor, in lieu of the previous funding mechanism. The program would have \$11.4 million and 83 positions for public works activities in 2014-15. In addition, this proposal would eliminate 13 historically unfunded positions.

Staff Comment. The subcommittee received a copy of a letter to DIR from the Associated General Contractors of California that suggested several changes to the proposal, including a statutory cap on the assessment and clarification in regards to the scope of entities that will be impacted by the fee. Staff has been informed that DIR is currently working with stakeholders to address concerns with this proposal.

Staff Recommendation: Hold open.

Issue 4 Unpaid Wage Fund Insolvency

Governor's Budget Proposal. The Governor's budget includes a decrease of \$3.3 million in authority from the Industrial Relations Unpaid Wage Fund (UFW), and a corresponding increase of \$3.3 million from the Labor Enforcement and Compliance Fund (LECF), to shift existing labor enforcement positions to a more appropriate funding source. This will continue to support the Bureau of Field Enforcement, Labor Enforcement Task Force, and the wage claim collection functions within the Division of Labor Standards Enforcement (DLSE).

Background. DLSE enforces state wage and hour laws ensuring workers are paid the correct wages, and is responsible for recovering wages that are lawfully due to workers in California. To fulfill these responsibilities, the DLSE conducts investigations of any claim alleging wage underpayments, and acts as a trustee of collected unpaid monies.

The UWF was created for the deposit of unpaid wages or benefits collected by the Labor Commissioner and to provide state operations support to the Department of Industrial Relations for underground economy enforcement. Wages or benefits collected are remitted to workers, with any year-end balance transferred to the GF (less six months of expenditures).

This proposal addresses a structural funding issue within the UWF created by state operations being funded by unclaimed wage collections. Using UWF as a funding source for wage and penalty assessment collection operations undermines staff funding since the more effective DLSE is in finding workers, the less revenue is deposited into the fund and available to continue such work.

Replacing the UWF appropriation with a LECF appropriation will address the current uncertainty of revenue available for operations. Because the intent of both the UWF and LECF is consistent with supporting labor compliance enforcement work, there is a nexus in moving UWF staff and authority to the LECF.

Staff Recommendation: Approve as budgeted.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, April 3, 2014
9:30 a.m. or upon adjournment - State Capitol Room 113

Consultant: Joe Stephenshaw
OUTCOMES

Items Proposed for Vote-Only

<u>Issue</u>	<u>Department</u>	<u>Page</u>
7320	Public Employment Relations Board	
Issue 1	Increased Litigation Workload.....	(Approved, 2-1, Anderson No)
7350	Department of Industrial Relations	
Issue 1	Enhanced Labor Enforcement Compliance, 2013 Leg	(Approved, 2-1, Anderson No)
7501	Department of Human Resources	
Issue 1	Examination and Certification Online System Project	(Approved 3-0)
Issue 2	CalHR Indian Gaming	(Approved 3-0)
7900	Public Employees' Retirement System	
Issue 1	Contingency Reserve Fund.....	(Approved 3-0)
7920	California Teachers' Retirement System	
Issue 1	CalSTRS Budget Proposals	(Approved, 2-1, Anderson No)
9800	Augmentation of Employee Compensation	
Issue 1	Phase in of Pay Increases Counting Toward Pensionable Comp	(Approved 3-0)

Items Proposed for Discussion

<u>Issue</u>	<u>Department</u>	<u>Page</u>
7920	California Teachers' Retirement System	
Issue 1	BusinessRenew – Pension Solution.....	(Approved 3-0)
	<i>(continued on next page)</i>	

Items Proposed for Discussion

<u>Issue</u>	<u>Department</u>	<u>Page</u>
7100	Employment Development Department	
Issue 1	Unemployment Insurance Program Administration	(Held Open)
7350	Department of Industrial Relations	
Issue 1	Process Safety Management Unit Expansion	(Held Open)
Issue 2	Occupational Safety and Health Staffing.....	(Held Open)
Issue 3	Public Works Contracting Enforcement.....	(Held Open)
Issue 4	Unpaid Wage Fund Insolvency	(Approved, 2-1, Anderson No)

PROPOSED FOR VOTE ONLY**7320 Public Employment Relations Board****Issue 1 Increased Litigation Workload**

Governor's Budget Proposal. The Governor's budget includes \$360,000 General Fund and four positions to address increased workload due to new statutory requirements as well as increased workload due to a contract expiring, and expanding support functions in two regional offices.

Recommendation. Approve as proposed.

7350 Department of Industrial Relations**Issue 1 Enhanced Labor Enforcement Compliance from 2013 Legislation**

Governor's Budget Proposal. The Governor's budget includes \$1.1 million and 5.5 positions (\$624,000 ongoing) from the Labor Enforcement and Compliance Fund to fulfill the provisions of various legislative bills: AB 10 (Alejo), Chapter 351, Statutes of 2013; AB 241 (Ammiano), Chapter 374, Statutes of 2013; AB 263 (Hernández), Chapter 732, Statutes of 2013; SB 390 (Wright), Chapter 718, Statutes of 2013; SB 400 (Jackson), Chapter 759, Statutes of 2013; SB 530 (Wright), Chapter 721, Statutes of 2013; and SB 666 (Steinberg), Chapter 577, Statutes of 2013.

Staff Recommendation: Approve as budgeted.

7501 Department of Human Resources**Issue 1 Examination and Certification Online System Project**

Governor's Budget Proposal. The Governor's budget includes \$630,000 (\$359,000 GF and \$271,000 Central Service Cost Recovery Fund) to support the Examination and Certification Online System (ECOS) project.

Staff Recommendation. Approve as budgeted.

Issue 2 CalHR Indian Gaming

Governor's Budget Proposal. The Governor's budget proposes \$75,000 from the Indian Gaming Special Distribution Fund for disbursement to the Tribal Labor Panel to provide support for its labor relation duties.

Staff Recommendation. Approve as budgeted.

7900 Public Employees' Retirement System**Issue 1 Trailer Bill Language – Contingency Reserve Fund**

Governor's Budget Proposal. The Governor proposes trailer bill language that enables state employee and employer contributions toward their Health Maintenance Organization premiums to be deposited into the Contingency Reserve Fund.

Staff Recommendation. Approve as budgeted.

7920 California Teachers' Retirement System**Issue 1 CalSTRS Budget Proposals**

Governor's Budget Proposal. The following eight CalSTRS budget proposals are recommended for vote only:

- **Member Service Center Inland Empire.** CalSTRS requests an augmentation of one-time funding of \$1.4 million in 2014-15, and \$446,000 in 2015-16, and four full-time positions to support the establishment of the Inland-Empire CalSTRS-operated Member Service Center. This Member Service Center will be similar to other full-service counseling offices in Glendale, Santa Clara, and Orange County.
- **Expansion of Sustainability Program.** CalSTRS requests a permanent augmentation of \$100,000 and one permanent full-time position to expand existing sustainability efforts by creating a corporate sustainability program in accordance with the CalSTRS Strategic Plan. This new position will be responsible for developing a comprehensive corporate sustainability program at CalSTRS.
- **Legal Administrative Support.** The CalSTRS budget includes a request for permanent funding in the amount of \$57,000 and one position to support administrative functions associated with increased attorney workload from new audits stemming from the hiring of an attorney and legal analyst in 2013-14.
- **Investment Portfolio Internal Management.** CalSTRS requests a permanent funding augmentation of \$2.2 million and 19 permanent positions to address an increase in internal management and growing complexity of the investment portfolio. Thirteen positions will be assigned to the Investment Branch to manage a portfolio

and the additional six positions will be assigned to work in the Financial Services Branch.

- **Member Service Improvement.** CalSTRS requests \$205,000 and three permanent positions to increase customer service levels in the contact center.
- **Reduce Reliance on Contractor Staff.** CalSTRS requests a permanent augmentation of nine full-time staff to reduce the reliance on external contractors. No additional funding is requested because contractor dollars will be redirected to cover staffing costs.
- **IT Infrastructure Security and ISO Workload Growth and Risk Management.** CalSTRS requests a permanent augmentation of \$544,000 and five permanent positions to ensure the proper completion of on-going preventive maintenance and security activities and coordination of annual security audits. Over the past four years, CalSTRS IT infrastructure assets have grown significantly in volume but the resources to manage them have not increased accordingly. Additional resources are needed to address the increase in workload hours to manage these IT assets.
- **Actuarial Resources.** CalSTRS requests \$165,000 and one full-time position to perform new actuarial and benefit administration functions. In 2012-13 these duties were backfilled by Milliman, Inc., which is an outside consultant that performs other work for CalSTRS. It has been determined that having a contractor perform the new actuarial and benefit administration functions is not the most cost effective way of addressing the increased workload.

Staff Recommendation. Approve as proposed.

9800 Augmentation of Employee Compensation

Issue 1	Trailer Bill Language - Phase in of Pay Increases Counting Toward Pensionable Compensation
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Governor's Budget Proposal. This trailer bill language would affect any supervisor or manager of state Bargaining Unit 9 or 10 whose monthly salary will increase effective July 1, 2014.

Recommendation. Approve as proposed.

Items to be Heard**7920 California Teachers' Retirement System****Issue 1 BusinessRenew – Pension Solution**

Governor's Budget Proposal. CalSTRS proposes \$61.6 million in one-time funding in 2014-15, and an additional \$151.4 million in one-time funding in 2015-16 through 2019-20, for project resources, staff, and vendor costs to support the Pension Solution Project under the CalSTRS BusinessRenew program. The Pension Solution Project is a multi-year technology project to replace CalSTRS current pension administration system with a more modern one.

Staff Recommendation. Approve as proposed.

7100 Employment Development Department**Issue 1 Unemployment Insurance Program Administration**

Governor's Budget Proposal. The Governor's budget proposes a \$64.0 million augmentation from the Employment Development Department (EDD) Contingent Fund in support of the state's Unemployment Insurance (UI) program. These funds are proposed to be used to minimize the degradation of UI services due to underfunding from the federal Department of Labor (DOL) and the reduction of federal funding due to sequestration. This proposal includes: 1) \$38 million from the Contingency Fund, 2) an increase in withholding penalties deposited into the Contingency Fund from 10 to 15 percent, and 3) a one-time suspension of the transfer of personal income tax withholdings to the GF, and instead retaining \$15.9 million for the program.

Joint Legislative Budget Committee Letter (JLBC). On February 7, 2014, the Department of Finance sent a letter to the JLBC notifying the Legislature that the Administration intended to take three steps to address UI customer services issues:

1. Spend \$43.3 million in federal funds in the current year to address the customer service backlogs.
2. Submit a budget request to augment the EDD budget with General Fund, likely by "tens of millions."
3. Submit a Section 11 notification to the Legislature to augment resources for the UI Modernization project. The Legislature received this request on February 28, 2014, which anticipated \$3.6 million in project spending (this is in addition to \$1.7 million from a January Section 11 notification).

The DOF letter also included a letter from the Secretary of Labor and Workforce Development, David Lanier, to the EDD, which outlined the Administration's approach to addressing problems with the department's administration of the UI program. The elements of this approach are:

1. Hire 280 additional staff, starting March 1, 2014.
2. Retain 250 permanent intermittent staff currently, in place until June 30, 2015.
3. Continue overtime pay.
4. Rehire up to 50 program staff that are trained and can provide UI services immediately.
5. Hire 155 program staff to fill existing vacancies.
6. Implement Virtual Hold/Automatic Call notification technology for callers to EDD's UI system to improve customer service.
7. Obtain additional information technology expertise at EDD.

Staff Recommendation: Hold Open.

7350	Department of Industrial Relations
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Issue 1	Process Safety Management Unit Expansion
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Governor's Budget Proposal. The Governor's budget proposes \$2.4 million from the Occupational Safety and Health Fund and 11 positions to expand the Process Safety Management (PSM) Unit to implement the recommendations of the Governor's Interagency Working Group on Refinery Safety in enforcement of workplace health and safety regulations in 15 refineries and over 1,600 other chemical facilities.

Staff Recommendation: Hold open.

Issue 2	Occupational Safety and Health Staffing
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The Governor's budget proposes \$3.3 million from the Occupational Safety and Health (OSH) Fund to support 26.0 of the 31.5 existing, unfunded positions in the Cal/OSHA program to help increase the overall capacity to perform statewide safety inspections.

Staff Recommendation: Hold open.

Issue 3 Public Works Contracting Enforcement

Governor's Budget Proposal. The Governor's budget proposes to stabilize and consolidate funding support for the public works program within the Department of Industrial Relations (DIR), Division of Labor Standards (DLSE), by supporting the function with a new fee on public works contractors. This proposal includes an annual \$300 fee on all contractors, both prime and sub-contractors, who wish to bid on public works projects each year.

Staff Recommendation: Hold open.

Issue 4 Unpaid Wage Fund Insolvency

Governor's Budget Proposal. The Governor's budget includes a decrease of \$3.3 million in authority from the Industrial Relations Unpaid Wage Fund (UFW), and a corresponding increase of \$3.3 million from the Labor Enforcement and Compliance Fund (LECF), to shift existing labor enforcement positions to a more appropriate funding source. This will continue to support the Bureau of Field Enforcement, Labor Enforcement Task Force, and the wage claim collection functions within the Division of Labor Standards Enforcement (DLSE).

Staff Recommendation: Approve as budgeted.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, April 10, 2014
9:30 a.m. or Upon Adjournment of Session
State Capitol - Room 113

Consultant: Julie Salley-Gray

Items Proposed for Vote-Only

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Items Proposed for Discussion

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

DEPARTMENTS PROPOSED FOR VOTE ONLY**0250 Judiciary Branch**

1. **Trial Court Facility Modification Program Augmentation.** The Governor's budget includes a \$15 million (State Court Facilities Construction Fund) augmentation to support trial court facility maintenance and modification projects. These projects were reviewed, approved, and prioritized by the Trial Court Facilities Modification Advisory Committee. The requested \$15 million augmentation brings the baseline funding for this program to \$65 million, plus \$10 million in reimbursement authority.
2. **Glenn-Willow Temporary Swing Space & Tenant Improvements.** The Governor's budget includes \$807,000 (Immediate and Critical Needs Account) to complete tenant improvements and provide temporary workspace for court staff during the construction phase of the Willows Courthouse project. This proposal also calls for the approval of \$145,000 in 2015-16 and \$74,000 in 2016-17, all from the Immediate and Critical Needs Account.
3. **Trial Court Trust Fund Augmentation - AB 1293 (Bloom) Chapter 382, Statutes of 2013).** The Governor's budget includes a \$190,000 (Trial Court Trust Fund) expenditure authority augmentation to accommodate new projected revenues authorized by AB 1293. AB 1293 is expected to increase revenues for the courts by creating a new probate fee. Specifically, this measure added, until January 1, 2019, a new \$40 fee for filing a request for special notice in a decedent's estate, guardianship, conservatorship, or trust proceeding. This measure also clarified that the \$40 fee is in addition to any other fee charged for a paper filed concurrently with the request for special notice.

8120 Commission on Peace Officer Standards and Training (POST)

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competence level of law enforcement officers in California by establishing minimum selection and training standards, improving management practices, and providing financial assistance to local agencies relating to the training of law enforcement officers.

The Governor's 2014-15 budget proposes funding of \$55.6 million (special funds) for POST operations in 2014-15, a decrease of 8 percent from the 2013-14 spending plan.

The Governor's proposal also includes authority for 123.0 positions, maintaining staffing at the 2013-14 level.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
Peace Officers' Training Fund	\$54,577	\$58,537	\$53,189
Other Funds	1,115	1,959	2,459
Total	\$55,692	\$60,496	\$55,648
Positions	119.7	123	123

ITEMS TO BE HEARD

Issue 1: POST Expenditure Plan

Governor's Budget. The Governor's budget includes a reduction of \$1.1 million in 2013-14 and \$6.6 million in 2014-15, to maintain solvency of the Peace Officers' Training Fund (POTF) through June 2015. The savings plan, in effect from January 2014 to June 2015, includes suspending certain training cost reimbursements, reducing contracts, and postponing some symposia, workshops, and seminars conducted by POST.

The proposed reduction is based on projections indicating that the POTF will become insolvent during the 2014-15 fiscal year, if left unchecked. The Administration has identified an unanticipated decline in State Penalty Assessment Fund revenue (from \$40 million in 2006-07 to \$31 million in 2012-13) as the main driver of the shortfall. This proposal will likely create cost and/or access issues for law enforcement personnel and agencies seeking training. To address any such issues, the Administration has identified the use of learning portal courses.

Legislative Analyst's Office (LAO). Despite the budget reductions, the proposed expenditures from the POTF are expected to exceed revenues by about \$9 million in 2014-15. An expected reserve balance of \$11.8 million at the end of 2013-14 would help keep the fund solvent through 2014-15. However, the reserve balance is estimated to be only \$2.8 million at the end of 2014-15. Thus, if POST plans to continue the same level of activities in 2015-16, the reserve will not be large enough to cover all of the expenditures for such activities, resulting in the fund becoming insolvent partway through 2015-16.

Because of the possibility that the POTF could become insolvent in the near future, the LAO recommends that the Legislature take steps to further reduce expenditures in the budget year. In order to permanently bring the fund into balance, POST must make additional ongoing reductions of around \$9 million annually—equivalent to a 64 percent reduction in local assistance payments beginning in 2014-15. This could be accomplished by eliminating various types of local assistance that POST currently provides. For example, POST could reduce reimbursements to local law enforcement for tuition costs and the salary costs of officers attending training courses.

POST indicates that law enforcement agencies have begun to send more officers to POST trainings. This could be a sign that local law enforcement budgets have begun to recover. Given this possibility and the limited resources available from the POTF to support training, it seems appropriate for POST to scale back its reimbursements. Although such actions would make training more expensive for local law enforcement, they may be necessary to help ensure that the POTF can continue to support local law enforcement in the long run.

Issue 2: 9/11 Memorial License Plate Antiterrorism Fund

Governor's Budget. The Governor's budget includes a one-time \$500,000 augmentation from the Antiterrorism Fund to continue its plan to develop and deliver anti-terrorism training to law enforcement personnel.

The budget assumes total revenue of \$2.8 million in the Antiterrorism Fund and proposes \$1.8 million in expenditures. Along with the \$500,000 expenditure for POST, \$723,000 is proposed to be spent within the Office of Emergency Services and \$548,000 within the California Department of Food and Agriculture. The remaining fund balance for 2014-15 would be \$992,000.

Background. In enacting Chapter 38, Statutes of 2002, the Legislature created the memorial plate, which supported the Memorial Scholarship Program (scholarship program) and still supports antiterrorism activities. The revenue generated from the sale of memorial plates provided scholarships of \$5,000 to each eligible dependent of California residents killed in the terrorist attacks that occurred on September 11, 2001, in New York City, at the Pentagon, and in Pennsylvania through the scholarship program, and it continues to provide funding for antiterrorism activities. State law required the Department of Motor Vehicles to deposit 15 percent of the revenue generated from the memorial license plates into the California Memorial Scholarship Fund until all of the recipients have reached their 30th birthdays or July 1, 2015. The remaining 85 percent is deposited into the Antiterrorism Fund.

Issue 3: Mental Health and Conflict Resolution Training

Background

POST regulations requires that every peace officer, unless exempt, complete the regular basic training course before being assigned duties which include the exercise of peace officer powers.

In addition, POST regulations requires continuous professional training (CPT) for certain peace officer and dispatcher personnel who are employed by POST participating departments. The purpose of CPT is to maintain, update, expand, and/or enhance an individual's knowledge and/or skills. Officers must complete 24 hours of CPT every two years.

Of those 24 hours, 12 hours must be in what POST refers to as perishable skills training; four hours of arrest and control, four hours of driver training/awareness or driver simulator, and four hours of tactical firearms or force option simulator. POST also requires two hours of tactical or interpersonal communication. The remaining 10 hours of training topics are at the discretion of the agencies.

Mental Health and Developmental Disability Specific Training. According to POST, they have long recognized the importance of law enforcement training in the area of mental illness and developmental disability issues.

In July 1990, in response to the legislative mandate of Penal Code Section 13519.2, POST developed training for in-service law enforcement on interaction with persons with developmental disabilities or mental illness.

POST also developed *Learning Domain 37: People with Disabilities* and added it as mandated content in all basic courses. That training is required for all academy recruits, and they must show proficiency in differentiating between behavior indicative of a mental health issue, or an unseen disability, as a condition of course completion. This is done through evaluated role play scenarios.

In February 2002, POST developed the course *Police Response to People with Mental Illness or Developmental Disability*. This course was made available to law enforcement instructional teams throughout California. With this course POST made available student handbooks and ready reference material for officers to carry with them in the field.

Since 2002, POST has produced and distributed seven training videos pertaining to mental health and developmental disabilities issues. The most recent was released in August 2013.

This month, POST started production on a video to meet the Penal Code 13515.30 mandate for interaction with persons with mental illness and developmental disabilities

living in state mental hospitals or state developmental centers. This video will be released in fall of 2014.

Finally, POST has reviewed and certified 36 courses on this topic that are currently presented by various law enforcement agencies and private presenters throughout the state.

In-Service Training. For in-service training, a majority of agencies develop their own courses and submit them to POST for review and certification. If the course is developed to fulfill a legislative mandate, POST establishes the minimum content requirement. All courses certified must contain that minimum content.

In response to a critical identified training need, or legislative directive, POST staff will develop training in-house. To accomplish this POST brings together subject matter experts who represent all disciplines related to the topic. This includes law enforcement, academia, community advocates, ombudsmen, legal, medical, and any other identified association or person(s) who are identified as critical to create relevant and effective training.

The agencies assume the responsibility to provide the training to their employees that meet legislative and regulatory requirements.

Questions for the Administration. The department should be prepared to address the following questions:

1. How much of the POST training is done online or through video, rather than in-person, particularly in terms of CPT training?
2. How does POST evaluate the effectiveness of its training? Particularly, how do you evaluate on-line or video training to determine whether or not it is effective?
3. Does POST keep track of incidents throughout the state, primarily in terms of the treatment of individuals with mental illness and developmental disabilities, and evaluate whether or not additional training needs to be conducted in those specific areas?
4. How often do you review your training requirements to determine whether or not they are effective or the correct types of training to adequately prepare new peace officers for their jobs?
5. Does POST provide any conflict resolution training in order to assist officers in defusing potentially dangerous and violent situations?
6. Communities throughout the nation are using crisis intervention team models as a more effective means of dealing with individuals with mental illness. These teams are comprised of specially trained officers. In particular, the Los Angeles

Police Department has a specialized mental evaluation unit that is partially staffed by mental health clinicians. Does POST provide any specialized training for police departments that may be interested in using this approach?

Staff Comment. Increasingly throughout California, and the nation, police officers are coming into contact with people who have serious mental illnesses. Occasionally, those interactions have tragic results. Most recently, two police officers in Lodi fatally shot a man with a mental illness outside of his neighbors' home. It is unclear whether the man was armed with a knife at the time of the shooting. In 2011, two Fullerton police officers were caught on camera beating a man with a mental illness who later died from the injuries. In New Mexico recently, a man with a mental illness was shot and killed by police who have reported that the man pulled out two knives and threatened them.

While these examples are unusual and extreme when compared to the number of interactions police have with individuals with mental illnesses throughout the nation on a daily basis, the incidences do illustrate the need for intensive, on-going training for police officers who are regularly interacting with people who at one time would have had access to mental health services in their communities. A 2013 report by the National Sheriff's Association and the Treatment Advocacy Center found that at least half of the people shot and killed by the police have mental health problems.

In light of incidences involving confrontations between police officers and individuals with mental illness, the Legislature may wish to consider creating a taskforce to investigate whether or not peace officers are being adequately trained to safely and properly interact with this population, both for the safety of the individuals and the safety of the officers.

0250 Judicial Branch

Background

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

Due to the state's fiscal situation, the judicial branch, like most areas of state and local government, received a series of General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. A number of these offsets were one-time solutions (such as the use of trial court reserves) and for the most part, those options have been exhausted. In addition, trial courts partially accommodated their ongoing reductions by implementing operational actions, such as leaving vacancies open, closing courtrooms and courthouses, and reducing clerk office hours. Some of these operational actions resulted in reduced access to court services, longer wait times, and increased backlogs in court workload.

Key Legislation

AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997, enacted the Lockyer-Isenberg Trial Court Funding Act of 1997, to provide a stable and consistent funding source for the trial courts. Beginning in 1997-98, consolidation of the costs of operation of the trial courts was implemented at the state level, with the exception of facility, revenue collection, and local judicial benefit costs. This implementation capped the counties' general purpose revenue contributions to trial court costs at a revised 1994-95 level. The county contributions become part of the Trial Court Trust Fund, which supports all trial court operations. Fine and penalty revenue collected by each county is retained or distributed in accordance with statute.

AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for the responsibility for court facilities to be transferred from the counties to the state, by July 1, 2007. It also established several new revenue sources, which went into effect on January 1, 2003. These revenues are deposited into the State Court Facilities Construction Fund (SCFCF) for the purpose of funding the construction and maintenance of court facilities throughout the state. As facilities were transferred to the state, counties began to contribute revenues for operation and maintenance of court facilities, based upon historical expenditures.

SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into the Immediate and Critical Needs

Account (ICNA) to support the construction, renovation, and operation of court facilities. (ICNA is discussed in more detail below.)

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, altered the administration of trial court reserves by limiting the amount of the reserves individual courts could carry from year to year to one percent of their funding and establishing a statewide reserve for trial courts, which is limited to two percent of total trial court funding.

In enacting these changes, the Legislature sought to create a trial court system that was more uniform in terms of standards, procedures, and performance. The Legislature also wanted to maintain a more efficient trial court system through the implementation of cost management and control systems.

Budget Overview

The Governor's proposed budget includes \$3.3 billion (\$1.3 billion General Fund and \$2 billion in other funds) in 2014-15 for the judicial branch. Of that amount, \$2.5 billion is provided to support trial court operations. The following table displays three-year expenditures and positions for the judicial branch as presented in the Governor's budget.

(dollars in thousands)

Program	2011-12	2012-13	2013-14
Supreme Court	\$40,706	\$43,773	\$43,500
Courts of Appeal	199,112	202,492	204,886
Judicial Council	120,601	148,862	150,795
Judicial Branch Facilities Program	173,796	224,312	263,083
State Trial Court Funding	2,680,140	2,267,631	2,430,566
Habeas Corpus Resource Center	12,425	13,576	13,576
Local Property Tax Revenue Offset	-126,681	-	-
Total	\$3,100,099	\$2,900,646	\$3,106,406
Positions	1,832.0	1,980.2	1,979.9

Issue 4: Trial Court Funding**Panel 1 – Overview of Court Funding**

Anita Lee, Fiscal and Policy Analyst, Legislative Analyst's Office
Drew Soderborg, Managing Principal Analyst, Legislative Analyst's Office

Panel 2 – Impact of Trial Court Funding (5 minutes each witness)

Steven Jahr, Administrative Director of the Courts
Victor Orozco, Court Services Assistant III, Los Angeles County Courts
Paulino Duran, Chief Public Defender, Sacramento County
Julie McCormick, Staff Attorney, Children's Law Center, Los Angeles County

Panel 3 – Governor's Budget Proposal

Jay Sturges, Principal Budget Analyst, Department of Finance
Madelyn McClain, Budget Analyst, Department of Finance

Governor's Budget. The Governor proposes an ongoing General Fund augmentation of \$100 million to support trial court operations, and the budget also proposes a \$5 million augmentation to support state level court and Judicial Council operations. The proposed budget requires that the \$100 million allocation to the trial courts be based on the new workload-driven funding formula recently adopted by the Judicial Council. However, the trial courts would have flexibility in how these funds are spent.

Trial Court Funding. In 2013-14, the budget included an ongoing augmentation of \$60 million to improve public access to trial court services. This reduced the trial courts' ongoing funding reductions to \$664 million. The Governor's budget proposal of an additional \$100 million augmentation for trial court operations would further reduce the courts' ongoing funding reductions to \$564 million. However, approximately \$200 million in one-time solutions from trial court reserves, previously used to offset such ongoing reductions, will no longer be available in 2014-15. Thus, under the Governor's budget, trial courts will continue to need to absorb reductions on an ongoing basis, which could include further operational actions that reduce access to court services.

Trial court General Fund support reductions and offsets are shown in the chart below. However, at this point, almost all one-time solutions have been exhausted or are no longer available.

**Trial Court Funding Reductions and Offsets
(Dollars in Millions)**

Source: Legislative Analyst's Office, 2014

Trial Court Reductions	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
One-time reduction	-\$92	-\$100	-\$30	\$0	-\$418	\$0	\$0
Ongoing reductions (ongoing)	\$0	-\$261	-\$286	-\$606	-\$724	-\$664	-\$564
Total	-\$92	-\$361	-\$316	-\$606	-\$1,142	-\$664	-\$564
Funding Offsets	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Transfer from other funds	\$0	\$135	\$160	\$302	\$401	\$107	\$107
Trial court reserves	\$0	\$0	\$0	\$0	\$385	\$200	\$0
Increased fines and fees	\$0	\$18	\$66	\$71	\$121	\$121	\$121
Statewide programmatic changes	\$0	\$18	\$14	\$19	\$21	\$18	\$18
Total	\$0	\$171	\$240	\$392	\$928	\$446	\$246
Total Trial Court Reductions	-\$92	-\$190	-\$76	-\$214	-\$214	-\$218	-\$318

Budget impacts on trial court services. Under Government Code (GC) Section 68106, courts must provide written notice to the public and to the Judicial Council at least 60 days before instituting any plan to reduce costs by designating limited services days. The council, in turn, must post all such notices on its internet site within 15 days of receipt. Since this requirement went into effect on October 19, 2010, the Judicial Council has received notice of the following reductions:

- 51 courthouses closed.
- 205 courtrooms closed.
- 30 courts with reduced public service hours.
- 37 courts with reduced self-help/family law facilitator services.

Budget impact on children in the child welfare system. When a child is removed from his or her home because of physical, emotional, or sexual abuse, the state of California assumes the role of a legal parent and local child welfare agencies are entrusted with the care and custody of these children. County child welfare works in partnership with the courts, attorneys, care providers, and others to meet desired outcomes of safety, permanency, and well-being for foster children. Through the dependency court, critical decisions are made regarding the child's life and future – i.e.,

whether the child will return to his or her parents, whether the child will be placed with siblings, and what services the child will receive.

Every child in the dependency court system is assigned his or her own attorney who represents that child's interests. Budget reductions over the years have increased the caseloads of children's attorneys. Children's attorneys represent, on average 250 clients per year, far above the recommended American Humane Society optimal standard of 77 clients and maximum of 188 clients per attorney. Inadequate funding can impede services to children and families and may result in delays in court hearings, all of which undermines county child welfare's efforts for improved outcomes for children, such as reunifying children with their families, placing children with siblings, and finding a permanent home through adoption or guardianship.

Included in the Chief Justice's trial court funding proposal (described below), is \$33.1 million for dependency court attorneys, which would reduce the current caseloads to a maximum of 188 cases per attorney.

The Chief Justice's Blueprint for Trial Court Funding. The Chief Justice has proposed a three-year blueprint that she believes will enable California to return to a more robust, fully functioning court system. According to the blueprint, the trial courts need a total budget of approximately \$2.6 billion to operate a fully functioning court system. By her estimates, the current shortfall stands at approximately \$875 million. The Chief Justice is asking for an additional \$612 million in 2014-15 growing to an on-going increase of \$1.2 billion by 2016-17.

Legislative Analyst's Office (LAO)¹

Challenges to Addressing Ongoing Budget Reductions

Increased Employee Benefit Costs. The trial courts indicate that they will face increased cost pressures in 2014-15 related to growing retirement and benefit costs. Currently, individual trial courts (primarily presiding judges and/or court executive officers) conduct separate and independent negotiations with local labor organizations representing most trial court employees. This differs from the collective bargaining process for most state employees, where the California Department of Human Resources oversees statewide labor negotiations on behalf of the Governor. In addition, unlike memoranda of understanding (MOU) negotiated with state employees, agreements negotiated with trial court employees are not subject to ratification by the Legislature and cost increases are not automatically included in the budget. Moreover, some trial court employees continue to participate in county retirement and health benefit programs. As a result, both the state and individual trial courts lack control over the level of these benefits set by the counties and provided to these trial court employees, and more importantly, the costs that must be paid to provide those benefits.

¹ Information contained in this section is from the LAO's *The 2014-15 Budget: Governor's Criminal Justice Proposals* (pages 7 – 19), February 19, 2014.

In recent years, concerns have been raised regarding whether trial courts have been effectively containing costs in their negotiations with trial court employees. For example, the Governor's Budget Summary raises the concern that trial court employees in a number of courts are not (1) making retirement contributions, or (2) making contributions in a manner similar to executive branch employees, who are generally required to contribute 8 percent to 10 percent of their salary toward these costs. In view of such concerns, the Administration has not proposed additional funding specifically for increased trial court retirement and benefit costs since 2010-11. According to the judicial branch, these unfunded cost increases will reach an estimated \$64.1 million by the end of 2013-14. Without additional resources to support these costs, trial courts will use more of their operational funds to meet these obligations, which could result in reduced levels of service to the public.

Few Statutory Changes to Increase Efficiency Adopted to Date. In 2012-13, the Legislature requested that the judicial branch submit a report on potential operational efficiencies, including those requiring statutory amendments. The Legislature's intent was to identify efficiencies that, if adopted, would help the trial courts address their ongoing budget reductions. In May 2012, the judicial branch submitted to the Legislature a list of 17 measures that would result in greater operational efficiencies or additional court revenues. To date, only four administrative efficiencies and user fee increases have subsequently been implemented. In order to effectively absorb ongoing budget reductions, additional changes to make the courts operate more efficiently will likely need to be adopted.

Less Resources Available to Offset Reductions. Over the last five years, the state has transferred funds from various judicial branch special funds (such as those related to court construction) to help offset budget reductions to the trial courts. However, the availability from these funds to offset reductions in the budget year will be limited. For example, most of the transfers to the trial courts have come from three special funds: the State Court Facilities Construction Fund (SCFCF), the Immediate and Critical Needs Account (ICNA), and the State Trial Court Improvement and Modernization Fund (IMF). However, the repeated transfer of dollars from these three funds has greatly reduced their fund balances. As a result, additional transfers would likely delay planned projects or reduce certain services typically supported by the fund (such as judicial education programs and self-help centers). Additionally, the fund balances for the SCFCF and ICNA have been identified as potential sources for temporary cash flow loans, which places further constraints on the availability of these funds to offset reductions.

Similarly, trial courts used their reserves to minimize the impact of ongoing funding reductions upon court users. However, the repeated use of reserve funds over the past five years, and the full implementation of the new trial court reserves policy mean minimal reserve funds will be available to help offset budget reductions in 2014-15.

Limited Ability to Increase Revenues to Offset Reductions. The Legislature has approved increases in criminal and civil fines and fees in recent years to fund court facility construction projects and to offset reductions to trial court funding. Revenues

from the recent fee increases are projected to decline in 2013-14 but will generally meet the original revenue estimates of the courts. Moreover, revenues for most of the individual fee increases are lower than what was projected. This could be an indication that, at least for some fines and fees, additional increases may not result in as much revenue as previously achieved. This could also be a signal of reduced access to justice as fewer people are accessing the civil court process because of the increased costs.

Augmentation May Only Minimize Further Service Reductions

Access to Court Services May Not Substantially Increase. While the Governor's budget provides an additional \$100 million in ongoing General Fund support for trial court operations, these funds may not result in a substantial restoration of access to court services. First, the Governor's budget does not include a list of priorities or requirements for the use of these additional funds, such as requiring that they be used to increase public access to court services. The LAO notes that the 2013-14 budget requires that the trial courts use the \$60 million augmentation provided to specifically increase access to court services, as well as report on both the expected and actual use of the funds. Second, as discussed above, trial courts (1) face increased cost pressures in 2014-15, and (2) will need to take actions to absorb around \$100 million in additional ongoing prior-year reductions, as one-time solutions previously used to offset these reductions will no longer be available in 2014-15. Thus, trial courts will need to take actions to absorb these cost increases and reductions on an ongoing basis, which could include further operational reductions. In view of the above, it is possible that the increased funding proposed in the Governor's budget will only lessen further reductions in court services.

Impact of Funding Increase Will Vary by Court. The LAO also notes that the impact of the proposed funding increase will vary across courts. This is because there are differences in:

- ***Cost Pressures Faced by Courts.*** Individual trial courts face different cost pressures. For example, some trial courts may have better controlled retirement and health costs through negotiations with employees, and therefore may be free to use more of the proposed augmentation for other purposes, such as increasing services to the public.
- ***Operational Actions Taken to Address Reductions.*** Trial courts also differ in the operational choices they made over the past few years to address their ongoing reductions. For example, some courts may have addressed most, or all, of their share of ongoing reductions through actions that resulted in ongoing savings. Thus, these particular courts may be able to use their share of the augmentation to restore services to the public. Other courts may have used limited-term solutions. To the extent that such limited-term solutions are no longer available, these courts will need to use more of the augmentation as a backfill to help minimize further service reductions.

- **Workload Allocation Funding Methodology (WAFM) Funding.** The implementation of WAFM impacts individual trial courts differently. The old pro-rata allocation methodology preserved existing funding inequities among the trial courts, as it was based on the historic share of funding received by courts rather than workload faced by the court. WAFM corrects these inequities by redistributing funds among the courts based on workload. Thus, courts that historically have had more funding relative to their workload will benefit very little from the augmentation proposed by the Governor. In contrast, courts with less funding relative to their workload will benefit comparatively more from the augmentation.

LAO Recommendations

Define Legislative Funding Priorities for Proposed Augmentation. Given the cost increases in employee benefits and the limited availability of resources to help trial courts absorb an increasing amount of ongoing reductions in 2014-15, as well as legislative concerns regarding the likely negative impacts of such challenges on court users, the LAO finds that the Governor's proposed \$100 million augmentation merits consideration. However, if the Legislature determines that (1) minimizing the amount of additional impacts on court users is a statewide priority and (2) efficiencies or other options do not allow the courts to provide the level of service it desires, the Legislature could choose to provide additional General Fund support on either a one-time or an ongoing basis.

Regardless of the amount of additional funding provided to the trial courts in 2014-15, the LAO recommends that the Legislature establish priorities for how the increased funding should be spent—for example, increasing access to court services. They also recommend that the Legislature require the courts to report on the expected use of such funds prior to allocation, and on the actual use of the funds near the end of the fiscal year. Such information would allow the Legislature to conduct oversight to ensure that the additional funds provided are used to meet legislative priorities.

Consider Implementing More Efficiencies. The LAO recommends that the Legislature consider further actions to help the trial courts operate more efficiently. For example, the Legislature could reevaluate the proposed statutory changes that were not enacted last year. These changes would allow the courts to do more with existing dollars, thereby reducing the impact of their budget reductions. Additionally, in conversations with courts and other judicial branch stakeholders, a number of other such statutory changes exist that would increase efficiency. For example, courts have informed the LAO that under current law, they may only discard death penalty files and exhibits upon the execution of the defendant. Since most individuals on death row are not executed, but die due to natural causes, courts cannot destroy their case records and bear the costs of storing these files and exhibits indefinitely. The Legislature could modify current law to allow death penalty files and exhibits to be discarded on the death of the defendant, regardless of how the defendant died, which would reduce storage costs. Such changes could help provide the judicial branch with additional ongoing savings or revenues that could help further offset ongoing reductions. If the Legislature

is interested in implementing a broader range of efficiencies beyond those already proposed, it could consider convening a task force to identify and recommend efficiencies.

Establish Comprehensive Trial Court Assessment Program. Currently, there is insufficient information to assess whether trial courts are using the funding provided in the annual budget effectively. This makes it difficult for the Legislature to ensure that (1) certain levels of access to courts services are provided, (2) trial courts use existing and increased funding in an effective manner, and (3) funding is allocated and used consistent with legislative priorities. For example, it is unclear exactly how each trial court has absorbed past reductions and how such actions have impacted court outcomes. Thus, the LAO recommends that the Legislature take steps towards establishing a comprehensive performance assessment program for the trial courts. While the judicial branch collects some statewide information related to certain measures of trial court performance (such as the time it takes a court to process its caseload), it currently lacks a comprehensive set of measurements for which data is collected consistently on a statewide basis.

In developing a comprehensive performance assessment program, the LAO first recommends that the Legislature specify in statute the specific performance measurements it believes are most important and require the Judicial Council to collect data on each measurement from individual trial courts on an annual basis. In determining the specific performance measurements, the LAO believes that it will first be important for the Legislature to solicit input from the Judicial Council. Thus, they recommend the Judicial Council report to the Legislature by a specified date on its recommendations regarding appropriate measurements. In preparing this report, the Judicial Council should examine the measurements currently used by federal courts and other state courts.

After the Legislature adopts specific performance measurements for the trial courts in statute, and once data on these measurements have been reported by the Judicial Council for at least two years, the LAO recommends that the Legislature establish a system for holding individual courts accountable for their performance relative to those standards. Such an accountability system would involve the establishment of (1) a specific benchmark that the courts would be expected to meet for each measurement and (2) steps that would be taken should the court fail to meet the benchmark over time (such as by requiring a court that fails to meet a benchmark to adopt the practices of those courts that were successful in meeting the same performance benchmark).

Staff Comments

\$100 million may not forestall additional reductions in court services. As discussed in detail above, in their *Overview of the Governor's Budget*, the Legislative Analyst's Office (LAO) notes that the \$100 million proposed by the Governor may not result in a substantial restoration of access to court services, in part because the funding is not directed toward services. In addition, the LAO points out that current year

funding for the courts includes \$200 million in one-time funds that will no longer be available in 2014-15, thus requiring the trial courts to absorb this reduction on an on-going basis. The courts will also be faced with increased pension and benefit costs, estimated to be approximately \$65 million in 2014-15.

In the past, the Legislature has expressed frustration with the fact that they lack sufficient information to determine exactly how budget reductions and augmentations are likely to impact the publics' access to court services. Typically, individual courts have broad discretion to determine how they use funding appropriated for trial court operations. The Legislature may wish to consider targeting any augmentations in order to ensure it is used to improve access to trial court services.

The Chief Justice's Three-Year Blueprint lacks detail. If the Legislature is interested in augmenting the judicial branch's budget, based upon the blueprint released by the Chief Justice, they may wish to ask for more detail on her funding request. For example, it would be important to receive information that specifically outlines how services are currently being impacted and how the augmentations proposed by the Chief Justice in the first year for various services and programs (see chart above) would directly improve the current level of service. The need for more detailed information is especially great in regards to the largest portion of the funding request, \$353 million, which would go toward "closing the funding gap." The Legislature may wish to ask specifically how closing the funding gap would directly improve services. Could the courts demonstrate that providing that funding to close the gap would result in the reopening of 51 courthouses and 205 courtrooms?

In addition, it would be important to understand why the \$600 million would need to grow to \$1.2 billion by the third year and exactly how that additional funding would be spent and how that would directly impact court services.

Finally, it is not possible to reconcile the funding in the blueprint with the funding proposed in the Governor's budget. The blueprint states that \$1.5 billion is budgeted for the state's trial courts and that the need is \$2.6 billion. However, the Governor's budget proposes funding the states trial courts at a level of \$2.5 billion. The blueprint does not provide enough detail to reconcile the document with the Governor's budget. Given this discrepancy, it is difficult to understand the magnitude of the problem or determine whether or not an additional augmentation is necessary beyond the Governor's proposal.

Questions for the Administrative Office of the Courts (AOC) and the Administration. The AOC and the Administration should be prepared to address the following questions:

1. Please provide an update on the current trial court fund balance, and what the balance was in 2012-13 and coming into this year.

2. Given the recent projection of a \$70 million revenue shortfall in 2014-15, please explain both the AOC's and the Administration's process for monitoring court revenue and estimating future revenue.

3. Has the AOC and/or the Administration recently assessed the current fees and fines to determine whether or not any of them should be increased to help cover the funding shortfall in the courts? Alternatively, have you done an analysis of whether fees might be too high and are causing people to use private judges and mediation rather than the court system?

Issue 5: Trial Court Construction

Background. The judicial branch's two primary court construction funds receive funding from fees and penalty assessments. The Governor's budget projects a fund balance for SCFCF of \$361 million for 2014-15, which includes a \$130 million General Fund loan repayment. The budget also assumes \$133 million in expenditures from that fund in 2014-15. The ICNA was originally established to support 41 trial court construction projects, deemed to be immediate and critical by the Judicial Council. Due to the economic downturn, and the subsequent redirection of funding to support trial court operations, this program has been significantly impacted. Of the 41 court construction projects funded through ICNA, two have been cancelled, 11 have been indefinitely delayed, and several others have faced temporary delays during their design phase. The proposed budget projects a \$316 million fund balance in 2014-15, and proposes expending \$237 million in ICNA funds.

The Judicial Council's facilities consist of the Supreme Court, appellate courts, trial Courts, and the AOC. The Supreme Court is located within the San Francisco Civic Center Plaza (98,155 square feet (sf)) and the Ronald Reagan State Office Building in Los Angeles (7,598 sf). The Courts of Appeal are organized into six districts, operate in 10 different locations, and consist of 508,386 sf. The trial courts are located in 58 counties statewide consisting of more than 500 buildings, 2,100 courtrooms, and approximately 12.5 million sf of usable area. The space includes public courtrooms, judges' chambers, staff workspace, storage space, training rooms, and conference rooms. The AOC facilities are primarily located in San Francisco, Burbank, and Sacramento and occupy 261,935 sf.

Governor's Budget. The Governor's 2014-15 budget proposal includes \$210.4 million (\$101.7 million from bond sales and \$108.7 million from fees and penalties) to support sixteen major projects in various stages of construction (See Stage column for project status. A = Acquisition, C = Construction, P = Preliminary Plans, W = Working Drawings).

Projects by County	Actual		Estimated		Proposed	
	2012-13	Stage	2013-14	Stage	2014-15	Stage
BUTTE COUNTY	\$51,324		\$-		\$-	
Butte County-New North County Courthouse	51,324	C	-		-	
CALAVERAS COUNTY	\$-		\$1,188		\$-	
Calaveras County-New San Andreas Courthouse	-		1,188	C	-	
EL DORADO COUNTY	\$-		\$1,084		\$3,696	

El Dorado County-New Placerville Courthouse	-		1,084	A	3,696	P
GLENN COUNTY	\$-		\$2,600		\$34,793	
Glenn County-Renovation and Addition to Willows Courthouse	-		2,600	W	34,793	C
IMPERIAL COUNTY	\$-		\$3,344		\$-	
Imperial County-New El Centro Courthouse	-		3,344	W	-	
INYO COUNTY	\$-		\$-		\$1,930	
Inyo County-New Inyo County Courthouse	-		-		1,930	A,P
KINGS COUNTY	\$99,497		\$-		\$-	
Kings County-New Hanford Courthouse	99,497	C	-		-	
LAKE COUNTY	\$-		\$-		\$3,550	
Lake County-New Lakeport Courthouse	-		-		3,550	W
LOS ANGELES COUNTY	\$-		\$-		\$52,348	
Los Angeles County-New Mental Health Courthouse	-		-		33,457	A
Los Angeles County-New Eastlake Juvenile Courthouse	-		-		18,891	A
MADERA COUNTY	\$90,810		\$-		\$-	
Madera County-New Madera Courthouse	90,810	C	-		-	
MENDOCINO COUNTY	\$-		\$3,466		\$4,550	
Mendocino County-New Ukiah Courthouse	-		3,466	A	4,550	P
MERCED COUNTY	\$-		\$1,974		\$21,889	
Merced County-New Los Banos Courthouse	-		1,974	W	21,889	C
RIVERSIDE COUNTY	\$-		\$3,898		\$4,259	

Riverside County-New Indio Juvenile and Family Courthouse	-		3,484	W	-	
Riverside County-New Mid-County Civil Courthouse	-		414	A	4,259	P
SACRAMENTO COUNTY	\$-		\$10,000		\$-	
Sacramento County-New Sacramento Criminal Courthouse	-		10,000	A	-	
SAN BENITO COUNTY	\$52		\$1,099		\$-	
San Benito County-New Hollister Courthouse	52	C	1,099	C	-	
SAN DIEGO COUNTY	\$-		\$515,997		\$-	
San Diego County-New San Diego Courthouse	-		515,997	C	-	
SAN JOAQUIN COUNTY	\$-		\$246,471		\$-	
San Joaquin County-New Stockton Courthouse	-		243,266	C	-	
San Joaquin County-Renovate and Expand Juvenile Justice Center	-		3,205	C	-	
SANTA BARBARA COUNTY	\$-		\$-		\$4,411	
Santa Barbara County-New Santa Barbara Criminal Courthouse	-		-		4,411	P
SANTA CLARA COUNTY	\$-		\$205,258		\$-	
Santa Clara County-New Family Justice Center	-		205,258	C	-	
SHASTA COUNTY	\$-		\$-		\$6,028	
Shasta County-New Redding Courthouse	-		-		6,028	P
SISKIYOU COUNTY	\$-		\$3,277		\$4,518	
Siskiyou County-New Yreka Courthouse	-		3,277	P	4,518	W
SOLANO COUNTY	\$21,926		\$-		\$-	

Solano County-Renovation to Fairfield Old Solano Courthouse	21,926	C	-	-	-
SONOMA COUNTY	\$-		\$-	\$7,670	
Sonoma County-New Santa Rosa Criminal Courthouse	-		-	7,670	P
STANISLAUS COUNTY	\$-		\$6,860	\$11,026	
Stanislaus County-New Modesto Courthouse	-		6,860	11,026	P
SUTTER COUNTY	\$-		\$51,308	\$-	
Sutter County-New Yuba City Courthouse	-		51,308	-	C
TEHAMA COUNTY	\$-		\$3,982	\$46,662	
Tehama County-New Red Bluff Courthouse	-		3,982	46,662	C
TUOLUMNE COUNTY	\$-		\$-	\$3,049	
Tuolumne County-New Sonora Courthouse	-		-	3,049	P
YOLO COUNTY	\$121,450		\$-	\$-	
Yolo County-New Woodland Courthouse	121,450	C	-	-	
Totals, Major Projects	\$385,059		\$1,061,806	\$210,379	

Spring Finance Letter. The Administration's spring finance letter requests an increase of \$900,000 for the working drawings phase of the New Lakeport Courthouse in Lake County. In addition, the letter requests reductions in four projects in Tuolumne, Sonoma, Shasta, and Santa Barbara counties resulting in approximately \$11 million in savings.

Questions for the Judicial Branch. The AOC should be prepared to present the proposal and to address the following questions:

1. Please be prepared to provide an update on courthouse construction projects, especially on those that have been delayed.
2. How is the decision made to delay construction of a courthouse? Do the local courts have an opportunity to influence that decision?

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-
3. How long do you anticipate the projects being delayed, and at what point do you review the delayed projects to determine whether or not they should proceed?

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



OUTCOMES

Thursday, April 10, 2014
9:30 a.m. or Upon Adjournment of Session
State Capitol - Room 113

Consultant: Julie Salley-Gray

Items Proposed for Vote-Only

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Issue 3	AB 1293 (Bloom), Chapter 382, Statutes of 2013.....	2

Items Proposed for Discussion

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

DEPARTMENTS PROPOSED FOR VOTE ONLY**0250 Judiciary Branch**

1. **Trial Court Facility Modification Program Augmentation.** The Governor's budget includes a \$15 million (State Court Facilities Construction Fund) augmentation to support trial court facility maintenance and modification projects. These projects were reviewed, approved, and prioritized by the Trial Court Facilities Modification Advisory Committee. The requested \$15 million augmentation brings the baseline funding for this program to \$65 million, plus \$10 million in reimbursement authority.
2. **Glenn-Willow Temporary Swing Space & Tenant Improvements.** The Governor's budget includes \$807,000 (Immediate and Critical Needs Account) to complete tenant improvements and provide temporary workspace for court staff during the construction phase of the Willows Courthouse project. This proposal also calls for the approval of \$145,000 in 2015-16 and \$74,000 in 2016-17, all from the Immediate and Critical Needs Account.
3. **Trial Court Trust Fund Augmentation - AB 1293 (Bloom) Chapter 382, Statutes of 2013).** The Governor's budget includes a \$190,000 (Trial Court Trust Fund) expenditure authority augmentation to accommodate new projected revenues authorized by AB 1293. AB 1293 is expected to increase revenues for the courts by creating a new probate fee. Specifically, this measure added, until January 1, 2019, a new \$40 fee for filing a request for special notice in a decedent's estate, guardianship, conservatorship, or trust proceeding. This measure also clarified that the \$40 fee is in addition to any other fee charged for a paper filed concurrently with the request for special notice.

Action: APPROVED Items 1 through 3

Vote: 3 – 0

8120 Commission on Peace Officer Standards and Training (POST)

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competence level of law enforcement officers in California by establishing minimum selection and training standards, improving management practices, and providing financial assistance to local agencies relating to the training of law enforcement officers.

The Governor's 2014-15 budget proposes funding of \$55.6 million (special funds) for POST operations in 2014-15, a decrease of 8 percent from the 2013-14 spending plan.

The Governor's proposal also includes authority for 123.0 positions, maintaining staffing at the 2013-14 level.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
Peace Officers' Training Fund	\$54,577	\$58,537	\$53,189
Other Funds	1,115	1,959	2,459
Total	\$55,692	\$60,496	\$55,648
Positions	119.7	123	123

ITEMS TO BE HEARD

Issue 1: POST Expenditure Plan

Governor's Budget. The Governor's budget includes a reduction of \$1.1 million in 2013-14 and \$6.6 million in 2014-15, to maintain solvency of the Peace Officers' Training Fund (POTF) through June 2015. The savings plan, in effect from January 2014 to June 2015, includes suspending certain training cost reimbursements, reducing contracts, and postponing some symposia, workshops, and seminars conducted by POST.

The proposed reduction is based on projections indicating that the POTF will become insolvent during the 2014-15 fiscal year, if left unchecked. The Administration has identified an unanticipated decline in State Penalty Assessment Fund revenue (from \$40 million in 2006-07 to \$31 million in 2012-13) as the main driver of the shortfall. This proposal will likely create cost and/or access issues for law enforcement personnel and agencies seeking training. To address any such issues, the Administration has identified the use of learning portal courses.

Legislative Analyst's Office (LAO). Despite the budget reductions, the proposed expenditures from the POTF are expected to exceed revenues by about \$9 million in 2014-15. An expected reserve balance of \$11.8 million at the end of 2013-14 would help keep the fund solvent through 2014-15. However, the reserve balance is estimated to be only \$2.8 million at the end of 2014-15. Thus, if POST plans to continue the same level of activities in 2015-16, the reserve will not be large enough to cover all of the expenditures for such activities, resulting in the fund becoming insolvent partway through 2015-16.

Because of the possibility that the POTF could become insolvent in the near future, the LAO recommends that the Legislature take steps to further reduce expenditures in the budget year. In order to permanently bring the fund into balance, POST must make additional ongoing reductions of around \$9 million annually—equivalent to a 64 percent reduction in local assistance payments beginning in 2014-15. This could be accomplished by eliminating various types of local assistance that POST currently provides. For example, POST could reduce reimbursements to local law enforcement for tuition costs and the salary costs of officers attending training courses.

POST indicates that law enforcement agencies have begun to send more officers to POST trainings. This could be a sign that local law enforcement budgets have begun to recover. Given this possibility and the limited resources available from the POTF to support training, it seems appropriate for POST to scale back its reimbursements. Although such actions would make training more expensive for local law enforcement, they may be necessary to help ensure that the POTF can continue to support local law enforcement in the long run.

Action: Held Open

Issue 2: 9/11 Memorial License Plate Antiterrorism Fund

Governor's Budget. The Governor's budget includes a one-time \$500,000 augmentation from the Antiterrorism Fund to continue its plan to develop and deliver anti-terrorism training to law enforcement personnel.

The budget assumes total revenue of \$2.8 million in the Antiterrorism Fund and proposes \$1.8 million in expenditures. Along with the \$500,000 expenditure for POST, \$723,000 is proposed to be spent within the Office of Emergency Services and \$548,000 within the California Department of Food and Agriculture. The remaining fund balance for 2014-15 would be \$992,000.

Background. In enacting Chapter 38, Statutes of 2002, the Legislature created the memorial plate, which supported the Memorial Scholarship Program (scholarship program) and still supports antiterrorism activities. The revenue generated from the sale of memorial plates provided scholarships of \$5,000 to each eligible dependent of California residents killed in the terrorist attacks that occurred on September 11, 2001, in New York City, at the Pentagon, and in Pennsylvania through the scholarship program, and it continues to provide funding for antiterrorism activities. State law required the Department of Motor Vehicles to deposit 15 percent of the revenue generated from the memorial license plates into the California Memorial Scholarship Fund until all of the recipients have reached their 30th birthdays or July 1, 2015. The remaining 85 percent is deposited into the Antiterrorism Fund.

Action: Approved as budgeted.

Vote: 3 – 0

Issue 3: Mental Health and Conflict Resolution Training

Background

POST regulations requires that every peace officer, unless exempt, complete the regular basic training course before being assigned duties which include the exercise of peace officer powers.

In addition, POST regulations requires continuous professional training (CPT) for certain peace officer and dispatcher personnel who are employed by POST participating departments. The purpose of CPT is to maintain, update, expand, and/or enhance an individual's knowledge and/or skills. Officers must complete 24 hours of CPT every two years.

Of those 24 hours, 12 hours must be in what POST refers to as perishable skills training; four hours of arrest and control, four hours of driver training/awareness or driver simulator, and four hours of tactical firearms or force option simulator. POST also requires two hours of tactical or interpersonal communication. The remaining 10 hours of training topics are at the discretion of the agencies.

Mental Health and Developmental Disability Specific Training. According to POST, they have long recognized the importance of law enforcement training in the area of mental illness and developmental disability issues.

In July 1990, in response to the legislative mandate of Penal Code Section 13519.2, POST developed training for in-service law enforcement on interaction with persons with developmental disabilities or mental illness.

POST also developed *Learning Domain 37: People with Disabilities* and added it as mandated content in all basic courses. That training is required for all academy recruits, and they must show proficiency in differentiating between behavior indicative of a mental health issue, or an unseen disability, as a condition of course completion. This is done through evaluated role play scenarios.

In February 2002, POST developed the course *Police Response to People with Mental Illness or Developmental Disability*. This course was made available to law enforcement instructional teams throughout California. With this course POST made available student handbooks and ready reference material for officers to carry with them in the field.

Since 2002, POST has produced and distributed seven training videos pertaining to mental health and developmental disabilities issues. The most recent was released in August 2013.

This month, POST started production on a video to meet the Penal Code 13515.30 mandate for interaction with persons with mental illness and developmental disabilities

living in state mental hospitals or state developmental centers. This video will be released in fall of 2014.

Finally, POST has reviewed and certified 36 courses on this topic that are currently presented by various law enforcement agencies and private presenters throughout the state.

In-Service Training. For in-service training, a majority of agencies develop their own courses and submit them to POST for review and certification. If the course is developed to fulfill a legislative mandate, POST establishes the minimum content requirement. All courses certified must contain that minimum content.

In response to a critical identified training need, or legislative directive, POST staff will develop training in-house. To accomplish this POST brings together subject matter experts who represent all disciplines related to the topic. This includes law enforcement, academia, community advocates, ombudsmen, legal, medical, and any other identified association or person(s) who are identified as critical to create relevant and effective training.

The agencies assume the responsibility to provide the training to their employees that meet legislative and regulatory requirements.

Questions for the Administration. The department should be prepared to address the following questions:

1. How much of the POST training is done online or through video, rather than in-person, particularly in terms of CPT training?
2. How does POST evaluate the effectiveness of its training? Particularly, how do you evaluate on-line or video training to determine whether or not it is effective?
3. Does POST keep track of incidents throughout the state, primarily in terms of the treatment of individuals with mental illness and developmental disabilities, and evaluate whether or not additional training needs to be conducted in those specific areas?
4. How often do you review your training requirements to determine whether or not they are effective or the correct types of training to adequately prepare new peace officers for their jobs?
5. Does POST provide any conflict resolution training in order to assist officers in defusing potentially dangerous and violent situations?
6. Communities throughout the nation are using crisis intervention team models as a more effective means of dealing with individuals with mental illness. These teams are comprised of specially trained officers. In particular, the Los Angeles

Police Department has a specialized mental evaluation unit that is partially staffed by mental health clinicians. Does POST provide any specialized training for police departments that may be interested in using this approach?

Staff Comment. Increasingly throughout California, and the nation, police officers are coming into contact with people who have serious mental illnesses. Occasionally, those interactions have tragic results. Most recently, two police officers in Lodi fatally shot a man with a mental illness outside of his neighbors' home. It is unclear whether the man was armed with a knife at the time of the shooting. In 2011, two Fullerton police officers were caught on camera beating a man with a mental illness who later died from the injuries. In New Mexico recently, a man with a mental illness was shot and killed by police who have reported that the man pulled out two knives and threatened them.

While these examples are unusual and extreme when compared to the number of interactions police have with individuals with mental illnesses throughout the nation on a daily basis, the incidences do illustrate the need for intensive, on-going training for police officers who are regularly interacting with people who at one time would have had access to mental health services in their communities. A 2013 report by the National Sheriff's Association and the Treatment Advocacy Center found that at least half of the people shot and killed by the police have mental health problems.

In light of incidences involving confrontations between police officers and individuals with mental illness, the Legislature may wish to consider creating a taskforce to investigate whether or not peace officers are being adequately trained to safely and properly interact with this population, both for the safety of the individuals and the safety of the officers.

0250 Judicial Branch

Background

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

Due to the state's fiscal situation, the judicial branch, like most areas of state and local government, received a series of General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. A number of these offsets were one-time solutions (such as the use of trial court reserves) and for the most part, those options have been exhausted. In addition, trial courts partially accommodated their ongoing reductions by implementing operational actions, such as leaving vacancies open, closing courtrooms and courthouses, and reducing clerk office hours. Some of these operational actions resulted in reduced access to court services, longer wait times, and increased backlogs in court workload.

Key Legislation

AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997, enacted the Lockyer-Isenberg Trial Court Funding Act of 1997, to provide a stable and consistent funding source for the trial courts. Beginning in 1997-98, consolidation of the costs of operation of the trial courts was implemented at the state level, with the exception of facility, revenue collection, and local judicial benefit costs. This implementation capped the counties' general purpose revenue contributions to trial court costs at a revised 1994-95 level. The county contributions become part of the Trial Court Trust Fund, which supports all trial court operations. Fine and penalty revenue collected by each county is retained or distributed in accordance with statute.

AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for the responsibility for court facilities to be transferred from the counties to the state, by July 1, 2007. It also established several new revenue sources, which went into effect on January 1, 2003. These revenues are deposited into the State Court Facilities Construction Fund (SCFCF) for the purpose of funding the construction and maintenance of court facilities throughout the state. As facilities were transferred to the state, counties began to contribute revenues for operation and maintenance of court facilities, based upon historical expenditures.

SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into the Immediate and Critical Needs

Account (ICNA) to support the construction, renovation, and operation of court facilities. (ICNA is discussed in more detail below.)

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, altered the administration of trial court reserves by limiting the amount of the reserves individual courts could carry from year to year to one percent of their funding and establishing a statewide reserve for trial courts, which is limited to two percent of total trial court funding.

In enacting these changes, the Legislature sought to create a trial court system that was more uniform in terms of standards, procedures, and performance. The Legislature also wanted to maintain a more efficient trial court system through the implementation of cost management and control systems.

Budget Overview

The Governor's proposed budget includes \$3.3 billion (\$1.3 billion General Fund and \$2 billion in other funds) in 2014-15 for the judicial branch. Of that amount, \$2.5 billion is provided to support trial court operations. The following table displays three-year expenditures and positions for the judicial branch as presented in the Governor's budget.

(dollars in thousands)

Program	2011-12	2012-13	2013-14
Supreme Court	\$40,706	\$43,773	\$43,500
Courts of Appeal	199,112	202,492	204,886
Judicial Council	120,601	148,862	150,795
Judicial Branch Facilities Program	173,796	224,312	263,083
State Trial Court Funding	2,680,140	2,267,631	2,430,566
Habeas Corpus Resource Center	12,425	13,576	13,576
Local Property Tax Revenue Offset	-126,681	-	-
Total	\$3,100,099	\$2,900,646	\$3,106,406
Positions	1,832.0	1,980.2	1,979.9

Issue 4: Trial Court Funding**Panel 1 – Overview of Court Funding**

Anita Lee, Fiscal and Policy Analyst, Legislative Analyst's Office
Drew Soderborg, Managing Principal Analyst, Legislative Analyst's Office

Panel 2 – Impact of Trial Court Funding (5 minutes each witness)

Steven Jahr, Administrative Director of the Courts
Victor Orozco, Court Services Assistant III, Los Angeles County Courts
Paulino Duran, Chief Public Defender, Sacramento County
Julie McCormick, Staff Attorney, Children's Law Center, Los Angeles County

Panel 3 – Governor's Budget Proposal

Jay Sturges, Principal Budget Analyst, Department of Finance
Madelyn McClain, Budget Analyst, Department of Finance

Governor's Budget. The Governor proposes an ongoing General Fund augmentation of \$100 million to support trial court operations, and the budget also proposes a \$5 million augmentation to support state level court and Judicial Council operations. The proposed budget requires that the \$100 million allocation to the trial courts be based on the new workload-driven funding formula recently adopted by the Judicial Council. However, the trial courts would have flexibility in how these funds are spent.

Trial Court Funding. In 2013-14, the budget included an ongoing augmentation of \$60 million to improve public access to trial court services. This reduced the trial courts' ongoing funding reductions to \$664 million. The Governor's budget proposal of an additional \$100 million augmentation for trial court operations would further reduce the courts' ongoing funding reductions to \$564 million. However, approximately \$200 million in one-time solutions from trial court reserves, previously used to offset such ongoing reductions, will no longer be available in 2014-15. Thus, under the Governor's budget, trial courts will continue to need to absorb reductions on an ongoing basis, which could include further operational actions that reduce access to court services.

Trial court General Fund support reductions and offsets are shown in the chart below. However, at this point, almost all one-time solutions have been exhausted or are no longer available.

**Trial Court Funding Reductions and Offsets
(Dollars in Millions)**

Source: Legislative Analyst's Office, 2014

Trial Court Reductions	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
One-time reduction	-\$92	-\$100	-\$30	\$0	-\$418	\$0	\$0
Ongoing reductions (ongoing)	\$0	-\$261	-\$286	-\$606	-\$724	-\$664	-\$564
Total	-\$92	-\$361	-\$316	-\$606	-\$1,142	-\$664	-\$564
Funding Offsets	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Transfer from other funds	\$0	\$135	\$160	\$302	\$401	\$107	\$107
Trial court reserves	\$0	\$0	\$0	\$0	\$385	\$200	\$0
Increased fines and fees	\$0	\$18	\$66	\$71	\$121	\$121	\$121
Statewide programmatic changes	\$0	\$18	\$14	\$19	\$21	\$18	\$18
Total	\$0	\$171	\$240	\$392	\$928	\$446	\$246
Total Trial Court Reductions	-\$92	-\$190	-\$76	-\$214	-\$214	-\$218	-\$318

Budget impacts on trial court services. Under Government Code (GC) Section 68106, courts must provide written notice to the public and to the Judicial Council at least 60 days before instituting any plan to reduce costs by designating limited services days. The council, in turn, must post all such notices on its internet site within 15 days of receipt. Since this requirement went into effect on October 19, 2010, the Judicial Council has received notice of the following reductions:

- 51 courthouses closed.
- 205 courtrooms closed.
- 30 courts with reduced public service hours.
- 37 courts with reduced self-help/family law facilitator services.

Budget impact on children in the child welfare system. When a child is removed from his or her home because of physical, emotional, or sexual abuse, the state of California assumes the role of a legal parent and local child welfare agencies are entrusted with the care and custody of these children. County child welfare works in partnership with the courts, attorneys, care providers, and others to meet desired outcomes of safety, permanency, and well-being for foster children. Through the dependency court, critical decisions are made regarding the child's life and future – i.e.,

whether the child will return to his or her parents, whether the child will be placed with siblings, and what services the child will receive.

Every child in the dependency court system is assigned his or her own attorney who represents that child's interests. Budget reductions over the years have increased the caseloads of children's attorneys. Children's attorneys represent, on average 250 clients per year, far above the recommended American Humane Society optimal standard of 77 clients and maximum of 188 clients per attorney. Inadequate funding can impede services to children and families and may result in delays in court hearings, all of which undermines county child welfare's efforts for improved outcomes for children, such as reunifying children with their families, placing children with siblings, and finding a permanent home through adoption or guardianship.

Included in the Chief Justice's trial court funding proposal (described below), is \$33.1 million for dependency court attorneys, which would reduce the current caseloads to a maximum of 188 cases per attorney.

The Chief Justice's Blueprint for Trial Court Funding. The Chief Justice has proposed a three-year blueprint that she believes will enable California to return to a more robust, fully functioning court system. According to the blueprint, the trial courts need a total budget of approximately \$2.6 billion to operate a fully functioning court system. By her estimates, the current shortfall stands at approximately \$875 million. The Chief Justice is asking for an additional \$612 million in 2014-15 growing to an on-going increase of \$1.2 billion by 2016-17.

Legislative Analyst's Office (LAO)¹

Challenges to Addressing Ongoing Budget Reductions

Increased Employee Benefit Costs. The trial courts indicate that they will face increased cost pressures in 2014-15 related to growing retirement and benefit costs. Currently, individual trial courts (primarily presiding judges and/or court executive officers) conduct separate and independent negotiations with local labor organizations representing most trial court employees. This differs from the collective bargaining process for most state employees, where the California Department of Human Resources oversees statewide labor negotiations on behalf of the Governor. In addition, unlike memoranda of understanding (MOU) negotiated with state employees, agreements negotiated with trial court employees are not subject to ratification by the Legislature and cost increases are not automatically included in the budget. Moreover, some trial court employees continue to participate in county retirement and health benefit programs. As a result, both the state and individual trial courts lack control over the level of these benefits set by the counties and provided to these trial court employees, and more importantly, the costs that must be paid to provide those benefits.

¹ Information contained in this section is from the LAO's *The 2014-15 Budget: Governor's Criminal Justice Proposals* (pages 7 – 19), February 19, 2014.

In recent years, concerns have been raised regarding whether trial courts have been effectively containing costs in their negotiations with trial court employees. For example, the Governor's Budget Summary raises the concern that trial court employees in a number of courts are not (1) making retirement contributions, or (2) making contributions in a manner similar to executive branch employees, who are generally required to contribute 8 percent to 10 percent of their salary toward these costs. In view of such concerns, the Administration has not proposed additional funding specifically for increased trial court retirement and benefit costs since 2010-11. According to the judicial branch, these unfunded cost increases will reach an estimated \$64.1 million by the end of 2013-14. Without additional resources to support these costs, trial courts will use more of their operational funds to meet these obligations, which could result in reduced levels of service to the public.

Few Statutory Changes to Increase Efficiency Adopted to Date. In 2012-13, the Legislature requested that the judicial branch submit a report on potential operational efficiencies, including those requiring statutory amendments. The Legislature's intent was to identify efficiencies that, if adopted, would help the trial courts address their ongoing budget reductions. In May 2012, the judicial branch submitted to the Legislature a list of 17 measures that would result in greater operational efficiencies or additional court revenues. To date, only four administrative efficiencies and user fee increases have subsequently been implemented. In order to effectively absorb ongoing budget reductions, additional changes to make the courts operate more efficiently will likely need to be adopted.

Less Resources Available to Offset Reductions. Over the last five years, the state has transferred funds from various judicial branch special funds (such as those related to court construction) to help offset budget reductions to the trial courts. However, the availability from these funds to offset reductions in the budget year will be limited. For example, most of the transfers to the trial courts have come from three special funds: the State Court Facilities Construction Fund (SCFCF), the Immediate and Critical Needs Account (ICNA), and the State Trial Court Improvement and Modernization Fund (IMF). However, the repeated transfer of dollars from these three funds has greatly reduced their fund balances. As a result, additional transfers would likely delay planned projects or reduce certain services typically supported by the fund (such as judicial education programs and self-help centers). Additionally, the fund balances for the SCFCF and ICNA have been identified as potential sources for temporary cash flow loans, which places further constraints on the availability of these funds to offset reductions.

Similarly, trial courts used their reserves to minimize the impact of ongoing funding reductions upon court users. However, the repeated use of reserve funds over the past five years, and the full implementation of the new trial court reserves policy mean minimal reserve funds will be available to help offset budget reductions in 2014-15.

Limited Ability to Increase Revenues to Offset Reductions. The Legislature has approved increases in criminal and civil fines and fees in recent years to fund court facility construction projects and to offset reductions to trial court funding. Revenues

from the recent fee increases are projected to decline in 2013-14 but will generally meet the original revenue estimates of the courts. Moreover, revenues for most of the individual fee increases are lower than what was projected. This could be an indication that, at least for some fines and fees, additional increases may not result in as much revenue as previously achieved. This could also be a signal of reduced access to justice as fewer people are accessing the civil court process because of the increased costs.

Augmentation May Only Minimize Further Service Reductions

Access to Court Services May Not Substantially Increase. While the Governor's budget provides an additional \$100 million in ongoing General Fund support for trial court operations, these funds may not result in a substantial restoration of access to court services. First, the Governor's budget does not include a list of priorities or requirements for the use of these additional funds, such as requiring that they be used to increase public access to court services. The LAO notes that the 2013-14 budget requires that the trial courts use the \$60 million augmentation provided to specifically increase access to court services, as well as report on both the expected and actual use of the funds. Second, as discussed above, trial courts (1) face increased cost pressures in 2014-15, and (2) will need to take actions to absorb around \$100 million in additional ongoing prior-year reductions, as one-time solutions previously used to offset these reductions will no longer be available in 2014-15. Thus, trial courts will need to take actions to absorb these cost increases and reductions on an ongoing basis, which could include further operational reductions. In view of the above, it is possible that the increased funding proposed in the Governor's budget will only lessen further reductions in court services.

Impact of Funding Increase Will Vary by Court. The LAO also notes that the impact of the proposed funding increase will vary across courts. This is because there are differences in:

- ***Cost Pressures Faced by Courts.*** Individual trial courts face different cost pressures. For example, some trial courts may have better controlled retirement and health costs through negotiations with employees, and therefore may be free to use more of the proposed augmentation for other purposes, such as increasing services to the public.
- ***Operational Actions Taken to Address Reductions.*** Trial courts also differ in the operational choices they made over the past few years to address their ongoing reductions. For example, some courts may have addressed most, or all, of their share of ongoing reductions through actions that resulted in ongoing savings. Thus, these particular courts may be able to use their share of the augmentation to restore services to the public. Other courts may have used limited-term solutions. To the extent that such limited-term solutions are no longer available, these courts will need to use more of the augmentation as a backfill to help minimize further service reductions.

- ***Workload Allocation Funding Methodology (WAFM) Funding.*** The implementation of WAFM impacts individual trial courts differently. The old pro-rata allocation methodology preserved existing funding inequities among the trial courts, as it was based on the historic share of funding received by courts rather than workload faced by the court. WAFM corrects these inequities by redistributing funds among the courts based on workload. Thus, courts that historically have had more funding relative to their workload will benefit very little from the augmentation proposed by the Governor. In contrast, courts with less funding relative to their workload will benefit comparatively more from the augmentation.

LAO Recommendations

Define Legislative Funding Priorities for Proposed Augmentation. Given the cost increases in employee benefits and the limited availability of resources to help trial courts absorb an increasing amount of ongoing reductions in 2014-15, as well as legislative concerns regarding the likely negative impacts of such challenges on court users, the LAO finds that the Governor's proposed \$100 million augmentation merits consideration. However, if the Legislature determines that (1) minimizing the amount of additional impacts on court users is a statewide priority and (2) efficiencies or other options do not allow the courts to provide the level of service it desires, the Legislature could chose to provide additional General Fund support on either a one-time or an ongoing basis.

Regardless of the amount of additional funding provided to the trial courts in 2014-15, the LAO recommends that the Legislature establish priorities for how the increased funding should be spent—for example, increasing access to court services. They also recommend that the Legislature require the courts to report on the expected use of such funds prior to allocation, and on the actual use of the funds near the end of the fiscal year. Such information would allow the Legislature to conduct oversight to ensure that the additional funds provided are used to meet legislative priorities.

Consider Implementing More Efficiencies. The LAO recommends that the Legislature consider further actions to help the trial courts operate more efficiently. For example, the Legislature could reevaluate the proposed statutory changes that were not enacted last year. These changes would allow the courts to do more with existing dollars, thereby reducing the impact of their budget reductions. Additionally, in conversations with courts and other judicial branch stakeholders, a number of other such statutory changes exist that would increase efficiency. For example, courts have informed the LAO that under current law, they may only discard death penalty files and exhibits upon the execution of the defendant. Since most individuals on death row are not executed, but die due to natural causes, courts cannot destroy their case records and bear the costs of storing these files and exhibits indefinitely. The Legislature could modify current law to allow death penalty files and exhibits to be discarded on the death of the defendant, regardless of how the defendant died, which would reduce storage costs. Such changes could help provide the judicial branch with additional ongoing savings or revenues that could help further offset ongoing reductions. If the Legislature

is interested in implementing a broader range of efficiencies beyond those already proposed, it could consider convening a task force to identify and recommend efficiencies.

Establish Comprehensive Trial Court Assessment Program. Currently, there is insufficient information to assess whether trial courts are using the funding provided in the annual budget effectively. This makes it difficult for the Legislature to ensure that (1) certain levels of access to courts services are provided, (2) trial courts use existing and increased funding in an effective manner, and (3) funding is allocated and used consistent with legislative priorities. For example, it is unclear exactly how each trial court has absorbed past reductions and how such actions have impacted court outcomes. Thus, the LAO recommends that the Legislature take steps towards establishing a comprehensive performance assessment program for the trial courts. While the judicial branch collects some statewide information related to certain measures of trial court performance (such as the time it takes a court to process its caseload), it currently lacks a comprehensive set of measurements for which data is collected consistently on a statewide basis.

In developing a comprehensive performance assessment program, the LAO first recommends that the Legislature specify in statute the specific performance measurements it believes are most important and require the Judicial Council to collect data on each measurement from individual trial courts on an annual basis. In determining the specific performance measurements, the LAO believes that it will first be important for the Legislature to solicit input from the Judicial Council. Thus, they recommend the Judicial Council report to the Legislature by a specified date on its recommendations regarding appropriate measurements. In preparing this report, the Judicial Council should examine the measurements currently used by federal courts and other state courts.

After the Legislature adopts specific performance measurements for the trial courts in statute, and once data on these measurements have been reported by the Judicial Council for at least two years, the LAO recommends that the Legislature establish a system for holding individual courts accountable for their performance relative to those standards. Such an accountability system would involve the establishment of (1) a specific benchmark that the courts would be expected to meet for each measurement and (2) steps that would be taken should the court fail to meet the benchmark over time (such as by requiring a court that fails to meet a benchmark to adopt the practices of those courts that were successful in meeting the same performance benchmark).

Staff Comments

\$100 million may not forestall additional reductions in court services. As discussed in detail above, in their *Overview of the Governor's Budget*, the Legislative Analyst's Office (LAO) notes that the \$100 million proposed by the Governor may not result in a substantial restoration of access to court services, in part because the funding is not directed toward services. In addition, the LAO points out that current year

funding for the courts includes \$200 million in one-time funds that will no longer be available in 2014-15, thus requiring the trial courts to absorb this reduction on an on-going basis. The courts will also be faced with increased pension and benefit costs, estimated to be approximately \$65 million in 2014-15.

In the past, the Legislature has expressed frustration with the fact that they lack sufficient information to determine exactly how budget reductions and augmentations are likely to impact the publics' access to court services. Typically, individual courts have broad discretion to determine how they use funding appropriated for trial court operations. The Legislature may wish to consider targeting any augmentations in order to ensure it is used to improve access to trial court services.

The Chief Justice's Three-Year Blueprint lacks detail. If the Legislature is interested in augmenting the judicial branch's budget, based upon the blueprint released by the Chief Justice, they may wish to ask for more detail on her funding request. For example, it would be important to receive information that specifically outlines how services are currently being impacted and how the augmentations proposed by the Chief Justice in the first year for various services and programs (see chart above) would directly improve the current level of service. The need for more detailed information is especially great in regards to the largest portion of the funding request, \$353 million, which would go toward "closing the funding gap." The Legislature may wish to ask specifically how closing the funding gap would directly improve services. Could the courts demonstrate that providing that funding to close the gap would result in the reopening of 51 courthouses and 205 courtrooms?

In addition, it would be important to understand why the \$600 million would need to grow to \$1.2 billion by the third year and exactly how that additional funding would be spent and how that would directly impact court services.

Finally, it is not possible to reconcile the funding in the blueprint with the funding proposed in the Governor's budget. The blueprint states that \$1.5 billion is budgeted for the state's trial courts and that the need is \$2.6 billion. However, the Governor's budget proposes funding the states trial courts at a level of \$2.5 billion. The blueprint does not provide enough detail to reconcile the document with the Governor's budget. Given this discrepancy, it is difficult to understand the magnitude of the problem or determine whether or not an additional augmentation is necessary beyond the Governor's proposal.

Questions for the Administrative Office of the Courts (AOC) and the Administration. The AOC and the Administration should be prepared to address the following questions:

1. Please provide an update on the current trial court fund balance, and what the balance was in 2012-13 and coming into this year.

2. Given the recent projection of a \$70 million revenue shortfall in 2014-15, please explain both the AOC's and the Administration's process for monitoring court revenue and estimating future revenue.
3. Has the AOC and/or the Administration recently assessed the current fees and fines to determine whether or not any of them should be increased to help cover the funding shortfall in the courts? Alternatively, have you done an analysis of whether fees might be too high and are causing people to use private judges and mediation rather than the court system?

Action: Held Open

Issue 5: Trial Court Construction

Background. The judicial branch's two primary court construction funds receive funding from fees and penalty assessments. The Governor's budget projects a fund balance for SCFCF of \$361 million for 2014-15, which includes a \$130 million General Fund loan repayment. The budget also assumes \$133 million in expenditures from that fund in 2014-15. The ICNA was originally established to support 41 trial court construction projects, deemed to be immediate and critical by the Judicial Council. Due to the economic downturn, and the subsequent redirection of funding to support trial court operations, this program has been significantly impacted. Of the 41 court construction projects funded through ICNA, two have been cancelled, 11 have been indefinitely delayed, and several others have faced temporary delays during their design phase. The proposed budget projects a \$316 million fund balance in 2014-15, and proposes expending \$237 million in ICNA funds.

The Judicial Council's facilities consist of the Supreme Court, appellate courts, trial Courts, and the AOC. The Supreme Court is located within the San Francisco Civic Center Plaza (98,155 square feet (sf)) and the Ronald Reagan State Office Building in Los Angeles (7,598 sf). The Courts of Appeal are organized into six districts, operate in 10 different locations, and consist of 508,386 sf. The trial courts are located in 58 counties statewide consisting of more than 500 buildings, 2,100 courtrooms, and approximately 12.5 million sf of usable area. The space includes public courtrooms, judges' chambers, staff workspace, storage space, training rooms, and conference rooms. The AOC facilities are primarily located in San Francisco, Burbank, and Sacramento and occupy 261,935 sf.

Governor's Budget. The Governor's 2014-15 budget proposal includes \$210.4 million (\$101.7 million from bond sales and \$108.7 million from fees and penalties) to support sixteen major projects in various stages of construction (See Stage column for project status. A = Acquisition, C = Construction, P = Preliminary Plans, W = Working Drawings).

Projects by County	Actual		Estimated		Proposed	
	2012-13	Stage	2013-14	Stage	2014-15	Stage
BUTTE COUNTY	\$51,324		\$-		\$-	
Butte County-New North County Courthouse	51,324	C	-		-	
CALAVERAS COUNTY	\$-		\$1,188		\$-	
Calaveras County-New San Andreas Courthouse	-		1,188	C	-	
EL DORADO COUNTY	\$-		\$1,084		\$3,696	

El Dorado County-New Placerville Courthouse	-		1,084	A	3,696	P
GLENN COUNTY	\$-		\$2,600		\$34,793	
Glenn County-Renovation and Addition to Willows Courthouse	-		2,600	W	34,793	C
IMPERIAL COUNTY	\$-		\$3,344		\$-	
Imperial County-New El Centro Courthouse	-		3,344	W	-	
INYO COUNTY	\$-		\$-		\$1,930	
Inyo County-New Inyo County Courthouse	-		-		1,930	A,P
KINGS COUNTY	\$99,497		\$-		\$-	
Kings County-New Hanford Courthouse	99,497	C	-		-	
LAKE COUNTY	\$-		\$-		\$3,550	
Lake County-New Lakeport Courthouse	-		-		3,550	W
LOS ANGELES COUNTY	\$-		\$-		\$52,348	
Los Angeles County-New Mental Health Courthouse	-		-		33,457	A
Los Angeles County-New Eastlake Juvenile Courthouse	-		-		18,891	A
MADERA COUNTY	\$90,810		\$-		\$-	
Madera County-New Madera Courthouse	90,810	C	-		-	
MENDOCINO COUNTY	\$-		\$3,466		\$4,550	
Mendocino County-New Ukiah Courthouse	-		3,466	A	4,550	P
MERCED COUNTY	\$-		\$1,974		\$21,889	
Merced County-New Los Banos Courthouse	-		1,974	W	21,889	C
RIVERSIDE COUNTY	\$-		\$3,898		\$4,259	

Riverside County-New Indio Juvenile and Family Courthouse	-		3,484	W	-	
Riverside County-New Mid-County Civil Courthouse	-		414	A	4,259	P
SACRAMENTO COUNTY	\$-		\$10,000		\$-	
Sacramento County-New Sacramento Criminal Courthouse	-		10,000	A	-	
SAN BENITO COUNTY	\$52		\$1,099		\$-	
San Benito County-New Hollister Courthouse	52	C	1,099	C	-	
SAN DIEGO COUNTY	\$-		\$515,997		\$-	
San Diego County-New San Diego Courthouse	-		515,997	C	-	
SAN JOAQUIN COUNTY	\$-		\$246,471		\$-	
San Joaquin County-New Stockton Courthouse	-		243,266	C	-	
San Joaquin County-Renovate and Expand Juvenile Justice Center	-		3,205	C	-	
SANTA BARBARA COUNTY	\$-		\$-		\$4,411	
Santa Barbara County-New Santa Barbara Criminal Courthouse	-		-		4,411	P
SANTA CLARA COUNTY	\$-		\$205,258		\$-	
Santa Clara County-New Family Justice Center	-		205,258	C	-	
SHASTA COUNTY	\$-		\$-		\$6,028	
Shasta County-New Redding Courthouse	-		-		6,028	P
SISKIYOU COUNTY	\$-		\$3,277		\$4,518	
Siskiyou County-New Yreka Courthouse	-		3,277	P	4,518	W
SOLANO COUNTY	\$21,926		\$-		\$-	

Solano County-Renovation to Fairfield Old Solano Courthouse	21,926	C	-	-	-
SONOMA COUNTY	\$-		\$-	\$7,670	
Sonoma County-New Santa Rosa Criminal Courthouse	-		-	7,670	P
STANISLAUS COUNTY	\$-		\$6,860	\$11,026	
Stanislaus County-New Modesto Courthouse	-		6,860	11,026	P
SUTTER COUNTY	\$-		\$51,308	\$-	
Sutter County-New Yuba City Courthouse	-		51,308	-	C
TEHAMA COUNTY	\$-		\$3,982	\$46,662	
Tehama County-New Red Bluff Courthouse	-		3,982	46,662	C
TUOLUMNE COUNTY	\$-		\$-	\$3,049	
Tuolumne County-New Sonora Courthouse	-		-	3,049	P
YOLO COUNTY	\$121,450		\$-	\$-	
Yolo County-New Woodland Courthouse	121,450	C	-	-	
Totals, Major Projects	\$385,059		\$1,061,806	\$210,379	

Spring Finance Letter. The Administration's spring finance letter requests an increase of \$900,000 for the working drawings phase of the New Lakeport Courthouse in Lake County. In addition, the letter requests reductions in four projects in Tuolumne, Sonoma, Shasta, and Santa Barbara counties resulting in approximately \$11 million in savings.

Questions for the Judicial Branch. The AOC should be prepared to present the proposal and to address the following questions:

1. Please be prepared to provide an update on courthouse construction projects, especially on those that have been delayed.
2. How is the decision made to delay construction of a courthouse? Do the local courts have an opportunity to influence that decision?

3. How long do you anticipate the projects being delayed, and at what point do you review the delayed projects to determine whether or not they should proceed?

Action: Approved as budgeted (Including April 1st spring finance letter adjustments).

Vote: 3 – 0

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, May 1, 2014
9:30 a.m. or Upon Adjournment of Session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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

PROPOSED FOR VOTE ONLY**Department of Corrections and Rehabilitation**

1. **Parole Revocation and Compliance Workload.** The Spring Finance Letter requests the continuation of \$5.191 million (General Fund) and the conversion of 36 parole agent 1 positions from limited-term to permanent positions in order to manage the ongoing workload associated with parole revocations and court compliance.
2. **Office of Attorney General Litigation Services.** The Governor's budget requests \$1.36 million for five additional full-time deputy Attorney General positions in order to provide ongoing representation for CDCR in the class action cases of *Coleman v. Brown*, *Plata v. Brown*, the Three Judge Panel, and other class action litigation.

ITEMS TO BE HEARD

0552 Office of the Inspector General

The Office of the Inspector General (OIG) protects public safety by safeguarding the integrity of California's correctional system. The OIG is responsible for contemporaneous oversight of the California Department of Corrections and Rehabilitation's (CDCR) internal affairs investigations, use of force, and the employee disciplinary process. When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Inspector General reviews the policies, practices, and procedures of the CDCR. The Inspector General reviews the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities; conducts metric-oriented inspection programs to periodically review delivery of medical care at each state prison and the delivery of reforms identified in the department's document, released in April 2012, entitled "The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight, and improve the prison system." The OIG receives communications from individuals alleging improper governmental activity and maintains a toll-free public telephone number to receive allegations of wrongdoing by employees of the CDCR; conducts formal reviews of complaints of retaliation from CDCR employees against upper management where a legally cognizable cause of action is present; and reviews the mishandling of sexual abuse incidents within correctional institutions. The OIG provides critical public transparency for the state correctional system by publicly reporting its findings.

In addition, the Public Safety and Offender Rehabilitation Services Act of 2007, Chapter 7, Statutes of 2007, created the California Rehabilitation Oversight Board (Board) within the OIG. The Board's mandate is to examine the CDCR's various mental health, substance abuse, educational, and employment programs for inmates and parolees. The Board meets quarterly to recommend modifications, additions, and eliminations of offender rehabilitation and treatment programs. The Board also submits biannual reports to the Governor, the Legislature, and the public to convey its findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in offender rehabilitation services, and levels of offender participation and success.

Following is the total funding and positions for the OIG, as proposed in the Governor's Budget. The OIG is funded exclusively from the General Fund.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$13,507	\$15,762	\$17,031
Total	\$13,507	\$16,366	\$17,031
Positions	87.2	93.4	95.4

Issue 1: Semi-annual Report (SAR) Update

Background. The OIG's Discipline Monitoring Unit (DMU) is responsible for monitoring the California Department of Corrections and Rehabilitation's (CDCR) employee disciplinary process. The OIG monitors and assesses CDCR's internal affairs investigations of alleged employee misconduct, as well as the disciplinary decisions related to sustained employee misconduct and any subsequent appeal. They monitor both administrative and criminal investigations conducted by CDCR. In addition, the OIG monitors and assess CDCR's response to critical incidents, contraband surveillance watch and, in 2013, they included the Use-of-Force report as part of the SAR publication. They publish their assessment of monitored cases and the department's response bi-annually, covering a six-month reporting period in each publication. The most recent report was released in March 2014.

In volume one of the most recent report, the OIG provides an assessment of 308 employee disciplinary cases that were closed between July 1 and December 31, 2013. 55 out of the 308 cases included a use-of-force component. Out of the 308 cases assessed, the OIG found deficiencies in the handling of over 130 of the cases.

Volume two of the report provides an assessment of critical incident responses. CDCR is required to notify the OIG of any critical incident immediately following the event. Critical incidents include serious events that require an immediate response by the department, such as riots, homicides, escapes, uses of deadly force, and unexpected inmate deaths. Between July 1 and December 31, 2013, the OIG completed assessments of 133 critical incidents. The OIG found that CDCR failed to report critical incidents to the OIG within the required time frame in 20 percent of the incidents. 39 of the 133 incidents assessed during the six month period involved the use of deadly force and 31 of the incidents involved the death of an inmate in custody. Out of the 133 cases assessed, the OIG found deficiencies in the handling of approximately 40 cases.

Among the on-going concerns raised by the OIG in the most recent report are the following:

1. The amount of time it takes to begin and complete investigations and the disciplinary process within CDCR continues to take too long. Sometimes individuals wait years for allegations to be resolved, which affects the morale of the department and prohibits them from removing subpar employees expediently.
2. The OIG has identified potential conflicts by the Office of Legal Affairs, specifically within the Employment Advocacy Integration Team (EAPT) Vertical Advocates.

Questions for the Inspector General. The Inspector General should be prepared to present the findings from the report and address the following question:

1. Are you noticing any trends or patterns over the years in terms of the types of critical incidences or the number of critical incidences? In addition, have you found that certain institutions have a larger number of incidents than other institutions? If so, please provide the subcommittee with the institutions that have the largest number of incidents.
2. Similarly, have you noticed any trends or patterns in terms of the types or number of employee disciplinary cases? Are there any institutions that appear to have more or less cases than the other institutions? Please provide a list of those institutions.
3. Have you found CDCR to be responsive to your office's recommendations or do you find that the same problems seem to arise year after year?

Issue 2: Medical Inspections BCP

Budget Proposal. The Governor's budget proposes a \$1.262 million (General Fund) augmentation to establish four permanent positions in the Medical Inspections Unit of the OIG to evaluate medical care provided to inmates in state prison. In addition, the budget proposes reducing the California Correctional Health Care Services (CCHCS) budget by \$645,000 (General Fund) and two positions. The net cost of the proposal is \$617,000.

The four positions consist of three physicians and one nurse who will provide medical expertise for the OIG to add clinical case reviews to the existing compliance-based monitoring system that is in place.

Background. In 2007, the federal receiver appointed to oversee medical care in California's state prisons, approached the Inspector General about developing an inspection and monitoring function for prison medical care. The receiver's goal was to have the OIG's inspection process provide a systematic approach to evaluating medical care. Using a court-approved medical inspection compliance-based tool, the OIG's Medical Inspection Unit (MIU) was established and conducted three cycles of medical inspections at CDCR's 33 adult institutions and issued periodic reports of their findings from 2008 through 2013.

In 2013, court appointed medical experts began conducting follow-up evaluations of prisons scoring 85 percent or higher in the OIG's third cycle of medical inspections. (Those evaluations are discussed in more detail in a later item.) The expert panel found that six of the ten institutions evaluated had an inadequate level of medical care, despite scoring relatively high overall ratings in the OIG's evaluations. The difference between the two types of evaluations resulted in very different findings. The OIG's evaluations focused on the institutions' compliance with CDCR's written policies and procedures for medical care. The court experts, however, focused on an in-depth analysis of individual patients' medical treatment to determine the quality of care at each prison. After meeting with the receiver's office and the court medical experts, the Inspector General decided that his inspections should be modified to include the methodologies used by the medical experts in order to determine the quality of care being provided.

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created, pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Juvenile: Operations and Offender Programs, Academic and Vocational Education, Health Care Services
- Adult Corrections and Rehabilitation Operations: Security, Inmate Support, Contracted Facilities, Institution Administration
- Parole Operations: Adult Supervision, Adult Community-Based Programs, Administration
- Board of Parole Hearings: Adult Hearings, Administration
- Adult: Education, Vocational, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2013 Budget Act projected an adult inmate average daily population of 128,885 in the current year. However, the current year adult inmate population is now projected to exceed budget act projections by 6,101 inmates, a 4.7 percent increase, for a total population of 134,986. The budget year adult inmate population is projected to be 137,788, a 6.9 percent increase of 8,903 inmates over the revised current year. Current projections also reflect an increase in the parolee population of 3,439 in the current year compared to budget act projections, for a total average daily population of 45,934. The parolee population is projected to be 36,652 in 2014-15, a decrease of 5,843.

The Governor's budget proposes \$9.8 billion (\$9.5 billion General Fund and \$320 million other funds) and 60,598.7 positions for CDCR in 2014-15. The following table shows CDCR's total operational expenditures and positions for 2012-13 through 2014-15.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$8,534,272	\$9,263,117	\$9,494,977
General Fund, Prop 98	16,824	17,910	17,698
Other Funds	53,534	62,690	63,053
Reimbursements	138,275	179,647	185,043
Recidivism Reduction Fund	-	-81,109	72,811
SCC Performance Incentive Fund	-615	-1,000	-1,001
Total	\$8,742,290	\$9,441,255	\$9,932,581
Positions	50,728.7	60,790.1	60,598.7

California Correctional Health Care Services (CCHCS)

The CCHCS receivership was established as a result of a class action lawsuit (*Plata v. Brown*) brought against the State of California over the quality of medical care in the state's 33 adult prisons. In its ruling, the Federal Court found that the care was in violation of the Eighth Amendment of the U.S. Constitution which forbids cruel and unusual punishment. The State settled the lawsuit and entered into a stipulated settlement in 2002, agreeing to a range of remedies that would bring prison medical care in line with constitutional standards. The State failed to comply with the stipulated settlement and on February 14, 2006, the Federal Court appointed a receiver to manage medical care operations in the prison system. The current receiver was appointed in January of 2008, and currently remains in place. The receivership continues to be unprecedented in size and scope nationwide.

The receiver is tasked with the responsibility of bringing the level of medical care in California's prisons to a standard which no longer violates the U.S. Constitution. The receiver oversees approximately 10,000 prison health care employees, including doctors, nurses, pharmacists, and administrative staff. Over the last ten years, healthcare costs have risen significantly. The estimated per inmate health care cost for 2014-15 is almost two and a half times the cost for 2005-06. The state spent \$1.2 billion in 2005-06 to provide health care to 162,408 inmates. The state estimates that it will be spending over \$2.2 billion in 2014-15 for 120,660 inmates.

CDCR Historical Health Care Costs Per Inmate

Type of Care	2005-6	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Medical	\$5,803	\$7,183	\$9,721	\$12,170	\$10,957	\$10,439	\$12,525	\$12,280	\$13,585	\$13,845
Mental Health	\$1,463	\$1,976	\$2,802	\$2,839	\$2,420	\$3,168	\$2,621	\$2,596	\$3,214	\$3,304
Dental	\$313	\$398	\$916	\$1,049	\$1,066	\$1,088	\$1,127	\$1,163	\$1,248	\$1,266
Total	\$7,580	\$9,558	\$13,349	\$16,058	\$14,443	\$14,695	\$16,273	\$16,039	\$18,048	\$18,415

Issue 3: Update on Inmate Medical Care and the Receivership

Background. On June 30, 2005, the United States District Court ruled in the case of *Marciano Plata, et al v. Arnold Schwarzenegger, et al*, that it would establish a receivership and take control of the delivery of medical services to all California prisoners confined by CDCR. In a follow-up written ruling dated October 30, 2005, the court noted:

By all accounts, the California prison medical care system is broken beyond repair. The harm already done in this case to California's prison inmate population could not be more grave, and the threat of future injury and death is virtually guaranteed in the absence of drastic action. The Court has given defendants every reasonable opportunity to bring its prison medical system up to constitutional standards, and it is beyond reasonable dispute that the State has failed. Indeed, it is an uncontested fact that, on average, an inmate in one of California's prisons needlessly dies every six to seven days due to constitutional deficiencies in the CDCR's medical delivery system. This statistic, awful as it is, barely provides a window into the waste of human life occurring behind California's prison walls due to the gross failures of the medical delivery system.

As noted earlier, since the appointment of the receivership, spending on inmate health care has almost tripled. A new prison hospital has been built, new systems are being created for maintaining medical records and scheduling appointments, and new procedures are being created that are intended to improve health outcomes for inmates. According to the CCHCS, over 400,000 inmates per month have medical appointments and the rate of preventable deaths has dropped 46 percent since 2006.

It remains unclear, however, if or when the receivership will end and responsibility for medical care will be returned to the state.

Chief Executive Officers for Health Care. Each of California's 33 prisons has a chief executive officer (CEO) for health care who reports to the receiver. The CEO is the highest-ranking health care authority within a CDCR adult institution. A CEO is responsible for all aspects of delivering health care at their respective institution(s) and reports directly to the receiver's office.

The CEO is also responsible for planning, organizing, and coordinating health care programs at one or two institutions and delivering a health care system that features a range of medical, dental, mental health, specialized care, pharmacy and medication management, and clinic services.

Serving as the receiver's advisor for institution-specific health care policies and procedures, the CEO manages the institution's health care needs by ensuring that appropriate resources are requested to support health care functions, including

adequate clinical staff, administrative support, procurement, staffing, and information systems support.

Regional CEOs. As part of transition activities, the receivership has been in discussions with CDCR regarding what would be the appropriate organizational model for oversight of institutional health care. Under CDCR, both dental and mental health had previously adopted, and had in place, a geographical, “regional” model for organizational oversight of their activities. As part of the movement toward transitioning medical care back to the state, the receiver felt that creation of cohesive, interdisciplinary regions that included medical leadership would lead to a more sustainable model for the future. As a result, the receiver took steps to hire four regional CEOs and worked with CDCR to align each region geographically so that medical, mental health, and dental consistently oversee the same institutions on a regional basis. The four regions are as follows:

1. Region I: Pelican Bay State Prison, High Desert State Prison, California Correctional Center, Folsom State Prison, California State Prison Sacramento, Mule Creek State Prison, California State Prison San Quentin, California Medical Facility, and California State Prison Solano.
2. Region II: California Health Care Facility, Stockton, Sierra Conservation Center, Deuel Vocational Institution, Central California Women’s Facility, Valley State Prison, Correctional Training Facility, Salinas Valley State Prison, and California Men’s Colony.
3. Region III: Pleasant Valley State Prison, Avenal State Prison, California State Prison Corcoran, Substance Abuse Treatment Facility, Kern Valley State Prison, North Kern State Prison, Wasco State Prison, California Correctional Institution, California State Prison Los Angeles County, and California City Prison.
4. Region IV: California Institution for Men, California Institution for Women, California Rehabilitation Center, Ironwood State Prison, Chuckawalla Valley State Prison, Calipatria State Prison, Centinela State Prison, and RJ Donovan Correctional Facility.

Each region consists of a regional health care executive, one staff services analyst/associate governmental program analyst, one office technician, and one health program specialist I. The cost for each of the regional offices is \$565,000 per year, with a total budget for regional CEOs of almost \$2.25 million per year. The funding and positions were created within CCHCS using existing resources and the receiver did not ask the Legislature to approve the creation of the regional CEO offices.

Health Care Evaluations. In September 2012, the Federal Court requested that the court’s medical experts conduct evaluations at each CDCR prison to determine whether an institution is in substantial compliance. The order defined substantial compliance and constitutional adequacy as receiving an overall OIG score of at least 75 percent and an

evaluation from at least two of the three court experts that the institution is providing adequate care.

In conducting the reviews, the medical experts evaluated essential components to an adequate health care system. These include organizational structure, health care infrastructure (e.g., clinical space, equipment, etc.), health care processes, and the quality of care.

To date, the medical experts have evaluated ten institutions. Of those ten, six were found to be providing inadequate medical care and the remaining four had specific procedural problems that needed to be addressed in order for their care to be deemed adequate. A few examples of the findings for those institutions providing inadequate care are:

- *California Institution for Men (CIM)* – The medical experts found that CIM, in August of 2013, was either approaching or at its maximum capacity to manage inmates with high medical needs. In addition, they found significant problems related to the management of patients with chronic diseases and that primary care physicians did not adequately address patients' chronic diseases or abnormal laboratory findings in a timely or appropriate manner. Further, the experts found that nurses did not perform medical screenings in a clinical setting, but instead used a "confessional booth," which the medical experts had noted initially in a 2006 visit.
- *Corcoran State Prison* – At Corcoran, the medical experts found serious problems related to access, timeliness, and quality of care. During their visit, the experts found in the General Acute Care Hospital that patient monitoring was not performed in accordance with physician orders. In addition, they found a high number of intravenous catheter and other infections that, in some cases, led to sepsis. They noted that the potentially life-threatening infections are indicative of a lack of adequate hygiene, sanitation, and infection control activities in the unit. A hand washing study conducted in April and May of 2013 showed that none of the observed staff washed their hands before engaging in patient care.
- *California State Prison at Sacramento (CSP-SAC)* – A key finding during the medical experts' visit in October of 2013 was that in many cases nurses and providers did not perform an adequate history of the patients' complaints or perform adequate physical examinations, even when patients presented with symptoms of serious medical conditions. The experts believe that a contributing factor was that providers and nurses did not consistently evaluate patients in an examination room with adequate privacy. The standard practice at CSP-SAC was for patients to be handcuffed, placed in a cage, and for correctional officers to remain in the room during examinations.
- *California Central Women's Facility (CCWF)* – The experts found that many of the medical problems at CCWF appeared to be related to the overcrowded

conditions and an inadequate number of medical staff. The evaluation noted that between July 2012 and July 2013, the population had increased by 30 percent (830 inmates) since Valley State Prison had been converted from a women's institution to a male institution. Despite the increase in the number of prisoners, CCWF had a 21 percent reduction in medical provider staffing. The experts found that there were an inadequate number of skilled nursing beds to accommodate patients which sometimes resulted in patients being sent back to the housing units or discharged prematurely from the skilled nursing facility. In addition, they found that there was no medical provider assigned to the skilled nursing facility which resulted in care being episodic and providers that did not address all of the patients' medical conditions.

Medical Treatment for Female Inmates. As noted above, one of the three women's institutions was included in the ten medical evaluations conducted by the federal court's medical experts. In general, the experts found that the institution was not providing adequate medical care, primarily due to overcrowding and insufficient staffing.

In addition to inadequate medical care for female inmates at one of the women's institutions, CDCR adopted a policy in 1999 for female prisoners that included sterilization/tubal ligation in obstetrical care for postpartum women. According to statistics provided to the State Auditor by Justice Now, between 1997 and 2005, 136 female inmates housed in CDCR institutions were sterilized by tubal ligation during labor and delivery. Between 2006 and 2010, over 115 more women were sterilized.

Many of the tubal ligations can be traced back to one doctor and his staff at Valley State Prison. According to news reports, in addition to the tubal ligations, the same doctor arranged other types of procedures that resulted in the sterilization of women 378 times between 2006 and 2012, all while the prisons were under the care of the federal receivership. The procedures included hysterectomies, removal of ovaries and endometrial ablation. It is unclear whether these procedures were conducted for sterilization purposes.

According to the receiver's office, the situation was brought to their attention in 2010. The receiver's office states that only one tubal ligation has been performed since that time. However, a 2008 memo from the receiver's office regarding the procedure, confirms that the receiver's office knew that sterilization was being offered and performed on pregnant/birthing women in the women's institutions well before 2010.

Transition Planning. On September 9, 2012, the federal court entered an order entitled *Receivership Transition Plan and Expert Evaluations*. As part of the transition from the receivership, the court required the receiver to provide CDCR with an opportunity to demonstrate their ability to maintain a constitutionally adequate system of inmate medical care. The receiver was instructed to work with CDCR to determine a timeline for when CDCR would assume the responsibility for particular tasks.

As a result of the court's order, the receiver and CDCR began discussions in order to identify, negotiate, and implement the transition of specific areas of authority for specific operational aspects of the receiver's current responsibility—a practice that had already been used in the past (construction had previously been delegated to the state in September 2009). On October 26, 2012, the receiver and the state reached agreement and signed the first two revocable delegations of authority:

Health Care Access Units are dedicated, institution-based units, comprised of correctional officers, which have responsibility for insuring that inmates are transported to medical appointments and treatment, both on prison grounds and off prison grounds. Each institution's success at insuring that inmates are transported to their medical appointments/treatment is tracked and published in monthly reports.

The Activation Unit is responsible for all of the activities related to activating new facilities, such as the California Health Care Facility at Stockton and the DeWitt Annex. Activation staff act as the managers for CDCR and coordinate activities such as the hiring of staff for the facility, insuring that the facility is ready for licensure, overseeing the ordering, delivery, and installation of all equipment necessary for the new facility, as well as a myriad of other activities. Activation activities, again, are tracked on monthly reports provided to the receiver's office.

In addition to the two delegations that have been executed and signed by the receiver and CDCR, the receiver has produced draft delegations of authority for other operational aspects of its responsibility which have been provided to the state. These operational aspects include:

- Quality Management
- Medical Services
- Healthcare Invoice, Data, and Provider Services
- Information Technology Services
- Legal Services
- Allied Health Services
- Nursing Services
- Fiscal Management
- Policy and Risk Management
- Medical Contracts
- Business Services
- Human Resources

Questions for the Receiver's Office. The receiver should be prepared to address the following questions:

1. What types of training and written policies were provided to CDCR employees prior to the transfer of the health care access units and the activation unit in order to increase the chances of a successful transition?

2. How are you training both the medical and custodial staff to ensure the provision of adequate medical care and that the staff understand what adequate care entails?
3. What procedures have you put in place throughout the system to ensure that adequate care continues once the receivership ends?
4. In 2010, you anticipated that once your information technology projects and constructions projects were completed, the receivership would no longer be required. At the time, you assumed that would take approximately 24 months. Please provide an update on both the IT projects and the Healthcare Facility Improvement Program (HCFIP)?
5. What is the current timeline for transitioning medical care out of the receivership and back to CDCR?
6. With large numbers of sterilizations being done at one prison, what types of safeguards have you put in place to ensure that unnecessary procedures are not being done at institutions? Is there a regular process for comparing the numbers of procedures across institutions to recognize outliers, such as Valley State Prison that had six times the number of sterilizations as CCWF?
7. Recent reports, such as the incidents at Mule Creek and Pleasant Valley State Prison last fall, suggest that there is a problem between the custody staff and the medical staff in terms of proper procedures that should be followed when someone is in medical danger. In both cases, the custody staff's concerns appear to have outweighed the medical staff's. What has the receiver's office done to develop a formal procedure for each institution that clarifies what should happen in such emergencies when the medical staff requires that someone be removed from a cell and the custody staff refuses? What type of training has been provided to both the custody staff and the medical staff in this area?
8. Given that the CCWF medical evaluation found the overcrowding and understaffing is contributing to the failure to provide adequate medical care, what steps is the receiver's office taking to ensure that both of those situations are corrected?

Questions for CDCR. The Administration should be prepared to address the following questions:

1. Please respond to the receiver's assessment of the current medical situation in the adult institutions.
2. What type of specialized training is provided to custody staff who will be working with patients in the medical facilities at the institutions?

3. What led to CDCR adopting a policy of providing tubal ligation as a part of postpartum obstetrical care? Is there a new policy in place? If so, please describe it.

4. What steps does CDCR plan to take to address the problems raised in both the CIM and CSP-SAC medical evaluations that suggest that prisoners and medical personal are not provided with adequate privacy to conduct appropriate medical examinations? In particular, what procedural changes are being developed so that patients are not handcuffed and placed in cages for medical examinations and evaluations?

Issue 4: California Health Care Facility Intake

Background. The California Health Care Facility (CHCF) was designed and constructed to be a state-of-the-art medical facility that would provide care to inmates with high medical and mental health care needs. The construction of CHCF was completed in July 2013 and the receiver and CDCR began shifting inmates to the new hospital facility. The facility provides about 1,800 total beds including about 1,000 beds for inpatient medical treatment, about 600 beds for inpatient mental health treatment, and 100 general population beds. The CHCF cost close to \$1 billion to construct and has an annual operating budget of almost \$300 million.

Almost immediately after activation began, serious problems started to emerge. Reports suggested that there was a shortage of latex gloves, catheters, soap, clothing, and shoes for the prisoners. In addition, over a six-month period, CHCF went through nearly 40,000 towels and washcloths for a prison that was housing approximately 1,300 men. Investigations by officials at the facility found that the linens were being thrown away, rather than laundered and sanitized. In addition, the prison kitchen did not pass the initial health inspections, resulting in the requirement that prepared meals be shipped in from outside the institution. The problems were further compounded by staffing shortages and a lack of training. For example, a lack of training for nurses on the prison's bedside call system may have contributed to the death of an inmate in January. In addition, early this year, the prison suffered from an outbreak of scabies which the receiver's office attributes to the unsanitary conditions at the hospital.

Despite being aware of serious problems at the facility as early as last September, it was not until February that the receiver closed down intake at the facility and stopped admitting new prisoners. In addition, the receiver delayed the activation of the neighboring DeWitt-Nelson facility, which is designed to house inmate labor for CHCF, mentally ill prisoners, and prisoners with chronic medical conditions who need on-going care.

Questions for the Receiver's Office. The receiver should be prepared to provide an update on the activation of CHCF, and the DeWitt-Nelson facility, and address the following questions:

1. Why did you wait until February to close down intake, despite being aware of serious problems as early as last September?
2. Have you resolved the supply problems that led to the lack of adequate basic medical supplies such as catheters, latex gloves, and properly fitting adult incontinence products? Please explain how that problem occurred in the first place.
3. When do you plan on reopening intake? When do you anticipate that both CHCF and DeWitt-Nelson will be fully activated?

4. Many staff members were in place before the first inmates were admitted. What types of training were done for both medical and custody staff in advance of the facility opening?
5. What types of written procedures were in place prior to the facility's opening in July 2013?
6. In your opinion, is there adequate staffing of both medical staff and custody staff at the institution?
7. What type of planning was done in advance to determine the level of care required for the patients, their mobility, adequate visitation, their custody level, and that appropriate programming and outdoor space would be available for both the inmate workers and the patients?
8. It is our understanding that your office has conducted a root cause analysis to determine the deficiencies in the system and a patient safety survey. Can you please share the results of both of those studies?
9. Originally, the plan was for the state to build five or six of these state-of-the-art health care facilities throughout the state. Is that plan still being considered?
10. What policies and procedures are in place for communication between CDCR and the medical staff when problems arise?

Questions for the Administration. The Administration should be prepared to address the following questions:

1. What type of specialized training is provided to the custody staff working in this unique medical setting?
2. In the event of an incident, such as the one at Mule Creek noted earlier, what written policies and procedures are in place to ensure that the medical needs of the patient take priority in this hospital setting?
3. The chief executive medical officer is currently rebooting each unit to determine whether it is adequately staffed and the appropriate policies are in place to care for the patients. What is the role of the warden and the custody staff in that reboot?
4. In a recent visit to CHCF, corrections staff expressed concern about the lack of custody staff in each unit. What is CDCR doing to address that problem and determine whether or not there is adequate custody staffing throughout the facility?

Issue 5: Valley Fever Incidents and Protocol Update

Background. Between 2008 and 2013, almost 2,700 inmates housed in the state's prisons were diagnosed with Valley Fever (also known as cocci). Of that number, almost 50 died as a result. Valley Fever is considered hyperendemic at eight of the 33 adult institutions:

- Avenal State Prison
- Pleasant Valley State Prison
- Corcoran State Prison
- Substance Abuse Treatment Facility
- California Correctional Institution
- Wasco State Prison
- Kern Valley State Prison
- Northern Kern State Prison

The highest rates of Valley Fever are at Avenal State Prison and Pleasant Valley State Prison. However, all eight institutions make up the CDCR Valley Fever Exclusion Area.

CDCR first identified significant increases in the number of inmates contracting valley fever at Avenal and Pleasant Valley in 2005. At the receiver's request, the California Department of Public Health (CDPH) conducted an investigation at Pleasant Valley. In January of 2007, CDPH made final recommendations that included inmate and staff education, environmental controls and the relocation of the highest risk groups to other prisons. CDPH further noted that the exclusion of high-risk inmates would be the most effective method of decreasing the risk. While CDCR provided additional educational materials and transferred inmates with a high risk due to pulmonary conditions, they did not transfer inmates with diabetes, or African American and Filipino inmates out of the institutions. In addition, they also failed to implement any of the recommendations concerning ground cover and soil sealant. In the years between the 2007 report and the June 2013 court order, it appears that not much progress had been made toward mitigating the impact of valley fever on inmates in the hyperendemic area, especially at the two most affected institutions, Avenal and Pleasant Valley.

What is Valley Fever? Coccidioidomycosis, more commonly referred to as cocci or valley fever, is an infection caused by the coccidioides fungus spores, which are prevalent in the dry soil of the West and Southwest. These spores are found in the soil in certain areas (called endemic), and get into the air when the soil is disturbed. This can happen with construction, gardening, farming, windy weather, dirt biking, or driving all-terrain vehicles (ATV's) in these areas. Coccidioidomycosis cannot be passed from person-to-person. The most common states for people to be infected with coccidioidomycosis are Arizona and California, followed by Nevada, New Mexico, Texas, and Utah.

Symptoms include fever, chills or in more severe cases chronic pneumonia or meningitis. Generally, patients develop symptoms within one to three weeks after exposure. The flu-like symptoms beyond those mentioned above can include headaches, rash, muscle aches, extreme tiredness, and weakness. The symptoms typically last a few weeks to months.

According to the Centers for Disease Control and Prevention, approximately 40 percent of those infected require hospitalization, and the disease can be fatal.

Court Order. In June of 2013, the federal judge overseeing the *Plata* decision ordered CDCR to transfer all inmates who are classified as high-risk for valley fever under the American Thoracic Society definition from Avenal State Prison and Pleasant Valley State Prison within 90 days of the court order. The American Thoracic Society criteria for increased risk includes patients with impaired cellular immunity, such as those with organ transplants, those with HIV infection, and those with chronic obstructive pulmonary disease, chronic renal failure, congestive heart failure, diabetes; patients receiving certain inhibitors (medications used in the treatment of arthritis); Filipino and African-American men; and pregnant women in the second or third trimester.

Questions for the Receiver's Office. The receiver should be prepared to address the following questions:

1. What types of mitigation efforts have been put in place to reduce the incidents of valley fever? Have all eight institutions in the target area implemented some type of mitigation plan?
2. Have you seen an overall reduction in the number of valley fever cases? Please provide us with the most recent data since the court ordered changes have been in place.
3. Were you able to determine why the incidents of valley fever were higher at Avenal and Pleasant Valley than in their surrounding communities?
4. How many inmates were relocated as a result of the court order?
5. Please describe the court required training your office provided to all CDCR medical and nursing staff on the recognition, diagnosis, and treatment of cocci. Has everyone received the training? How was the training delivered?

Questions for CDCR. CDCR should be prepared to address the following questions:

1. Why did it take so many years and ultimately require a court order to take serious steps to reduce the risk of valley fever in the affected institutions? Why the reluctance to move beyond providing surgical masks for those who asked for them, installing equipment to keep out dust, installing new air filters, and posting laminated signs outlining the symptoms of valley fever?

2. Why did CDCR largely ignore the recommendations presented by the Department of Public Health in its January 2007 report?
3. Initially, CDCR refused to exclude inmates with diabetes, African-American and Filipino inmates from the valley fever exclusion area. What was the reason for that refusal?
4. Among other concerns, the Administration expressed some concern about moving African American and Filipino men out of the exclusion area because it might result in an ethnic imbalance at some of the institutions. Have any problems arisen in this area to validate the initial concerns?
5. Has the appropriate ground cover or high-grade soil sealant been utilized at either Avenal or Pleasant Valley State Prisons? If not, why not?

Issue 6: CalPIA Janitorial Services BCP

Budget Proposal. The Governor's budget proposes to expand the California Medical Facility (CMF) pilot project regarding the cleaning of health care facilities on a statewide basis. Specifically, the budget proposes a \$14.5 million General Fund augmentation for 2014-15, which would increase to \$19.5 million in 2015-16, for the receiver to enter into a statewide health care facility janitorial contract with the California Prison Industry Authority (CalPIA). By contrast, without this proposal the receiver's office would likely spend around \$8 million to keep health care spaces in the prisons clean. The Governor's budget also proposes the elimination of 83 receiver staff positions in 2014-15, as the CalPIA contract will replace existing receiver janitorial resources. The budget proposes to transfer these janitorial positions to CalPIA. In addition, the proposal includes one full-time staff position for program oversight, and anticipates employing 628 trained inmate laborers. The statewide contract cost will be approximately \$28 million in 2015-16 (upon full implementation), which translates to a cost of \$1.38 per square foot serviced.

Background. As part of the 2002 settlement agreement in *Plata v. Brown*, CDCR agreed to ensure clean and sanitary health care environments in its prisons. Most of the cleaning is performed by inmates supervised by custody staff. Although the sanitation of health care facilities is held to a higher standard than the cleaning of non-health care facilities, the inmates do not receive training in health care facility cleaning and disinfection. The provision of these janitorial services varies widely by institution. While some institutions have fixed schedules to clean some or all of the health care areas at the institution, other institutions have no set cleaning schedules for any of their health care areas. In their analysis, the Legislative Analyst's Office notes that at some institutions, additional cleaning is done by contracted janitors.

In 2012, the *Plata* court ordered medical inspections of institutions that had reached a certain level of compliance with the 2002 settlement agreement. These inspections are performed by court experts and included an evaluation of health care cleanliness and sanitation (discussed in detail elsewhere in this agenda). Several of the audits identified deficiencies in facility cleanliness, which could delay the transfer of responsibility for the management and provision of inmate medical services back to the state. We also note that in 2012, the chief executive officer of the CMF in Vacaville approached CalPIA about developing a health care facilities cleaning service pilot project. The contract included the training of inmate laborers, staff oversight of inmate laborers, the maintenance of cleanliness in clinical areas, and the provision of cleaning materials. This pilot project has been extended through 2014 and now employs 46 inmate workers.

Questions for the Receiver's Office. The receiver should be prepared to present the proposal and address the following questions:

1. The BCP creates a vocational training program designed to train inmates in state prison to provide specialized cleaning in a health care setting upon their release.

Have you done any surveys or studies to determine whether or not there are jobs available in the health care field for this type of custodial work? Further, have you determined whether or not employers would be willing to hire individuals with serious and violent felony records to fill those positions?

2. How many former inmates who participated in the pilot program have been able to obtain these specialized health care custodial jobs upon their release?
3. Please provide detail on how the \$28 million dollars annually will be spent. How much will be for custodial supervisors and other staff who will be working directly in the prison training inmates? How much will be spent on supplies and equipment? How much will be spent on CalPIA administration of the program?

Legislative Analyst's Office (LAO) Recommendation. While the LAO acknowledges the need for improved janitorial services, they recommend that the Legislature withhold action on this proposal until the receiver's office can justify the significant cost of the contract with CalPIA. They also recommend the Legislature require the receiver's office to report at budget subcommittee hearings this spring on why these janitorial services cannot be provided at a lower cost by CalPIA or an outside contractor.

Issue 7: Pharmaceuticals Augmentation BCP

Budget Proposal. The Governor's budget proposes adjustments to the inmate pharmaceutical budget for both the current and budget years. For 2013-14, the budget proposes to reduce the current-year pharmaceutical budget to \$168 million. For 2014-15 and ongoing, the budget proposes \$161 million for inmate pharmaceuticals. This \$161 million budget would become the new baseline for the receiver's pharmaceutical spending, establishing an ongoing budget based on current purchasing and prescribing practices.

Background. The receiver's office is currently responsible for providing medical pharmaceuticals prescribed by physicians under his management, as well as psychiatric and dental medications prescribed by psychiatrists and dentists managed by CDCR. From 2004-05 through 2010-11, the inmate pharmaceutical budget increased from \$136 million to \$216 million. (The pharmaceutical budget reflects only the cost of pharmaceuticals and not the cost of medication distribution or management.)

Increases in the inmate pharmaceutical budget can occur for several reasons, such as additional inmates needing prescription drugs and increases in the rate at which inmates are prescribed drugs. Moreover, we note that pharmaceutical costs generally rise at a faster pace than inflation. For example, in 2012, average drug costs increased approximately 3.8 percent and average prices for brand name drugs increased 25.4 percent, compared to an overall 1.7 percent increase in consumer prices. Brand name drugs are often prescribed when generic alternatives are unavailable due to patent protections. In addition, while cost savings can be achieved by using a formulary (a list of preferred medicines that cost less), drugs that have few alternatives are less likely to have formulary options, which can also contribute to cost growth. This is particularly an issue for CDCR because the inmate population is disproportionately likely to have health issues for which there are no generic prescription therapies available. For example, about 26 percent of the inmate patient population has a serious mental health diagnosis and many mental health medications are patent-protected, which results in high mental health pharmaceutical costs.

Recognizing the uncertainty associated with pharmaceutical cost growth, the size and acuity of the patient population, and the potential cost savings of various programmatic changes initiated by the receiver, the Legislature increased the inmate pharmaceutical budget on a limited (rather than permanent) basis in recent years. Specifically, since 2007-08, the Legislature has provided only limited-term augmentations (typically for one to three years) to support inmate pharmaceutical costs. Spending on such costs has declined in the past couple of years compared to previous highs. The enacted 2013-14 budget includes a total of \$178 million for inmate pharmaceuticals. Of this amount, \$51 million was provided on a limited-term basis.

Legislative Analyst's Office (LAO) Recommendation. The Governor's budget proposes to increase the base budget for inmate pharmaceuticals. However, the LAO is concerned that increasing the ongoing base budget for a system that has not yet fully

realized recommended efficiency improvements could remove any incentive for further improvement and result in excess cost. Thus, while they recommend that the Legislature approve the Administration's proposed pharmaceutical budget, the LAO recommends that it be for only two years (2014-15 and 2015-16), so that it can reevaluate the need for ongoing funding in two years. In addition, the LAO recommends that the Legislature require the receiver's office to perform an analysis of the potential savings that could be achieved by addressing the issues identified by the Office of the Inspector General and Health Management Associates and report to the Legislature by January 2016. This information will allow the Legislature to better assess what the ongoing size of the receiver's pharmaceutical budget should be when the limited-term funding expires.

Questions for the Receiver's Office. The receiver's office should be prepared to present the proposal and answer the following question:

1. While it is understood that this particular budget proposal only relates to the cost of pharmaceuticals, and not the cost of distribution or management, please provide the subcommittee with an update on the central fill pharmacy and the savings that were anticipated as a result of shifting the filling of prescriptions from individual institutions to the central fill pharmacy.
 - a. What is the status of the central fill pharmacy?
 - b. How much did the pharmacy cost to build and operate?
 - c. How much has the state saved as a result?
 - d. How many individual institutional pharmacies were closed as a result of the creation of the central fill pharmacy?

Issue 8: Medical Classification Staffing Model BCP

Budget Proposal. The Governor's budget requests the reduction of 148 positions and the approval of the implementation of a new population methodology that will be used to adjust medical staffing based upon patient-inmate acuity and each institution's medical mission. There is no salary savings associated with the reduction in positions. The savings were already captured through the reduction in the prison population due to realignment.

Background. In 2012, the receiver's office informed the Legislature that it was developing a new staffing methodology for inmate medical services. According to the receiver, the new methodology was intended to allocate staff among prisons based on the amount and types of medical services provided at each location. As such, prisons with more inmates with medical needs and higher medical acuity levels would be allocated more medical staff than other prisons. The receiver expected the methodology to significantly reduce the overall number of prison medical staff and result in significant savings.

In order to monitor the receiver's progress in implementing the new staffing methodology, the 2012-13 Budget Act required the receiver to report on the methodology not later than 30 days following its approval by the Department of Finance (DOF). Specifically, the receiver was required to submit to the Legislature a report that includes:

1. Data on the overall number of staff allocated to each of the state prisons, both prior to, and following the implementation of the revised methodology.
2. A detailed description of the methodology used to develop the revised staffing packages.
3. The estimated savings or costs resulting from the revised methodology.

Last Year's Budget Discussions. During the 2013-14 budget subcommittee hearings last spring, the receiver informed the Legislature that he was in the process of implementing the new staffing methodology and that over 800 positions would be eliminated as part of this effort. Beyond that, the receiver has not provided any additional details on the methodology. The receiver also informed the LAO that he did not intend to report to the Legislature (as required by the 2012-13 Budget Act) on the staffing methodology prior to its implementation because it had not been formally submitted to, nor approved by DOF. According to the receiver, the effect of the staffing changes on inmate medical care would be monitored over the next year and if there are no significant negative impacts, a formal budget request would be submitted to DOF in 2014-15.

Legislative Analyst's Office (LAO) Concerns. The receiver's approach of seeking legislative approval of the staffing methodology after implementing it is contrary to the normal state process and circumvents the Legislature's authority to review and approve the proposed changes. The normal state process requires departments to submit major proposed staffing and budgetary changes for legislative review and approval prior to implementation so that the Legislature can ensure the changes are consistent with its priorities and will result in an appropriate expenditure of state funds. If the receiver does not report on the new staffing plan until after it is fully implemented, it will be too late for the Legislature to take different actions if it determines that elements of the new staffing methodology are inconsistent with its priorities or will not achieve a level of savings necessary for the receiver to meet his current- and budget-year reductions.

LAO 2013-14 Budget Recommendation. The LAO recommended that the receiver report at budget hearings on the implementation of the new methodology, including the specific items required in the 2012-13 Budget Act. This would have provided the Legislature with the opportunity to review the receiver's changes and ensure that those changes meet legislative and budgetary priorities.

Questions for the Receiver's Office. The receiver's office should be prepared to present the medical classification staffing model and answer the following question:

1. Please explain your refusal to comply with the reporting requirements adopted by the 2012-13 Budget Act within the specified time frame.

Issue 9: Armstrong Compliance BCP and Spring Finance Letter

Budget Proposal. The Governor's budget requests 42 full-time, permanent positions and \$4 million (General Fund) in order to assist in complying with the *Armstrong* Remedial Plan and the requirements of the Americans with Disabilities Act (ADA).

Spring Finance Letter. The Administration submitted a Spring Finance Letter requesting a one-time augmentation of \$17.5 million (General Fund) to begin construction of ADA improvements at four prisons and to begin the design phase for improvements at 15 additional institutions.

Background. The federal Americans with Disabilities Act (ADA) provides civil rights protections and equal access to public and private services and facilities for individuals with disabilities. In 1994 a lawsuit, *Armstrong v. Brown*, was filed alleging CDCR was not in compliance with the ADA. In 1999, CDCR negotiated a settlement in the lawsuit and developed the *Armstrong* Remedial Plan (ARP) to address the areas of noncompliance. In 2007, the court issued an injunction because it found CDCR to be in continued violation of the ADA and ARP. In 2012, the court clarified the 2007 injunction, and specified that the receiver's office is also subject to the ARP. In August 2012, the receiver signed a memorandum of understanding (MOU) with the plaintiffs, requiring all medical staff to comply with ARP and all orders from the *Armstrong* court. Based on the outcomes of compliance reviews conducted by CDCR's Office of Audits and Court Compliance, the receiver's office currently has an *Armstrong* compliance percentage of 84 percent, with the goal of obtaining 100 percent compliance.

Currently, the workload associated with the MOU at each prison is being handled by administrative support staff in the inmate medical services program overseen by the receiver. This workload is in addition to their normal responsibilities. The Legislative Analyst's Office notes that three analysts at CDCR headquarters are responsible for reviewing compliance documents and monitoring reports, as well as for developing corrective action plans and ensuring institution compliance with ARP. According to the receiver's office, there have been challenges in carrying out the above activities with existing staff. As a result, some institutions have experienced delays in submitting the required documents or, in some cases, have submitted incomplete documents. In addition, there have also been delays in the reviews conducted by staff at CDCR headquarters.

Legislative Analyst's Office (LAO) Recommendation. The LAO finds that the two sign language interpreter positions proposed by the Governor are justified and recommend the Legislature approve them. However, while they acknowledge that the *Armstrong* MOU has resulted in increased workload for the receiver's office, the LAO is concerned that the other 40 additional positions proposed by the Governor on a permanent basis do not take into account the volume of workload either at a statewide level or at each institution. The LAO is concerned that workload will decline in future years and that approving permanent staff is unnecessary.

Given these concerns, the LAO recommends that the Legislature approve 14 one-year, limited-term positions statewide for the receiver to achieve ARP and ADA compliance. This would provide the receiver with the same compliance staff to total staff ratio that CDCR uses to achieve compliance. They also recommend that the Legislature require the receiver to report this spring at budget hearings on specific workload and performance metrics by institution and statewide. The measures the receiver reports on should include, but not be limited to: performance on the *Armstrong* audit tool, performance on internal audits, volume of staff noncompliance allegations, volume of inquiries and cases closed, progress on corrective action plans, and number of staff training events. This information would allow the Legislature to reassess the appropriate level of staffing as part of its spring budget deliberations. Should the receiver present information that suggests that additional positions are necessary, or that positions should be provided on a permanent basis, the Legislature could modify the level of staffing at that time.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



OUTCOMES

Thursday, May 1, 2014
9:30 a.m. or Upon Adjournment of Session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY**Department of Corrections and Rehabilitation**

1. **Parole Revocation and Compliance Workload.** The Spring Finance Letter requests the continuation of \$5.191 million (General Fund) and the conversion of 36 parole agent 1 positions from limited-term to permanent positions in order to manage the ongoing workload associated with parole revocations and court compliance.
2. **Office of Attorney General Litigation Services.** The Governor's budget requests \$1.36 million for five additional full-time deputy Attorney General positions in order to provide ongoing representation for CDCR in the class action cases of *Coleman v. Brown*, *Plata v. Brown*, the Three Judge Panel, and other class action litigation.

Action: APPROVED Item 1
REJECTED Item 2

Vote: 3 – 0

ITEMS TO BE HEARD

0552 Office of the Inspector General

The Office of the Inspector General (OIG) protects public safety by safeguarding the integrity of California's correctional system. The OIG is responsible for contemporaneous oversight of the California Department of Corrections and Rehabilitation's (CDCR) internal affairs investigations, use of force, and the employee disciplinary process. When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Inspector General reviews the policies, practices, and procedures of the CDCR. The Inspector General reviews the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities; conducts metric-oriented inspection programs to periodically review delivery of medical care at each state prison and the delivery of reforms identified in the department's document, released in April 2012, entitled "The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight, and improve the prison system." The OIG receives communications from individuals alleging improper governmental activity and maintains a toll-free public telephone number to receive allegations of wrongdoing by employees of the CDCR; conducts formal reviews of complaints of retaliation from CDCR employees against upper management where a legally cognizable cause of action is present; and reviews the mishandling of sexual abuse incidents within correctional institutions. The OIG provides critical public transparency for the state correctional system by publicly reporting its findings.

In addition, the Public Safety and Offender Rehabilitation Services Act of 2007, Chapter 7, Statutes of 2007, created the California Rehabilitation Oversight Board (Board) within the OIG. The Board's mandate is to examine the CDCR's various mental health, substance abuse, educational, and employment programs for inmates and parolees. The Board meets quarterly to recommend modifications, additions, and eliminations of offender rehabilitation and treatment programs. The Board also submits biannual reports to the Governor, the Legislature, and the public to convey its findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in offender rehabilitation services, and levels of offender participation and success.

Following is the total funding and positions for the OIG, as proposed in the Governor's Budget. The OIG is funded exclusively from the General Fund.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$13,507	\$15,762	\$17,031
Total	\$13,507	\$16,366	\$17,031
Positions	87.2	93.4	95.4

Issue 1: Semi-annual Report (SAR) Update

Background. The OIG's Discipline Monitoring Unit (DMU) is responsible for monitoring the California Department of Corrections and Rehabilitation's (CDCR) employee disciplinary process. The OIG monitors and assesses CDCR's internal affairs investigations of alleged employee misconduct, as well as the disciplinary decisions related to sustained employee misconduct and any subsequent appeal. They monitor both administrative and criminal investigations conducted by CDCR. In addition, the OIG monitors and assess CDCR's response to critical incidents, contraband surveillance watch and, in 2013, they included the Use-of-Force report as part of the SAR publication. They publish their assessment of monitored cases and the department's response bi-annually, covering a six-month reporting period in each publication. The most recent report was released in March 2014.

In volume one of the most recent report, the OIG provides an assessment of 308 employee disciplinary cases that were closed between July 1 and December 31, 2013. 55 out of the 308 cases included a use-of-force component. Out of the 308 cases assessed, the OIG found deficiencies in the handling of over 130 of the cases.

Volume two of the report provides an assessment of critical incident responses. CDCR is required to notify the OIG of any critical incident immediately following the event. Critical incidents include serious events that require an immediate response by the department, such as riots, homicides, escapes, uses of deadly force, and unexpected inmate deaths. Between July 1 and December 31, 2013, the OIG completed assessments of 133 critical incidents. The OIG found that CDCR failed to report critical incidents to the OIG within the required time frame in 20 percent of the incidents. 39 of the 133 incidents assessed during the six month period involved the use of deadly force and 31 of the incidents involved the death of an inmate in custody. Out of the 133 cases assessed, the OIG found deficiencies in the handling of approximately 40 cases.

Among the on-going concerns raised by the OIG in the most recent report are the following:

1. The amount of time it takes to begin and complete investigations and the disciplinary process within CDCR continues to take too long. Sometimes individuals wait years for allegations to be resolved, which affects the morale of the department and prohibits them from removing subpar employees expediently.
2. The OIG has identified potential conflicts by the Office of Legal Affairs, specifically within the Employment Advocacy Integration Team (EAPT) Vertical Advocates.

Questions for the Inspector General. The Inspector General should be prepared to present the findings from the report and address the following question:

1. Are you noticing any trends or patterns over the years in terms of the types of critical incidences or the number of critical incidences? In addition, have you found that certain institutions have a larger number of incidents than other institutions? If so, please provide the subcommittee with the institutions that have the largest number of incidents.
2. Similarly, have you noticed any trends or patterns in terms of the types or number of employee disciplinary cases? Are there any institutions that appear to have more or less cases than the other institutions? Please provide a list of those institutions.
3. Have you found CDCR to be responsive to your office's recommendations or do you find that the same problems seem to arise year after year?

Issue 2: Medical Inspections BCP

Budget Proposal. The Governor's budget proposes a \$1.262 million (General Fund) augmentation to establish four permanent positions in the Medical Inspections Unit of the OIG to evaluate medical care provided to inmates in state prison. In addition, the budget proposes reducing the California Correctional Health Care Services (CCHCS) budget by \$645,000 (General Fund) and two positions. The net cost of the proposal is \$617,000.

The four positions consist of three physicians and one nurse who will provide medical expertise for the OIG to add clinical case reviews to the existing compliance-based monitoring system that is in place.

Background. In 2007, the federal receiver appointed to oversee medical care in California's state prisons, approached the Inspector General about developing an inspection and monitoring function for prison medical care. The receiver's goal was to have the OIG's inspection process provide a systematic approach to evaluating medical care. Using a court-approved medical inspection compliance-based tool, the OIG's Medical Inspection Unit (MIU) was established and conducted three cycles of medical inspections at CDCR's 33 adult institutions and issued periodic reports of their findings from 2008 through 2013.

In 2013, court appointed medical experts began conducting follow-up evaluations of prisons scoring 85 percent or higher in the OIG's third cycle of medical inspections. (Those evaluations are discussed in more detail in a later item.) The expert panel found that six of the ten institutions evaluated had an inadequate level of medical care, despite scoring relatively high overall ratings in the OIG's evaluations. The difference between the two types of evaluations resulted in very different findings. The OIG's evaluations focused on the institutions' compliance with CDCR's written policies and procedures for medical care. The court experts, however, focused on an in-depth analysis of individual patients' medical treatment to determine the quality of care at each prison. After meeting with the receiver's office and the court medical experts, the Inspector General decided that his inspections should be modified to include the methodologies used by the medical experts in order to determine the quality of care being provided.

Action: Held Open

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created, pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Juvenile: Operations and Offender Programs, Academic and Vocational Education, Health Care Services
- Adult Corrections and Rehabilitation Operations: Security, Inmate Support, Contracted Facilities, Institution Administration
- Parole Operations: Adult Supervision, Adult Community-Based Programs, Administration
- Board of Parole Hearings: Adult Hearings, Administration
- Adult: Education, Vocational, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2013 Budget Act projected an adult inmate average daily population of 128,885 in the current year. However, the current year adult inmate population is now projected to exceed budget act projections by 6,101 inmates, a 4.7 percent increase, for a total population of 134,986. The budget year adult inmate population is projected to be 137,788, a 6.9 percent increase of 8,903 inmates over the revised current year. Current projections also reflect an increase in the parolee population of 3,439 in the current year compared to budget act projections, for a total average daily population of 45,934. The parolee population is projected to be 36,652 in 2014-15, a decrease of 5,843.

The Governor's budget proposes \$9.8 billion (\$9.5 billion General Fund and \$320 million other funds) and 60,598.7 positions for CDCR in 2014-15. The following table shows CDCR's total operational expenditures and positions for 2012-13 through 2014-15.

(dollars in thousands)

Funding	2012-13	2013-14	2014-15
General Fund	\$8,534,272	\$9,263,117	\$9,494,977
General Fund, Prop 98	16,824	17,910	17,698
Other Funds	53,534	62,690	63,053
Reimbursements	138,275	179,647	185,043
Recidivism Reduction Fund	-	-81,109	72,811
SCC Performance Incentive Fund	-615	-1,000	-1,001
Total	\$8,742,290	\$9,441,255	\$9,932,581
Positions	50,728.7	60,790.1	60,598.7

California Correctional Health Care Services (CCHCS)

The CCHCS receivership was established as a result of a class action lawsuit (*Plata v. Brown*) brought against the State of California over the quality of medical care in the state's 33 adult prisons. In its ruling, the Federal Court found that the care was in violation of the Eighth Amendment of the U.S. Constitution which forbids cruel and unusual punishment. The State settled the lawsuit and entered into a stipulated settlement in 2002, agreeing to a range of remedies that would bring prison medical care in line with constitutional standards. The State failed to comply with the stipulated settlement and on February 14, 2006, the Federal Court appointed a receiver to manage medical care operations in the prison system. The current receiver was appointed in January of 2008, and currently remains in place. The receivership continues to be unprecedented in size and scope nationwide.

The receiver is tasked with the responsibility of bringing the level of medical care in California's prisons to a standard which no longer violates the U.S. Constitution. The receiver oversees approximately 10,000 prison health care employees, including doctors, nurses, pharmacists, and administrative staff. Over the last ten years, healthcare costs have risen significantly. The estimated per inmate health care cost for 2014-15 is almost two and a half times the cost for 2005-06. The state spent \$1.2 billion in 2005-06 to provide health care to 162,408 inmates. The state estimates that it will be spending over \$2.2 billion in 2014-15 for 120,660 inmates.

CDCR Historical Health Care Costs Per Inmate

Type of Care	2005-6	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Medical	\$5,803	\$7,183	\$9,721	\$12,170	\$10,957	\$10,439	\$12,525	\$12,280	\$13,585	\$13,845
Mental Health	\$1,463	\$1,976	\$2,802	\$2,839	\$2,420	\$3,168	\$2,621	\$2,596	\$3,214	\$3,304
Dental	\$313	\$398	\$916	\$1,049	\$1,066	\$1,088	\$1,127	\$1,163	\$1,248	\$1,266
Total	\$7,580	\$9,558	\$13,349	\$16,058	\$14,443	\$14,695	\$16,273	\$16,039	\$18,048	\$18,415

Issue 3: Update on Inmate Medical Care and the Receivership

Background. On June 30, 2005, the United States District Court ruled in the case of *Marciano Plata, et al v. Arnold Schwarzenegger, et al*, that it would establish a receivership and take control of the delivery of medical services to all California prisoners confined by CDCR. In a follow-up written ruling dated October 30, 2005, the court noted:

By all accounts, the California prison medical care system is broken beyond repair. The harm already done in this case to California's prison inmate population could not be more grave, and the threat of future injury and death is virtually guaranteed in the absence of drastic action. The Court has given defendants every reasonable opportunity to bring its prison medical system up to constitutional standards, and it is beyond reasonable dispute that the State has failed. Indeed, it is an uncontested fact that, on average, an inmate in one of California's prisons needlessly dies every six to seven days due to constitutional deficiencies in the CDCR's medical delivery system. This statistic, awful as it is, barely provides a window into the waste of human life occurring behind California's prison walls due to the gross failures of the medical delivery system.

As noted earlier, since the appointment of the receivership, spending on inmate health care has almost tripled. A new prison hospital has been built, new systems are being created for maintaining medical records and scheduling appointments, and new procedures are being created that are intended to improve health outcomes for inmates. According to the CCHCS, over 400,000 inmates per month have medical appointments and the rate of preventable deaths has dropped 46 percent since 2006.

It remains unclear, however, if or when the receivership will end and responsibility for medical care will be returned to the state.

Chief Executive Officers for Health Care. Each of California's 33 prisons has a chief executive officer (CEO) for health care who reports to the receiver. The CEO is the highest-ranking health care authority within a CDCR adult institution. A CEO is responsible for all aspects of delivering health care at their respective institution(s) and reports directly to the receiver's office.

The CEO is also responsible for planning, organizing, and coordinating health care programs at one or two institutions and delivering a health care system that features a range of medical, dental, mental health, specialized care, pharmacy and medication management, and clinic services.

Serving as the receiver's advisor for institution-specific health care policies and procedures, the CEO manages the institution's health care needs by ensuring that appropriate resources are requested to support health care functions, including

adequate clinical staff, administrative support, procurement, staffing, and information systems support.

Regional CEOs. As part of transition activities, the receivership has been in discussions with CDCR regarding what would be the appropriate organizational model for oversight of institutional health care. Under CDCR, both dental and mental health had previously adopted, and had in place, a geographical, “regional” model for organizational oversight of their activities. As part of the movement toward transitioning medical care back to the state, the receiver felt that creation of cohesive, interdisciplinary regions that included medical leadership would lead to a more sustainable model for the future. As a result, the receiver took steps to hire four regional CEOs and worked with CDCR to align each region geographically so that medical, mental health, and dental consistently oversee the same institutions on a regional basis. The four regions are as follows:

1. Region I: Pelican Bay State Prison, High Desert State Prison, California Correctional Center, Folsom State Prison, California State Prison Sacramento, Mule Creek State Prison, California State Prison San Quentin, California Medical Facility, and California State Prison Solano.
2. Region II: California Health Care Facility, Stockton, Sierra Conservation Center, Deuel Vocational Institution, Central California Women’s Facility, Valley State Prison, Correctional Training Facility, Salinas Valley State Prison, and California Men’s Colony.
3. Region III: Pleasant Valley State Prison, Avenal State Prison, California State Prison Corcoran, Substance Abuse Treatment Facility, Kern Valley State Prison, North Kern State Prison, Wasco State Prison, California Correctional Institution, California State Prison Los Angeles County, and California City Prison.
4. Region IV: California Institution for Men, California Institution for Women, California Rehabilitation Center, Ironwood State Prison, Chuckawalla Valley State Prison, Calipatria State Prison, Centinela State Prison, and RJ Donovan Correctional Facility.

Each region consists of a regional health care executive, one staff services analyst/associate governmental program analyst, one office technician, and one health program specialist I. The cost for each of the regional offices is \$565,000 per year, with a total budget for regional CEOs of almost \$2.25 million per year. The funding and positions were created within CCHCS using existing resources and the receiver did not ask the Legislature to approve the creation of the regional CEO offices.

Health Care Evaluations. In September 2012, the Federal Court requested that the court’s medical experts conduct evaluations at each CDCR prison to determine whether an institution is in substantial compliance. The order defined substantial compliance and constitutional adequacy as receiving an overall OIG score of at least 75 percent and an

evaluation from at least two of the three court experts that the institution is providing adequate care.

In conducting the reviews, the medical experts evaluated essential components to an adequate health care system. These include organizational structure, health care infrastructure (e.g., clinical space, equipment, etc.), health care processes, and the quality of care.

To date, the medical experts have evaluated ten institutions. Of those ten, six were found to be providing inadequate medical care and the remaining four had specific procedural problems that needed to be addressed in order for their care to be deemed adequate. A few examples of the findings for those institutions providing inadequate care are:

- *California Institution for Men (CIM)* – The medical experts found that CIM, in August of 2013, was either approaching or at its maximum capacity to manage inmates with high medical needs. In addition, they found significant problems related to the management of patients with chronic diseases and that primary care physicians did not adequately address patients' chronic diseases or abnormal laboratory findings in a timely or appropriate manner. Further, the experts found that nurses did not perform medical screenings in a clinical setting, but instead used a "confessional booth," which the medical experts had noted initially in a 2006 visit.
- *Corcoran State Prison* – At Corcoran, the medical experts found serious problems related to access, timeliness, and quality of care. During their visit, the experts found in the General Acute Care Hospital that patient monitoring was not performed in accordance with physician orders. In addition, they found a high number of intravenous catheter and other infections that, in some cases, led to sepsis. They noted that the potentially life-threatening infections are indicative of a lack of adequate hygiene, sanitation, and infection control activities in the unit. A hand washing study conducted in April and May of 2013 showed that none of the observed staff washed their hands before engaging in patient care.
- *California State Prison at Sacramento (CSP-SAC)* – A key finding during the medical experts' visit in October of 2013 was that in many cases nurses and providers did not perform an adequate history of the patients' complaints or perform adequate physical examinations, even when patients presented with symptoms of serious medical conditions. The experts believe that a contributing factor was that providers and nurses did not consistently evaluate patients in an examination room with adequate privacy. The standard practice at CSP-SAC was for patients to be handcuffed, placed in a cage, and for correctional officers to remain in the room during examinations.
- *California Central Women's Facility (CCWF)* – The experts found that many of the medical problems at CCWF appeared to be related to the overcrowded

conditions and an inadequate number of medical staff. The evaluation noted that between July 2012 and July 2013, the population had increased by 30 percent (830 inmates) since Valley State Prison had been converted from a women's institution to a male institution. Despite the increase in the number of prisoners, CCWF had a 21 percent reduction in medical provider staffing. The experts found that there were an inadequate number of skilled nursing beds to accommodate patients which sometimes resulted in patients being sent back to the housing units or discharged prematurely from the skilled nursing facility. In addition, they found that there was no medical provider assigned to the skilled nursing facility which resulted in care being episodic and providers that did not address all of the patients' medical conditions.

Medical Treatment for Female Inmates. As noted above, one of the three women's institutions was included in the ten medical evaluations conducted by the federal court's medical experts. In general, the experts found that the institution was not providing adequate medical care, primarily due to overcrowding and insufficient staffing.

In addition to inadequate medical care for female inmates at one of the women's institutions, CDCR adopted a policy in 1999 for female prisoners that included sterilization/tubal ligation in obstetrical care for postpartum women. According to statistics provided to the State Auditor by Justice Now, between 1997 and 2005, 136 female inmates housed in CDCR institutions were sterilized by tubal ligation during labor and delivery. Between 2006 and 2010, over 115 more women were sterilized.

Many of the tubal ligations can be traced back to one doctor and his staff at Valley State Prison. According to news reports, in addition to the tubal ligations, the same doctor arranged other types of procedures that resulted in the sterilization of women 378 times between 2006 and 2012, all while the prisons were under the care of the federal receivership. The procedures included hysterectomies, removal of ovaries and endometrial ablation. It is unclear whether these procedures were conducted for sterilization purposes.

According to the receiver's office, the situation was brought to their attention in 2010. The receiver's office states that only one tubal ligation has been performed since that time. However, a 2008 memo from the receiver's office regarding the procedure, confirms that the receiver's office knew that sterilization was being offered and performed on pregnant/birthing women in the women's institutions well before 2010.

Transition Planning. On September 9, 2012, the federal court entered an order entitled *Receivership Transition Plan and Expert Evaluations*. As part of the transition from the receivership, the court required the receiver to provide CDCR with an opportunity to demonstrate their ability to maintain a constitutionally adequate system of inmate medical care. The receiver was instructed to work with CDCR to determine a timeline for when CDCR would assume the responsibility for particular tasks.

As a result of the court's order, the receiver and CDCR began discussions in order to identify, negotiate, and implement the transition of specific areas of authority for specific operational aspects of the receiver's current responsibility—a practice that had already been used in the past (construction had previously been delegated to the state in September 2009). On October 26, 2012, the receiver and the state reached agreement and signed the first two revocable delegations of authority:

Health Care Access Units are dedicated, institution-based units, comprised of correctional officers, which have responsibility for insuring that inmates are transported to medical appointments and treatment, both on prison grounds and off prison grounds. Each institution's success at insuring that inmates are transported to their medical appointments/treatment is tracked and published in monthly reports.

The Activation Unit is responsible for all of the activities related to activating new facilities, such as the California Health Care Facility at Stockton and the DeWitt Annex. Activation staff act as the managers for CDCR and coordinate activities such as the hiring of staff for the facility, insuring that the facility is ready for licensure, overseeing the ordering, delivery, and installation of all equipment necessary for the new facility, as well as a myriad of other activities. Activation activities, again, are tracked on monthly reports provided to the receiver's office.

In addition to the two delegations that have been executed and signed by the receiver and CDCR, the receiver has produced draft delegations of authority for other operational aspects of its responsibility which have been provided to the state. These operational aspects include:

- Quality Management
- Medical Services
- Healthcare Invoice, Data, and Provider Services
- Information Technology Services
- Legal Services
- Allied Health Services
- Nursing Services
- Fiscal Management
- Policy and Risk Management
- Medical Contracts
- Business Services
- Human Resources

Questions for the Receiver's Office. The receiver should be prepared to address the following questions:

1. What types of training and written policies were provided to CDCR employees prior to the transfer of the health care access units and the activation unit in order to increase the chances of a successful transition?

2. How are you training both the medical and custodial staff to ensure the provision of adequate medical care and that the staff understand what adequate care entails?
3. What procedures have you put in place throughout the system to ensure that adequate care continues once the receivership ends?
4. In 2010, you anticipated that once your information technology projects and constructions projects were completed, the receivership would no longer be required. At the time, you assumed that would take approximately 24 months. Please provide an update on both the IT projects and the Healthcare Facility Improvement Program (HCFIP)?
5. What is the current timeline for transitioning medical care out of the receivership and back to CDCR?
6. With large numbers of sterilizations being done at one prison, what types of safeguards have you put in place to ensure that unnecessary procedures are not being done at institutions? Is there a regular process for comparing the numbers of procedures across institutions to recognize outliers, such as Valley State Prison that had six times the number of sterilizations as CCWF?
7. Recent reports, such as the incidents at Mule Creek and Pleasant Valley State Prison last fall, suggest that there is a problem between the custody staff and the medical staff in terms of proper procedures that should be followed when someone is in medical danger. In both cases, the custody staff's concerns appear to have outweighed the medical staff's. What has the receiver's office done to develop a formal procedure for each institution that clarifies what should happen in such emergencies when the medical staff requires that someone be removed from a cell and the custody staff refuses? What type of training has been provided to both the custody staff and the medical staff in this area?
8. Given that the CCWF medical evaluation found the overcrowding and understaffing is contributing to the failure to provide adequate medical care, what steps is the receiver's office taking to ensure that both of those situations are corrected?

Questions for CDCR. The Administration should be prepared to address the following questions:

1. Please respond to the receiver's assessment of the current medical situation in the adult institutions.
2. What type of specialized training is provided to custody staff who will be working with patients in the medical facilities at the institutions?

3. What led to CDCR adopting a policy of providing tubal ligation as a part of postpartum obstetrical care? Is there a new policy in place? If so, please describe it.

4. What steps does CDCR plan to take to address the problems raised in both the CIM and CSP-SAC medical evaluations that suggest that prisoners and medical personal are not provided with adequate privacy to conduct appropriate medical examinations? In particular, what procedural changes are being developed so that patients are not handcuffed and placed in cages for medical examinations and evaluations?

Issue 4: California Health Care Facility Intake

Background. The California Health Care Facility (CHCF) was designed and constructed to be a state-of-the-art medical facility that would provide care to inmates with high medical and mental health care needs. The construction of CHCF was completed in July 2013 and the receiver and CDCR began shifting inmates to the new hospital facility. The facility provides about 1,800 total beds including about 1,000 beds for inpatient medical treatment, about 600 beds for inpatient mental health treatment, and 100 general population beds. The CHCF cost close to \$1 billion to construct and has an annual operating budget of almost \$300 million.

Almost immediately after activation began, serious problems started to emerge. Reports suggested that there was a shortage of latex gloves, catheters, soap, clothing, and shoes for the prisoners. In addition, over a six-month period, CHCF went through nearly 40,000 towels and washcloths for a prison that was housing approximately 1,300 men. Investigations by officials at the facility found that the linens were being thrown away, rather than laundered and sanitized. In addition, the prison kitchen did not pass the initial health inspections, resulting in the requirement that prepared meals be shipped in from outside the institution. The problems were further compounded by staffing shortages and a lack of training. For example, a lack of training for nurses on the prison's bedside call system may have contributed to the death of an inmate in January. In addition, early this year, the prison suffered from an outbreak of scabies which the receiver's office attributes to the unsanitary conditions at the hospital.

Despite being aware of serious problems at the facility as early as last September, it was not until February that the receiver closed down intake at the facility and stopped admitting new prisoners. In addition, the receiver delayed the activation of the neighboring DeWitt-Nelson facility, which is designed to house inmate labor for CHCF, mentally ill prisoners, and prisoners with chronic medical conditions who need on-going care.

Questions for the Receiver's Office. The receiver should be prepared to provide an update on the activation of CHCF, and the DeWitt-Nelson facility, and address the following questions:

1. Why did you wait until February to close down intake, despite being aware of serious problems as early as last September?
2. Have you resolved the supply problems that led to the lack of adequate basic medical supplies such as catheters, latex gloves, and properly fitting adult incontinence products? Please explain how that problem occurred in the first place.
3. When do you plan on reopening intake? When do you anticipate that both CHCF and DeWitt-Nelson will be fully activated?

4. Many staff members were in place before the first inmates were admitted. What types of training were done for both medical and custody staff in advance of the facility opening?
5. What types of written procedures were in place prior to the facility's opening in July 2013?
6. In your opinion, is there adequate staffing of both medical staff and custody staff at the institution?
7. What type of planning was done in advance to determine the level of care required for the patients, their mobility, adequate visitation, their custody level, and that appropriate programming and outdoor space would be available for both the inmate workers and the patients?
8. It is our understanding that your office has conducted a root cause analysis to determine the deficiencies in the system and a patient safety survey. Can you please share the results of both of those studies?
9. Originally, the plan was for the state to build five or six of these state-of-the-art health care facilities throughout the state. Is that plan still being considered?
10. What policies and procedures are in place for communication between CDCR and the medical staff when problems arise?

Questions for the Administration. The Administration should be prepared to address the following questions:

1. What type of specialized training is provided to the custody staff working in this unique medical setting?
2. In the event of an incident, such as the one at Mule Creek noted earlier, what written policies and procedures are in place to ensure that the medical needs of the patient take priority in this hospital setting?
3. The chief executive medical officer is currently rebooting each unit to determine whether it is adequately staffed and the appropriate policies are in place to care for the patients. What is the role of the warden and the custody staff in that reboot?
4. In a recent visit to CHCF, corrections staff expressed concern about the lack of custody staff in each unit. What is CDCR doing to address that problem and determine whether or not there is adequate custody staffing throughout the facility?

Issue 5: Valley Fever Incidents and Protocol Update

Background. Between 2008 and 2013, almost 2,700 inmates housed in the state's prisons were diagnosed with Valley Fever (also known as cocci). Of that number, almost 50 died as a result. Valley Fever is considered hyperendemic at eight of the 33 adult institutions:

- Avenal State Prison
- Pleasant Valley State Prison
- Corcoran State Prison
- Substance Abuse Treatment Facility
- California Correctional Institution
- Wasco State Prison
- Kern Valley State Prison
- Northern Kern State Prison

The highest rates of Valley Fever are at Avenal State Prison and Pleasant Valley State Prison. However, all eight institutions make up the CDCR Valley Fever Exclusion Area.

CDCR first identified significant increases in the number of inmates contracting valley fever at Avenal and Pleasant Valley in 2005. At the receiver's request, the California Department of Public Health (CDPH) conducted an investigation at Pleasant Valley. In January of 2007, CDPH made final recommendations that included inmate and staff education, environmental controls and the relocation of the highest risk groups to other prisons. CDPH further noted that the exclusion of high-risk inmates would be the most effective method of decreasing the risk. While CDCR provided additional educational materials and transferred inmates with a high risk due to pulmonary conditions, they did not transfer inmates with diabetes, or African American and Filipino inmates out of the institutions. In addition, they also failed to implement any of the recommendations concerning ground cover and soil sealant. In the years between the 2007 report and the June 2013 court order, it appears that not much progress had been made toward mitigating the impact of valley fever on inmates in the hyperendemic area, especially at the two most affected institutions, Avenal and Pleasant Valley.

What is Valley Fever? Coccidioidomycosis, more commonly referred to as cocci or valley fever, is an infection caused by the coccidioides fungus spores, which are prevalent in the dry soil of the West and Southwest. These spores are found in the soil in certain areas (called endemic), and get into the air when the soil is disturbed. This can happen with construction, gardening, farming, windy weather, dirt biking, or driving all-terrain vehicles (ATV's) in these areas. Coccidioidomycosis cannot be passed from person-to-person. The most common states for people to be infected with coccidioidomycosis are Arizona and California, followed by Nevada, New Mexico, Texas, and Utah.

Symptoms include fever, chills or in more severe cases chronic pneumonia or meningitis. Generally, patients develop symptoms within one to three weeks after exposure. The flu-like symptoms beyond those mentioned above can include headaches, rash, muscle aches, extreme tiredness, and weakness. The symptoms typically last a few weeks to months.

According to the Centers for Disease Control and Prevention, approximately 40 percent of those infected require hospitalization, and the disease can be fatal.

Court Order. In June of 2013, the federal judge overseeing the *Plata* decision ordered CDCR to transfer all inmates who are classified as high-risk for valley fever under the American Thoracic Society definition from Avenal State Prison and Pleasant Valley State Prison within 90 days of the court order. The American Thoracic Society criteria for increased risk includes patients with impaired cellular immunity, such as those with organ transplants, those with HIV infection, and those with chronic obstructive pulmonary disease, chronic renal failure, congestive heart failure, diabetes; patients receiving certain inhibitors (medications used in the treatment of arthritis); Filipino and African-American men; and pregnant women in the second or third trimester.

Questions for the Receiver's Office. The receiver should be prepared to address the following questions:

1. What types of mitigation efforts have been put in place to reduce the incidents of valley fever? Have all eight institutions in the target area implemented some type of mitigation plan?
2. Have you seen an overall reduction in the number of valley fever cases? Please provide us with the most recent data since the court ordered changes have been in place.
3. Were you able to determine why the incidents of valley fever were higher at Avenal and Pleasant Valley than in their surrounding communities?
4. How many inmates were relocated as a result of the court order?
5. Please describe the court required training your office provided to all CDCR medical and nursing staff on the recognition, diagnosis, and treatment of cocci. Has everyone received the training? How was the training delivered?

Questions for CDCR. CDCR should be prepared to address the following questions:

1. Why did it take so many years and ultimately require a court order to take serious steps to reduce the risk of valley fever in the affected institutions? Why the reluctance to move beyond providing surgical masks for those who asked for them, installing equipment to keep out dust, installing new air filters, and posting laminated signs outlining the symptoms of valley fever?

2. Why did CDCR largely ignore the recommendations presented by the Department of Public Health in its January 2007 report?
3. Initially, CDCR refused to exclude inmates with diabetes, African-American and Filipino inmates from the valley fever exclusion area. What was the reason for that refusal?
4. Among other concerns, the Administration expressed some concern about moving African American and Filipino men out of the exclusion area because it might result in an ethnic imbalance at some of the institutions. Have any problems arisen in this area to validate the initial concerns?
5. Has the appropriate ground cover or high-grade soil sealant been utilized at either Avenal or Pleasant Valley State Prisons? If not, why not?

Issue 6: CalPIA Janitorial Services BCP

Budget Proposal. The Governor's budget proposes to expand the California Medical Facility (CMF) pilot project regarding the cleaning of health care facilities on a statewide basis. Specifically, the budget proposes a \$14.5 million General Fund augmentation for 2014-15, which would increase to \$19.5 million in 2015-16, for the receiver to enter into a statewide health care facility janitorial contract with the California Prison Industry Authority (CalPIA). By contrast, without this proposal the receiver's office would likely spend around \$8 million to keep health care spaces in the prisons clean. The Governor's budget also proposes the elimination of 83 receiver staff positions in 2014-15, as the CalPIA contract will replace existing receiver janitorial resources. The budget proposes to transfer these janitorial positions to CalPIA. In addition, the proposal includes one full-time staff position for program oversight, and anticipates employing 628 trained inmate laborers. The statewide contract cost will be approximately \$28 million in 2015-16 (upon full implementation), which translates to a cost of \$1.38 per square foot serviced.

Background. As part of the 2002 settlement agreement in *Plata v. Brown*, CDCR agreed to ensure clean and sanitary health care environments in its prisons. Most of the cleaning is performed by inmates supervised by custody staff. Although the sanitation of health care facilities is held to a higher standard than the cleaning of non-health care facilities, the inmates do not receive training in health care facility cleaning and disinfection. The provision of these janitorial services varies widely by institution. While some institutions have fixed schedules to clean some or all of the health care areas at the institution, other institutions have no set cleaning schedules for any of their health care areas. In their analysis, the Legislative Analyst's Office notes that at some institutions, additional cleaning is done by contracted janitors.

In 2012, the *Plata* court ordered medical inspections of institutions that had reached a certain level of compliance with the 2002 settlement agreement. These inspections are performed by court experts and included an evaluation of health care cleanliness and sanitation (discussed in detail elsewhere in this agenda). Several of the audits identified deficiencies in facility cleanliness, which could delay the transfer of responsibility for the management and provision of inmate medical services back to the state. We also note that in 2012, the chief executive officer of the CMF in Vacaville approached CalPIA about developing a health care facilities cleaning service pilot project. The contract included the training of inmate laborers, staff oversight of inmate laborers, the maintenance of cleanliness in clinical areas, and the provision of cleaning materials. This pilot project has been extended through 2014 and now employs 46 inmate workers.

Questions for the Receiver's Office. The receiver should be prepared to present the proposal and address the following questions:

1. The BCP creates a vocational training program designed to train inmates in state prison to provide specialized cleaning in a health care setting upon their release.

Have you done any surveys or studies to determine whether or not there are jobs available in the health care field for this type of custodial work? Further, have you determined whether or not employers would be willing to hire individuals with serious and violent felony records to fill those positions?

2. How many former inmates who participated in the pilot program have been able to obtain these specialized health care custodial jobs upon their release?
3. Please provide detail on how the \$28 million dollars annually will be spent. How much will be for custodial supervisors and other staff who will be working directly in the prison training inmates? How much will be spent on supplies and equipment? How much will be spent on CalPIA administration of the program?

Legislative Analyst's Office (LAO) Recommendation. While the LAO acknowledges the need for improved janitorial services, they recommend that the Legislature withhold action on this proposal until the receiver's office can justify the significant cost of the contract with CalPIA. They also recommend the Legislature require the receiver's office to report at budget subcommittee hearings this spring on why these janitorial services cannot be provided at a lower cost by CalPIA or an outside contractor.

Action: Held Open

Issue 7: Pharmaceuticals Augmentation BCP

Budget Proposal. The Governor's budget proposes adjustments to the inmate pharmaceutical budget for both the current and budget years. For 2013-14, the budget proposes to reduce the current-year pharmaceutical budget to \$168 million. For 2014-15 and ongoing, the budget proposes \$161 million for inmate pharmaceuticals. This \$161 million budget would become the new baseline for the receiver's pharmaceutical spending, establishing an ongoing budget based on current purchasing and prescribing practices.

Background. The receiver's office is currently responsible for providing medical pharmaceuticals prescribed by physicians under his management, as well as psychiatric and dental medications prescribed by psychiatrists and dentists managed by CDCR. From 2004-05 through 2010-11, the inmate pharmaceutical budget increased from \$136 million to \$216 million. (The pharmaceutical budget reflects only the cost of pharmaceuticals and not the cost of medication distribution or management.)

Increases in the inmate pharmaceutical budget can occur for several reasons, such as additional inmates needing prescription drugs and increases in the rate at which inmates are prescribed drugs. Moreover, we note that pharmaceutical costs generally rise at a faster pace than inflation. For example, in 2012, average drug costs increased approximately 3.8 percent and average prices for brand name drugs increased 25.4 percent, compared to an overall 1.7 percent increase in consumer prices. Brand name drugs are often prescribed when generic alternatives are unavailable due to patent protections. In addition, while cost savings can be achieved by using a formulary (a list of preferred medicines that cost less), drugs that have few alternatives are less likely to have formulary options, which can also contribute to cost growth. This is particularly an issue for CDCR because the inmate population is disproportionately likely to have health issues for which there are no generic prescription therapies available. For example, about 26 percent of the inmate patient population has a serious mental health diagnosis and many mental health medications are patent-protected, which results in high mental health pharmaceutical costs.

Recognizing the uncertainty associated with pharmaceutical cost growth, the size and acuity of the patient population, and the potential cost savings of various programmatic changes initiated by the receiver, the Legislature increased the inmate pharmaceutical budget on a limited (rather than permanent) basis in recent years. Specifically, since 2007-08, the Legislature has provided only limited-term augmentations (typically for one to three years) to support inmate pharmaceutical costs. Spending on such costs has declined in the past couple of years compared to previous highs. The enacted 2013-14 budget includes a total of \$178 million for inmate pharmaceuticals. Of this amount, \$51 million was provided on a limited-term basis.

Legislative Analyst's Office (LAO) Recommendation. The Governor's budget proposes to increase the base budget for inmate pharmaceuticals. However, the LAO is concerned that increasing the ongoing base budget for a system that has not yet fully

realized recommended efficiency improvements could remove any incentive for further improvement and result in excess cost. Thus, while they recommend that the Legislature approve the Administration's proposed pharmaceutical budget, the LAO recommends that it be for only two years (2014-15 and 2015-16), so that it can reevaluate the need for ongoing funding in two years. In addition, the LAO recommends that the Legislature require the receiver's office to perform an analysis of the potential savings that could be achieved by addressing the issues identified by the Office of the Inspector General and Health Management Associates and report to the Legislature by January 2016. This information will allow the Legislature to better assess what the ongoing size of the receiver's pharmaceutical budget should be when the limited-term funding expires.

Questions for the Receiver's Office. The receiver's office should be prepared to present the proposal and answer the following question:

1. While it is understood that this particular budget proposal only relates to the cost of pharmaceuticals, and not the cost of distribution or management, please provide the subcommittee with an update on the central fill pharmacy and the savings that were anticipated as a result of shifting the filling of prescriptions from individual institutions to the central fill pharmacy.
 - a. What is the status of the central fill pharmacy?
 - b. How much did the pharmacy cost to build and operate?
 - c. How much has the state saved as a result?
 - d. How many individual institutional pharmacies were closed as a result of the creation of the central fill pharmacy?

Action: Held Open

Issue 8: Medical Classification Staffing Model BCP

Budget Proposal. The Governor's budget requests the reduction of 148 positions and the approval of the implementation of a new population methodology that will be used to adjust medical staffing based upon patient-inmate acuity and each institution's medical mission. There is no salary savings associated with the reduction in positions. The savings were already captured through the reduction in the prison population due to realignment.

Background. In 2012, the receiver's office informed the Legislature that it was developing a new staffing methodology for inmate medical services. According to the receiver, the new methodology was intended to allocate staff among prisons based on the amount and types of medical services provided at each location. As such, prisons with more inmates with medical needs and higher medical acuity levels would be allocated more medical staff than other prisons. The receiver expected the methodology to significantly reduce the overall number of prison medical staff and result in significant savings.

In order to monitor the receiver's progress in implementing the new staffing methodology, the 2012-13 Budget Act required the receiver to report on the methodology not later than 30 days following its approval by the Department of Finance (DOF). Specifically, the receiver was required to submit to the Legislature a report that includes:

1. Data on the overall number of staff allocated to each of the state prisons, both prior to, and following the implementation of the revised methodology.
2. A detailed description of the methodology used to develop the revised staffing packages.
3. The estimated savings or costs resulting from the revised methodology.

Last Year's Budget Discussions. During the 2013-14 budget subcommittee hearings last spring, the receiver informed the Legislature that he was in the process of implementing the new staffing methodology and that over 800 positions would be eliminated as part of this effort. Beyond that, the receiver has not provided any additional details on the methodology. The receiver also informed the LAO that he did not intend to report to the Legislature (as required by the 2012-13 Budget Act) on the staffing methodology prior to its implementation because it had not been formally submitted to, nor approved by DOF. According to the receiver, the effect of the staffing changes on inmate medical care would be monitored over the next year and if there are no significant negative impacts, a formal budget request would be submitted to DOF in 2014-15.

Legislative Analyst's Office (LAO) Concerns. The receiver's approach of seeking legislative approval of the staffing methodology after implementing it is contrary to the normal state process and circumvents the Legislature's authority to review and approve the proposed changes. The normal state process requires departments to submit major proposed staffing and budgetary changes for legislative review and approval prior to implementation so that the Legislature can ensure the changes are consistent with its priorities and will result in an appropriate expenditure of state funds. If the receiver does not report on the new staffing plan until after it is fully implemented, it will be too late for the Legislature to take different actions if it determines that elements of the new staffing methodology are inconsistent with its priorities or will not achieve a level of savings necessary for the receiver to meet his current- and budget-year reductions.

LAO 2013-14 Budget Recommendation. The LAO recommended that the receiver report at budget hearings on the implementation of the new methodology, including the specific items required in the 2012-13 Budget Act. This would have provided the Legislature with the opportunity to review the receiver's changes and ensure that those changes meet legislative and budgetary priorities.

Questions for the Receiver's Office. The receiver's office should be prepared to present the medical classification staffing model and answer the following question:

1. Please explain your refusal to comply with the reporting requirements adopted by the 2012-13 Budget Act within the specified time frame.

Action: Held Open

Issue 9: Armstrong Compliance BCP and Spring Finance Letter

Budget Proposal. The Governor's budget requests 42 full-time, permanent positions and \$4 million (General Fund) in order to assist in complying with the *Armstrong* Remedial Plan and the requirements of the Americans with Disabilities Act (ADA).

Spring Finance Letter. The Administration submitted a Spring Finance Letter requesting a one-time augmentation of \$17.5 million (General Fund) to begin construction of ADA improvements at four prisons and to begin the design phase for improvements at 15 additional institutions.

Background. The federal Americans with Disabilities Act (ADA) provides civil rights protections and equal access to public and private services and facilities for individuals with disabilities. In 1994 a lawsuit, *Armstrong v. Brown*, was filed alleging CDCR was not in compliance with the ADA. In 1999, CDCR negotiated a settlement in the lawsuit and developed the *Armstrong* Remedial Plan (ARP) to address the areas of noncompliance. In 2007, the court issued an injunction because it found CDCR to be in continued violation of the ADA and ARP. In 2012, the court clarified the 2007 injunction, and specified that the receiver's office is also subject to the ARP. In August 2012, the receiver signed a memorandum of understanding (MOU) with the plaintiffs, requiring all medical staff to comply with ARP and all orders from the *Armstrong* court. Based on the outcomes of compliance reviews conducted by CDCR's Office of Audits and Court Compliance, the receiver's office currently has an *Armstrong* compliance percentage of 84 percent, with the goal of obtaining 100 percent compliance.

Currently, the workload associated with the MOU at each prison is being handled by administrative support staff in the inmate medical services program overseen by the receiver. This workload is in addition to their normal responsibilities. The Legislative Analyst's Office notes that three analysts at CDCR headquarters are responsible for reviewing compliance documents and monitoring reports, as well as for developing corrective action plans and ensuring institution compliance with ARP. According to the receiver's office, there have been challenges in carrying out the above activities with existing staff. As a result, some institutions have experienced delays in submitting the required documents or, in some cases, have submitted incomplete documents. In addition, there have also been delays in the reviews conducted by staff at CDCR headquarters.

Legislative Analyst's Office (LAO) Recommendation. The LAO finds that the two sign language interpreter positions proposed by the Governor are justified and recommend the Legislature approve them. However, while they acknowledge that the *Armstrong* MOU has resulted in increased workload for the receiver's office, the LAO is concerned that the other 40 additional positions proposed by the Governor on a permanent basis do not take into account the volume of workload either at a statewide level or at each institution. The LAO is concerned that workload will decline in future years and that approving permanent staff is unnecessary.

Given these concerns, the LAO recommends that the Legislature approve 14 one-year, limited-term positions statewide for the receiver to achieve ARP and ADA compliance. This would provide the receiver with the same compliance staff to total staff ratio that CDCR uses to achieve compliance. They also recommend that the Legislature require the receiver to report this spring at budget hearings on specific workload and performance metrics by institution and statewide. The measures the receiver reports on should include, but not be limited to: performance on the *Armstrong* audit tool, performance on internal audits, volume of staff noncompliance allegations, volume of inquiries and cases closed, progress on corrective action plans, and number of staff training events. This information would allow the Legislature to reassess the appropriate level of staffing as part of its spring budget deliberations. Should the receiver present information that suggests that additional positions are necessary, or that positions should be provided on a permanent basis, the Legislature could modify the level of staffing at that time.

Action: Held Open

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Thursday, May 8, 2014
9:30 a.m. or upon adjournment of Session
Room 113

Consultant: Julie Salley-Gray

Items Proposed for Vote-Only

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

PROPOSED FOR VOTE ONLY**Office of the State Public Defender**

1. **State Public Defender (SPD) Augmentation for Rent Cost Increases.** The Governor's budget proposes a four-year \$175,000 incremental increase in the SPD's budget to offset the increases in the SPD's Oakland office lease. The request is for \$45,000 for 2014-15, \$40,000 for 2015-16, \$58,000 for 2016-17, and \$32,000 for 2017-18.

Board of State and Community Corrections

2. **State Fire Marshal Fees.** The Governor's budget proposes a \$516,000 (General Fund) augmentation for the Board of State and Community Corrections (BSCC) to augment its baseline budget for services charged by the Office of the State Fire Marshal for plan review activities and fire and life safety inspections for state-financed local jail construction programs administered by the BSCC.

Department of Corrections and Rehabilitation

3. **Sex Offender Management Board Spring Finance Letter.** The Administration submitted a Spring Finance Letter requesting two, two-year, limited-term positions and \$311,000 (General Fund) for the training requirements and workload increases imposed by Chelsea's Law (Chapter 219, Statutes of 2010) for the California Sex Offender Management Board and the State Authorized Risk Assessment Tools for Sex Offenders.
4. **CalPIA Janitorial Services BCP.** The Governor's budget proposes to expand the California Medical Facility (CMF) pilot project regarding the cleaning of correctional health care facilities on a statewide basis. Specifically, the budget proposes a \$14.5 million General Fund augmentation for 2014-15, which would increase to \$19.5 million in 2015-16, for the receiver to enter into a statewide health care facility janitorial contract with the California Prison Industry Authority (CalPIA). By contrast, without this proposal the receiver's office would likely spend around \$8 million to keep health care spaces in the prisons clean. The Governor's budget also proposes the elimination of 83 receiver staff positions in 2014-15, as the CalPIA contract will replace existing receiver janitorial resources. The budget proposes to transfer these janitorial positions to CalPIA. In addition, the proposal includes one full-time staff position for program oversight, and anticipates employing 628 trained inmate laborers. The statewide contract cost will be approximately \$28 million in 2015-16 (upon full implementation), which translates to a cost of \$1.38 per square foot serviced. (For more detail, see the 5/1/14 subcommittee agenda.)

5. **Medical Classification Staffing Model BCP.** The Governor's budget requests the reduction of 148 positions and the approval of the implementation of a new population methodology that will be used to adjust medical staffing based upon patient-inmate acuity and each institution's medical mission. There is no salary savings associated with the reduction in positions. The savings were already captured through the reduction in the prison population due to realignment. (For more detail, see the 5/1/14 subcommittee agenda.)
6. **Armstrong Compliance BCP.** The Governor's budget requests 42 full-time, permanent positions and \$4 million (General Fund) in order to assist in complying with the Armstrong Remedial Plan and the requirements of the Americans with Disabilities Act (ADA). (For more detail, see the 5/1/14 subcommittee agenda.)
7. **Armstrong Spring Finance Letter.** The Administration submitted a Spring Finance Letter requesting a one-time augmentation of \$17.5 million (General Fund) to begin construction of ADA improvements at four prisons and to begin the design phase for improvements at 15 additional institutions. (For more detail, see the 5/1/14 subcommittee agenda.)
8. **Medical Inspections BCP.** The Governor's budget proposes a \$1.262 million (General Fund) augmentation to establish four permanent positions in the Medical Inspections Unit of the Office of the Inspector General (OIG) to evaluate medical care provided to inmates in state prison. In addition, the budget proposes reducing the California Correctional Health Care Services (CCHCS) budget by \$645,000 (General Fund) and two positions. The net cost of the proposal is \$617,000. (For more detail, see the 5/1/14 subcommittee agenda.)
9. **Pharmaceuticals Augmentation BCP.** The Governor's budget proposes adjustments to the inmate pharmaceutical budget for both the current and budget years. For 2013-14, the budget proposes to reduce the current-year pharmaceutical budget to \$168 million. For 2014-15, and ongoing, the budget proposes \$161 million for inmate pharmaceuticals. This \$161 million budget would become the new baseline for the receiver's pharmaceutical spending, establishing an ongoing budget based on current purchasing and prescribing practices. (For more detail, see the 5/1/14 subcommittee agenda.)

Items to be Heard

5227 Board of State and Community Corrections

Originally, the Board of Corrections (BOC) was established in 1944 as part of the state prison system. Effective July 1, 2005, as part of the corrections agency consolidation, the Corrections Standards Authority (CSA) was created within the California Department of Corrections and Rehabilitation (CDCR) by bringing together the BOC and the Correctional Peace Officers Standards and Training (CPOST) commission. The reorganization consolidated the duties and functions of the BOC and CPOST and entrusted the CSA with new responsibilities.

Legislation associated with the 2011 Budget Act abolished the CSA and established the Board of State and Community Corrections (BSCC or board) as an independent entity, effective July 1, 2012. The BSCC absorbed the previous functions of the CSA as well as other public safety programs previously administered by the California Emergency Management Agency (CalEMA). Specific statutory changes included:

- Abolishing the CSA within CDCR and established the BSCC as an independent entity.
- Transferring the powers and duties of the CSA to the BSCC.
- Transferring certain powers and duties from the California Emergency Management Agency (CalEMA) to the BSCC.
- Eliminating the California Council on Criminal Justice and assigning its powers and duties to the Board.

Assuming the responsibilities of the CSA, the BSCC works in partnership with city and county officials to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities and for the employment and training of local corrections and probation personnel. The BSCC also inspects local adult and juvenile detention facilities, administers funding programs for local facility construction, administers grant programs that address crime and delinquency, and conducts special studies relative to the public safety of California's communities.

As part of the 2011 Budget Act legislation, the BSCC was tasked with providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system. Particularly, the BSCC coordinates with, and assists local governments, as they implement the realignment of many adult offenders to local government jurisdictions that began in 2011. The intent is for the BSCC to guide statewide public safety policies and ensure that all available resources are maximized and directed to programs that are proven to reduce crime and recidivism among all offenders.

The BSCC is an entity independent from CDCR. However, the BSCC is chaired by a local law enforcement representative and the Secretary of the CDCR serves as its vice chair. The BSCC consists of 13 members, streamlined from both its immediate predecessor (CSA), with 19 members, and its former predecessor (BOC), which had 15 members. Members reflect state, local, judicial, and public stakeholders. The current members of the BSCC are:

Linda Penner	Chair
Jeffrey Beard	Secretary of CDCR
Daniel Stone	Director of Adult Parole Operations, CDCR
Dean Growdon	Sheriff of Lassen County
Geoff Dean	Sheriff of Ventura County
Susan Mauriello	County Administrative Officer, Santa Cruz County
Michelle Brown	Chief Probation Officer, San Bernardino County
Adele Arnold	Chief Probation Officer, Tuolumne County
William R. Pounders	Retired Judge, Los Angeles County
David L. Maggard Jr.	Chief of Police, City of Irvine
Scott Budnick	Founder of the Anti-Recidivism Coalition
David Steinhart	Director of Juvenile Justice Program Commonwealth
Mimi H. Silbert	Chief Executive Officer and President of Delancey Street Foundation

The Governor's Budget proposes total funding of \$134.2 million (\$44.9 million General Fund) and 84.3 positions for the BSCC.

(dollars in millions)

	Funding	Positions
Program 10 - Administration, Research and Program Support	\$ 4.6	24.0
Program 15 - Corrections Planning and Grant Programs	103.4	26.3
Program 20 - Local Facilities Standards, Operations, and Construction	3.4	21.0
Program 25 - Standards and Training for Local Corrections	22.8	13.0
BSCC Total	\$134.2	84.3

Issue 1: Public Safety Data Collection and Analysis

Background. One of the primary drivers in establishing the BSCC was the need for a state/local body that could serve as the backbone of California's public safety continuum. To facilitate local success, California needs to strategically coordinate support, foster local leadership, target resources, and provide technical assistance.

Pursuant to the establishing statute, the BSCC is charged with collecting and maintaining available information and data about state and community correctional policies, practices, capacities, and needs; including, but not limited to, prevention, intervention, suppression, supervision, and incapacitation, as they relate to adult corrections, juvenile justice, and gang problems. The BSCC is required to collect and make publicly available up-to-date data and information reflecting the impact of state and community correctional, juvenile justice, and gang-related policies and practices enacted in the state, as well as information and data concerning promising and evidence-based practices from other jurisdictions.

At its January 17, 2013 meeting, the BSCC moved to establish the Data and Research Standing Committee in order to benefit the BSCC by providing expertise and stakeholder input in this subject area. In addition, the BSCC reported last spring that it was in the process of realigning staff and resources to be better positioned to address high-priority issues. From May 2012 through February 2013, the members of the BSCC identified priorities, which they utilized as the basis of a strategic plan being developed by the BSCC staff. Through a collaborative strategic planning process with the Crime and Justice Institute, BSCC developed the following four goals:

1. Collect, analyze, and report corrections data in a manner that meets mandates and informs effective policy and practice at the state and local level.
2. Support the implementation of best practices and policies to produce better outcomes for the criminal justice system and provide comprehensive training and technical assistance.
3. Promote the effective utilization of local corrections facilities and quality alternatives to incarceration to maximize public safety and resource efficiency.
4. Serve as a primary information source on managing criminal and juvenile populations.

2013-14 Budget Act Reporting Requirement. The 2013-14 Budget Act required the BSCC to submit a report to the Legislature by May 1, 2014, detailing the board's recommendations for how it plans to build its clearinghouse and technical assistance capacity for collecting and providing user-friendly information to assist the state and local corrections with selecting, implementing, and evaluating evidence-based or promising programs, services, and treatment practices for managing criminal offenders in the community. The report was also required to include information on how the board developed its recommendations.

On May 5, the BSCC submitted a 6-page paper to the Legislature that provided general information about the role that BSCC intends to play in terms of collecting and disseminating information on state and local criminal justice. Despite its existence since October of 2013, it does not appear from the information provided that the Standing Committee on Research and Data has established any data and research priorities. Nor have they determined the way in which the BSCC will assist the counties in managing their criminal justice populations or reducing recidivism.

Juvenile Justice Data. Along with a need for information on adult offenders, experts in the field of juvenile justice in California have long pointed out the serious lack of information and data on the youth in the state and local juvenile justice systems. Within the BSCC is a Juvenile Justice Standing Committee (JJSC). The 13 member committee includes juvenile justice practitioners and experts representing courts, law enforcement, probation, education, health, philanthropy, youth service and related disciplines. On February 13, 2014, the standing committee released a set of guiding principles for juvenile justice development in California. Among those principles is the following:

In terms of program development, the Principles are presented as an outline of points that deserve attention in the process of formulating programs for children and youth under justice system control. In particular, the principles cited in relation to data development and performance measures are included as statements of how the system could or should operate in a more efficient and more fully resourced future. . . .

5. Juvenile justice system interventions—including programs, facilities, placements, supervision and aftercare—should be monitored appropriately using standardized youth performance outcome measures for all California counties. These performance outcome measures should include, to the extent feasible, measures that go beyond simple recidivism by incorporating and addressing the broader developmental needs of youth under all forms of justice system control. . . .

6. The programs and sanctions implemented by state and local juvenile justice agencies should meet minimum and consistent criteria for program effectiveness. This means that publicly funded juvenile justice programs, facilities and services should be developed and implemented in a manner that is consistent with evidence-based principles for proven and promising practices. A coordinated and statewide effort by juvenile justice stakeholders is needed to guide the development of reasonable performance and quality assurance criteria for publicly funded juvenile justice programs, facilities and services. . . .

7. Juvenile justice performance measures at all levels of intervention must be supported by adequate, modern data systems. Data, including data on caseloads and case outcomes, should be maintained and reported in a consistent and accessible manner at the local and state levels. California's data systems in this regard are presently inadequate, necessitating a further and perhaps substantial investment to modernize and coordinate new data capacity across multiple agencies at the state and local government levels. . . .

8. Comprehensive aggregate data on the caseloads, operations, costs and outcomes of the California juvenile justice system, at the state and local levels, should be transparent and accessible to policymakers, stakeholders and members of the public. To the extent feasible, the information should be available through state-based websites, dashboards or clearinghouses where relevant information can be located and downloaded for multiple uses.

Questions for the Administration. The Administration should be prepared to provide an update on their data collection efforts, present the findings from the plan outlined in their upcoming report and address the following questions:

1. Please explain why the BSCC did not provide the Legislature with a detailed report that contained, among other information, data collection priorities, anticipated data collection efforts, timelines for implementation, information technology needs, and estimated costs.
2. In last year's budget, BSCC was provided with five research positions. Please tell the subcommittee when each of those positions was filled and describe, in detail, what they have accomplished in that time.
3. When do you intend to actually develop and implement data plan and when can the counties and the Legislature expect to begin receiving data on realignment?
4. How does the BSCC propose measuring the successes and failures of the first three or four years of realignment without the appropriate data?
5. Please describe the BSCC's plans for facilitating the principles outlined in the JJSC's guiding principles, particularly those noted above that are directly related to outcome measures, data collection, and evidence-based interventions.
6. How does the BSCC intend to collect and disseminate much needed data on juveniles in our juvenile justice systems?
7. Is data on the state's juveniles who are being supervised by county probation departments being captured in the Child Welfare Services data collection efforts?

Staff Comment. Over two and a half years into public safety realignment, concerns continue to be raised that the state may be risking an opportunity to set and gather baseline and initial metrics and data that will be critical to assessing success and appropriately informing policymakers for future decisions. For instance, various bills, including budget trailer bill language, have been proposed that would impact or alter parts of the 2011 Public Safety Realignment. The data and analysis needed to make informed and objective decisions regarding these matters remains unavailable.

Although the BSCC was established on July 1, 2012, the BSCC's predecessor agencies had historic responsibilities centered on standards for the construction and operation of local jails and juvenile detention facilities and for the employment and training of local corrections and probation personnel, facility inspection, and grant administration. The majority of the BSCC's

personnel have carried over from the CSA and have experience and core competencies in these historic responsibilities. In addition, the BSCC has assumed an increase in responsibilities related to local facility construction and grant management. In assessing the BSCC's assumption of responsibilities related to 2011 public safety realignment data, the Legislature may wish to consider allocating responsibility across multiple entities to take advantage of academic or private resources.

As noted above, despite the addition of five research positions and the direction of the 2013-14 budget act that the BSCC provide a plan for building its clearinghouse and technical assistance capacity in order to assist state and local corrections with selecting, implementing, and evaluating evidence-based programs, services, and treatment practices, the BSCC has failed to provide such a plan. Instead, the BSCC submitted a general discussion of their establishment of a Standing Committee on Research and Data and the fact that it currently has not developed a set of data priorities or a plan for carrying out their mission as a clearinghouse for criminal justice information.

Issue 2: Community Corrections Partnership Plans Update

Background. Since 2011, the Board of State and Community Corrections (BSCC) has been the repository for the Community Corrections Partnership (CCP) Plans developed by each county to implement the provisions of public safety realignment. Since January 1, 2013, the BSCC is required annually to collect and analyze available data regarding the implementation of local plans and other outcome-based measures. As of July 1, 2013, the BSCC is required to provide the Governor and the Legislature with an annual report on the implementation of the plans.

Community Corrections Partnerships (CCP). In 2009, the Legislature passed, and the Governor signed, the California Community Corrections Performance Incentive Act (SB 678 [Leno], Chapter 608, Statutes of 2009). In part, that legislation created CCPs in each county. The CCPs were tasked with advising the counties in adopting evidence-based programs designed to reduce the number of individuals that each county sent to state prison. CCPs are chaired by the county chief probation officers and are made up of the following members:

1. The presiding judge of the superior court, or his or her designee.
2. A county supervisor or the chief administrative officer for the county.
3. The district attorney.
4. The public defender.
5. The sheriff.
6. A chief of police.
7. The head of the county department of social services.
8. The head of the county department of mental health.
9. The head of the county department of employment.
10. The head of the county alcohol and substance abuse programs.
11. The head of the county office of education.
12. A representative from a community-based organization with experience in successfully providing rehabilitative services to persons who have been convicted of a criminal offense.
13. An individual who represents the interests of victims.

With the implementation of public safety realignment in 2011, the role of the CCPs was expanded to require CCPs to recommend a local plan to the county board of supervisors for the implementation of realignment. The realignment legislation, AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, required each county's local CCP to form an executive committee to develop and recommend a local plan to the county board of supervisors. Consistent with local needs and resources, the plan could include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including, but not limited to, day reporting centers, drug courts, residential multiservice centers, mental health treatment programs, electronic and GPS monitoring programs, victim restitution programs, counseling programs, community service programs, educational programs, and work training programs.

CCP plans are voted on by the executive committee of each county's CCP, which consists of the chief probation officer of the county as chair, a chief of police, the sheriff, the district attorney, the public defender, the presiding judge of the superior court, or his or her designee, and one department representative from the head of the county department of social services, the head of the county department of mental health or the head of the county alcohol and substance abuse programs, as designated by the county board of supervisors for purposes related to the development and presentation of the plan. CCP plans are deemed to be accepted by the county board of supervisors, unless rejected by a vote of four-fifths of the board, in which case the plan goes back to the CCP executive committee for further consideration.

Questions for the Administration. The Administration should be prepared to provide information on how counties are implementing realignment, including which counties are implementing innovative and evidence-based programs, designed to reduce the jail populations. In addition, the Administration should be prepared to address the following questions:

1. What types of variation have you seen among the counties in terms of their approaches to realignment?
2. Are some counties employing more evidence-based sanctions and programs than other counties? If so, have you done any analysis of the results of the different approaches?
3. Based on your analysis, have you found any changes to realignment or additional performance incentives that the Legislature should consider implementing in order to improve local outcomes and further reduce the jail and prison populations?
4. Have you found the make-up of the CCPs to be appropriate for developing the implementation plans and fulfilling their statutory requirements?

Issue 3: Extension of Realignment Training Funds

Spring Finance Letter Request. The Administration submitted a Spring Finance Letter requesting an extension of the deadline for spending \$2 million in statewide Public Safety Realignment training funds appropriated in the 2011 and 2012 budget acts. Any unspent funds are scheduled to revert to the General Fund after June 30, 2015. This letter requests that the date be moved to June 30, 2018.

Background. The foundations of the statewide associations of the counties, probation chiefs, and sheriffs shared in two, one-time General Fund appropriations to support statewide training to counties on the implementation of 2011 Public Safety Realignment AB 109 (Committee on Budget), Chapter 15, Statutes of 2011. The 2011-12 Budget Act provided a first round of \$1 million, which the three foundations, through a jointly-established governing board, decided to pool and deploy in a coordinated fashion. The 2012-13 Budget Act appropriated a second round of \$1 million, which the three foundations opted to keep segregated and are using for individual association-defined training priorities and strategies.

The governing board provided direction to the three associations – which have designated themselves as the Joint Training Partnership (JTP) – on priority training needs. In the intervening two and a half years, the JTP training efforts have reached thousands of county officials and other key stakeholders across a range of disciplines – county supervisors and administrators, probation chiefs, sheriffs, district attorneys, public defenders, judges and court executives, police chiefs, behavioral health directors, other social service officials, as well as a broad array of sheriff and probation mid-level management and line staff. JTP trainings also are open to other interested stakeholders – including legislators, legislative policy and budget staff, state agency personnel and industry officials. In the three jointly sponsored statewide conferences offered by the JTP, more than 1,500 attendees have gathered in Sacramento to share best practices, focus on collaboration, and explore data-driven, evidence-based practices. The JTP is building a successful training “brand,” and its course offerings tend to draw participation from across the state – including representation from a range of disciplines and regions of the state. Additional details on the training initiatives are provided below.

Each statewide association is deploying the second round of funding independently. The deadline to expend both the first and second rounds of funding is June 30, 2015. The associations are seeking an extension of the expenditure authority through June 30, 2018.

Questions for the Administration. The Administration should be prepared to present the proposal and address the following questions:

1. How much of the funding has been spent to date?
2. Are the associations currently having difficulty expending the training funds? If so, why?
3. Why do you anticipate it taking three additional years to expend the remaining realignment training funding?

Staff Comment. No concerns have been brought to the subcommittee’s attention regarding this Spring Finance Letter.

Issue 4: Statewide Correctional Officer Job Analysis BCP

Governor's Budget Proposal. The Governor's budget proposes a one-time \$410,000 increase in spending authority from the Corrections Training Fund for BSCC to conduct a job analysis of the Adult Corrections Officer, Juvenile Corrections Officer and Probation Officer classifications working in city and county jails, local juvenile facilities, and probation departments. The intent of this study is to establish appropriate selection and training standards for those positions.

Questions for the Administration. The Administration should be prepared to present the proposal, describe the elements of the analysis in detail, and address the following questions:

1. Once the analysis is completed, will the information be purely advisory for the counties or does BSCC have the authority to impose requirements on counties?
2. Will the analysis include information on the educational levels of current community corrections officers and probation officers?
3. Will the analysis provide detailed information on the training being provided by each county?
4. Has the BSCC gathered any information on the training currently being provided by counties for their custodial staff? If so, please provide that information to the subcommittee.

Issue 5: Jail Construction Funding

Governor's Budget. The Governor's budget proposes an additional \$500 million in lease-revenue bond financing for "SB 1022-type" facilities. The proposal would give priority to county applications for construction funding that include documentation that the county uses a risk assessment instrument to determine who to release pending trial in order to reduce overcrowding in the jails. The General Fund payments on these bonds would be approximately \$41 million per year over a 25-year period. Once fully paid off, the cost to the state General Fund will be a total of approximately \$1 billion.

Background. Since 2007, the Legislature has approved two measures authorizing a total of \$1.7 billion in lease-revenue bonds to fund the construction and modification of county jails. Assembly Bill 900 (Solorio), Chapter 7, Statutes of 2007, provided \$1.2 billion to help counties address jail overcrowding. SB 1022 (Committee on Budget and Fiscal Review), Chapter 42, Statutes of 2012, authorized an additional \$500 million to help counties construct and modify jails to accommodate longer-term inmates who would be shifted to county responsibility under the 2011 realignment of lower-level offenders. The Board of State and Community Corrections (BSCC) is responsible for managing the jail construction funding program authorized by these measures, which includes developing requests for proposals, rating applications, awarding and administering funds, and overseeing compliance with the conditions of the awards. The State Public Works Board (SPWB) is tasked with issuing the bonds, as well as approving and overseeing the scope and cost of approved projects.

Lease-Revenue Bond Financing. Bond financing is a type of long-term borrowing that state and local governments frequently use to raise money, primarily for long-lived infrastructure assets. They obtain this money by selling bonds to investors. In exchange, they promise to repay this money, with interest, according to specified schedules. The interest the state has to pay investors on the bonds it issues for public infrastructure is exempt from their federal and state income taxes, which makes the state's interest costs on the bonds less than it otherwise would be. Unlike general obligation bonds backed by the full faith and credit of the state, lease-revenue bonds are not, and they may be authorized by law without voter-approval.

The Long-Term Cost of Bond Financing. Funding infrastructure through the use of bonds is significantly more costly than direct appropriations, due to the interest that has to be paid. This extra cost depends primarily on the interest rate and the time period over which the bonds have to be repaid. For example, in the case of the \$1.7 billion already provided for local jail construction, if the terms of the bond require payment over 25 years, the General Fund impact will be approximately \$137 million per year in debt service payments. By the time the bonds are repaid, they will have cost approximately \$3.4 billion in General Fund. In this case, since the funding is for local jails, the buildings funded by the bonds are not state assets; they will belong to the counties.

AB 900 (Solorio), Chapter 7, Statutes of 2007. AB 900, as amended by subsequent legislation, authorized funding in two phases. Under the first phase, AB 900 required counties applying for a grant to fund at least 25 percent of the construction project's costs. In deciding which counties would be awarded funding under the first phase, the bill required the state to

give preference to those counties that agreed to help site a state reentry facility or provide mental health treatment to former parolees. (The Legislature later eliminated funding for the construction of state reentry facilities, and counties who received awards were not required to fulfill this requirement.) Counties receiving funds under the second phase of AB 900 must provide a 10 percent match, and preference for awards was given to counties who committed the most inmates to state prison in 2010. Under both AB 900 and SB 1022 (discussed below), counties with populations of less than 200,000 can request an exemption from the statutorily-required match.

The BSCC has approved 20 jail construction projects under the first two phases of AB 900. The BSCC estimates suggest that these construction projects will result in a total of about 10,000 jail beds, as well as make improvements at existing jails. Some of the 10,000 beds will be replacements for existing beds and do not result in additional capacity. The following table provides detail on those construction projects.

AB 900 Jail Construction Funding

(Dollar Amounts in Millions)

County	Award Amount	Number of Beds	Estimated Completion Date
Phase I			
Amador	\$23	165	To be determined
Calaveras	\$26	160	August 2013
Madera	\$30	144	September 2013
San Bernardino	\$100	1,368	January 2014
San Diego	\$100	1,270	2016
San Luis Obispo	\$25	198	2015
Solano	\$62	362	April 2014
Total	\$366	3,667	
Phase II			
Imperial	\$33	228	tbd
Kings	\$33	252	April 2016
Los Angeles	\$100	1,604	tbd
Madera	\$3	1	September 2013
Monterey	\$80	576	tbd
Orange	\$100	512	tbd
Riverside	\$100	1,250	tbd
Santa Barbara	\$80	376	February 2018
Siskiyou	\$24	150	tbd
Stanislaus	\$80	456	December 2016
Sutter	\$10	42	tbd
Tulare	\$60	514	tbd
Yolo	\$36	161	tbd
Total	\$739	6,122	
Total Both Phases	\$1,105	9,789	

SB 1022 (Committee on Budget and Fiscal Review), Chapter 42, Statutes of 2012. SB 1022 authorized an additional \$500 million in lease-revenue bonds to fund the construction of local jail facilities. As with AB 900, this legislation required BSCC to administer the program with consideration given to counties that are seeking to replace existing compacted, outdated, or unsafe housing capacity or seeking to renovate existing buildings or build new facilities that provide adequate space for the provision of treatment and rehabilitation services, including mental health treatment. In addition, the legislation specified that a participating county could only add capacity using this authority if it clearly documented an existing housing capacity deficiency and does not lease housing capacity to any other public or private entity for 10 years. As with AB 900, counties applying for jail construction funding under SB 1022 will have to provide a 10 percent match, and awards will be given to counties who are determined by BSCC to be the most prepared to successfully proceed with their projects in a timely manner.

Thirty-six counties applied for construction funding through SB 1022, asking for a total of \$1.3 billion in funding. Of those proposals, 15 counties were awarded funding on January 16, 2014. The following two tables provide detail on all of the counties that submitted funding applications and those projects that were awarded funding.

SB 1022 Total Funding Application Requests
(Amounts in Millions)

County	Requested Amount	Awarded Amount
Butte	\$40	\$0
Colusa	\$15	\$0
Contra Costa	\$80	\$0
Del Norte	\$9	\$0
Fresno	\$79	\$79
Glenn	\$14	\$0
Humboldt	\$18	\$0
Imperial	\$18	\$0
Kings	\$20	\$20
Lake	\$20	\$20
Los Angeles	\$80	\$0
Madera	\$19	\$0
Mendocino	\$10	\$0
Merced	\$40	\$0
Modoc	\$8	\$0
Monterey	\$23	\$0
Napa	\$13	\$13
Orange	\$80	\$80
Riverside	\$80	\$0
Sacramento	\$80	\$57
San Bernardino	\$80	\$0
San Francisco	\$80	\$0
San Joaquin	\$40	\$33
San Mateo	\$24	\$24
Santa Barbara	\$39	\$39
Santa Cruz	\$25	\$25
Shasta	\$20	\$20
Solano	\$23	\$23
Sonoma	\$24	\$0
Stanislaus	\$40	\$0
Tehama	\$20	\$7
Trinity	\$16	\$0
Tulare	\$40	\$40
Tuolumne	\$20	\$20
Ventura	\$41	\$0
Yolo	\$40	\$0
Total	\$1,318	\$500

SB 1022 Funding Awards
(Dollar Amounts in Millions)

County	Award Amount	Number of Beds	Additional Construction or Renovation
Fresno	\$79	300	Program space, medical/mental health services, video visitation, laundry
Kings	\$20	24	Kitchen, vocational space, program rooms
Lake	\$20	79	Stand-alone medical/mental health building, administration building
Napa	\$13	18	Counseling rooms, job search rooms, warming/prep kitchen
Orange	\$80	384	Program space, warehouse and maintenance structures
Sacramento	\$57	26	Mental health treatment building, kitchen, laundry, pharmacy, program space
San Joaquin	\$33	384	Classrooms, vocational space, education program center, medical exam rooms
San Mateo	\$24	46	Mental health treatment center, mental health wellness pod, recreation yard
Santa Barbara	\$39	228	Treatment and program space for transitional re-entry
Santa Cruz	\$25	64	Transitional housing unit, program and vocational space, security upgrades
Shasta	\$20	64	Behavioral program space, medical screening, counseling room, intake
Solano	\$23	-	New programming facility
Tehama	\$7	64	Day reporting center, program space
Tulare	\$40	384	Day reporting center, vocational training center
Tuolumne	\$20	198	Service rooms, exercise yards, security center, kitchen, laundry, intake
Total	\$500	2,263	

Realignment. In 2011, the state approved a broad realignment of public safety, health, and human services programs from state to local responsibility. Included in this realignment were sentencing law changes requiring that certain lower-level felons be managed by counties in jails and under community supervision, rather than sent to state prison. Generally, only felony offenders who have a current or prior offense for a violent, serious, or sex offense are sentenced to serve time in a state prison. Conversely, lower-level felons convicted of non-violent, non-serious, and non-sex-related crimes (colloquially referred to as “non-non-nons”) serve time in local jails under realignment. In addition, of those felons released from state prison, generally only those with a current violent or serious offense are supervised in the

community by state parole agents, with other offenders supervised by county probation departments. Responsibility for housing state parole violators was also shifted from state prisons to county jails.

County Jail Population. After reaching a high of 84,000 inmates in September 2007, the monthly average daily jail population (ADP) declined steadily to a low of 69,000 in May 2011—a decrease of over 17 percent. After realignment, the jail population began to rise and now stands at approximately 82,000 inmates. Of those inmates, 51,000 are awaiting sentencing. Based on the BSCC's Jail Profile Survey from the 2nd Quarter of 2013, the percentage of inmates in jail awaiting sentencing varies among counties from a high of 83 percent to a low of around 50 percent for larger counties. The statewide average is 63 percent, down from a high of 71 percent in 2010.

According to data provided by the California Probation Officers of California (CPOC), between October 2012 and March 2013, the ADP for realigned inmates incarcerated in county jails was approximately 15,000 inmates. The state and counties are still in the process of determining the average length of jail sentences for the realigned population.

Questions for the Administration. The Administration should be prepared to present the proposal and address the following questions:

1. Besides noting the amount initially requested by counties for SB 1022 jail construction funding, what analysis did the Administration do to determine that counties needed \$500 million more in jail construction funding?
2. The budget proposes establishing “SB 1022-like” requirements for the jail construction funding. However, no language has been provided detailing what the SB 1022-like requirements would be. Please provide that detail to the subcommittee. If it is not available, please explain why and when the Legislature can expect the details?
3. Did the Administration consider broadening the use of local construction grants to allow county boards of supervisors to analyze their local needs in terms of reducing their jail population? For example, perhaps certain counties are in need of treatment beds, mental health facilities or transitional housing, the availability of which might allow them to reduce their jail population and provide much needed services. Wouldn't such an approach be more in keeping with the spirit of local control envisioned under realignment?
4. Has the Administration considered requiring that counties use risk assessments for the people in jail who are waiting to stand trial?
5. Additionally, has the Administration looked at requiring counties to develop Restoration of Custody (ROC) programs in all of their jails to better deal with the large numbers of mentally ill individuals who are incarcerated for an extended amount of time because they are found to be incompetent to stand trial and beds are not available in the state hospitals?

Legislative Analyst's Office (LAO). It is clear that realignment has resulted in an increase in the county jail population and that some county jails are not currently designed to house long-term offenders. Thus, there is likely a need for funding to support additional county jail projects. However, the Administration has not provided a detailed analysis regarding the magnitude of either programming or capacity needs and the extent to which the Governor's proposal would meet these needs. For example, the Administration has not provided an estimate of the number of additional jail beds counties need or the amount of additional rehabilitation program or health service space needed. Although the population currently exceeds capacity at some jails, we note that few of the grant projects funded from Chapter 42 monies have yet been built.

According to BSCC, it received a total of \$1.2 billion in grant requests in 2013 for jail construction that it did not fund. Although this information could suggest that the current need for additional jail funding potentially exceeds \$500 million, it is insufficient to assess the true extent of the problem. This is because it is unclear whether counties that are requesting additional jail construction funding have:

- **Maximized Alternatives to Increasing Jail Space.** Counties have significant influence over the size of their jail populations. Specifically, counties can use various tools to reduce jail populations, such as split sentences, probation, alternatives to incarceration, rehabilitation programs, flash incarceration, and aggressive pretrial release. Counties can also take other steps, such as contracting for jail space in other county jails. Counties that have not employed such tools may not necessarily need state funds for jail construction to address their jail capacity needs.
- **Planned to Make Effective Use of Program Space.** It is also unclear on the extent to which counties are requesting funding to build facilities that would be used in an effective manner. In particular, while many counties indicate they need additional program space in their jails, such space may not necessarily be used to deliver programs that can be demonstrated to be effective.
- **Identified Local Funding Sources.** In addition, it is unclear to what extent counties have attempted to identify local funding sources to address their jail construction needs.

The absence of such analysis make it more difficult for the Legislature to assess what infrastructure needs counties lack and whether the proposed \$500 million in the Governor's budget for jail construction is needed, or if a different amount would be appropriate.

LAO Recommendation. The LAO recommends that the Legislature request additional information from the Administration justifying the \$500 million in lease-revenue bonds proposed for jail construction. Specifically, they recommend directing the Administration to conduct an analysis of the extent to which counties need additional jail funding. Such an analysis should include an assessment of (1) the extent to which counties have maximized use of existing jail space, (2) how effectively counties plan to use any proposed space for rehabilitation programs, and (3) the ability of counties to fund jail construction with local resources.

Staff Comments

Does the State Need to Invest in More Jail Construction? As noted by the Legislative Analyst's Office in their *Overview of the Governor's Budget*, the Administration has not yet provided an analysis of county jail needs or other rationale for why the level of funding proposed is needed for jail projects or what criteria would be used to award the lease-revenue funding. For example, it is not clear whether funding would be awarded in a manner to alleviate crowding or to build additional facility space for programs, such as substance abuse treatment classes. Without such information, it will be difficult for the Legislature to assess whether the additional funding will be allocated in a manner that is cost effective and in line with state priorities. The Legislature should consider requiring the Board of State and Community Corrections (BSCC) provide a needs assessment before approving any additional jail construction funding.

Are These the Right Local Facilities In Which to Invest? Rather than adding \$500 million in lease-revenue bond financing to the \$1.7 billion that is currently being distributed, the Legislature may want to consider following the examples of states like Texas, that chose to invest in building treatment facilities rather than expanding capacity. Texas found that by adding probation and parole treatment beds, halfway house beds, mental health pre-trial diversion beds, and outpatient drug treatment slots, along with increased funding for programs, they were able to reduce their prison population and save money. Studies by the Texas Public Policy Foundation found that the alternatives to incarceration implemented since 2007-08 had reduced the incarceration rate by 4.5 percent, while nationally the average state incarceration rate increased by almost one percent.

Issue 6: Public Safety Trailer Bill

Governor's Proposal. The Administration has proposed trailer bill language related to state and local public safety issues.

The proposals for the subcommittee's consideration are:

1. **Custody Credits for Electronic Monitoring/Work Furlough**—Eliminates the discrepancy in credit earning eligibility at the local level, allowing participants in electronic monitoring and/or work furlough programs to earn credits at the same rate, whether their participation is voluntarily or involuntarily.
2. **Allocations for Law Enforcement Services Account Programs – Juvenile Reentry Grant Minimums**—Clarifies that under public safety realignment the \$15,000 minimum per juvenile is no longer guaranteed because under realignment there is a fixed amount of available funding based upon dedicated revenues rather than upon caseload. Under realignment, JRG allocations will vary based upon the amount of funding deposited into the special account.
3. **Enhancing Law Enforcement Activities Subaccount (ELEAS) Cleanup**—The current allocation percentages for each program under Penal Code Section 13821 total 100.00000001 percent. These programs are within the ELEAS in the Law Enforcement Services Account within the Local Revenue Fund 2011. The proposed language reduces the High Technology Theft Apprehension and Prosecution Program in order to correct the error.
4. **Felony Disposition Data for Youthful Offender Block Grant (YOBG)**—Requires the Department of Justice to annually provide the number of juvenile felony court dispositions by county for the previous calendar year. This information needs to be collected annually in order to provide for the timely allocation of YOBG funding. The current language only refers to the “most recent data.”
5. **Funding for the Administrative Office of the Courts for SB 678 and Realignment Data Collection**—Specifies that the \$1 million appropriation for the Administrative Office of the Courts for SB 678 and realignment data collection is an annual appropriation. Existing statute states that the current appropriation is available for encumbrance and expenditure only until June 30, 2014.

6. **Mandatory Supervision Beginning Upon Release Technical Clean-Up**—SB 76 amended penal code 1170(h) to clarify that the period of mandatory supervision begins upon release from custody. While SB 76 applied the change to the section that became operative on January 1, 2014, SB 463 was subsequently chaptered to change the operative date to January 1, 2017. Therefore, the amendment in SB 76 needs to be applied to the section that is now operative until January 1, 2017, as well.
7. **Delete the Sunset for the County-to-County Transfer of Inmates**—Make permanent the authority to allow a county to contract with another county for the housing of their inmates.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



OUTCOMES

Thursday, May 8, 2014
9:30 a.m. or upon adjournment of Session
Room 113

Consultant: Julie Salley-Gray

Items Proposed for Vote-Only

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

PROPOSED FOR VOTE ONLY**Office of the State Public Defender**

1. **State Public Defender (SPD) Augmentation for Rent Cost Increases.** The Governor's budget proposes a four-year \$175,000 incremental increase in the SPD's budget to offset the increases in the SPD's Oakland office lease. The request is for \$45,000 for 2014-15, \$40,000 for 2015-16, \$58,000 for 2016-17, and \$32,000 for 2017-18.

Board of State and Community Corrections

2. **State Fire Marshal Fees.** The Governor's budget proposes a \$516,000 (General Fund) augmentation for the Board of State and Community Corrections (BSCC) to augment its baseline budget for services charged by the Office of the State Fire Marshal for plan review activities and fire and life safety inspections for state-financed local jail construction programs administered by the BSCC.

Department of Corrections and Rehabilitation

3. **Sex Offender Management Board Spring Finance Letter.** The Administration submitted a Spring Finance Letter requesting two, two-year, limited-term positions and \$311,000 (General Fund) for the training requirements and workload increases imposed by Chelsea's Law (Chapter 219, Statutes of 2010) for the California Sex Offender Management Board and the State Authorized Risk Assessment Tools for Sex Offenders.
4. **CalPIA Janitorial Services BCP.** The Governor's budget proposes to expand the California Medical Facility (CMF) pilot project regarding the cleaning of correctional health care facilities on a statewide basis. Specifically, the budget proposes a \$14.5 million General Fund augmentation for 2014-15, which would increase to \$19.5 million in 2015-16, for the receiver to enter into a statewide health care facility janitorial contract with the California Prison Industry Authority (CalPIA). By contrast, without this proposal the receiver's office would likely spend around \$8 million to keep health care spaces in the prisons clean. The Governor's budget also proposes the elimination of 83 receiver staff positions in 2014-15, as the CalPIA contract will replace existing receiver janitorial resources. The budget proposes to transfer these janitorial positions to CalPIA. In addition, the proposal includes one full-time staff position for program oversight, and anticipates employing 628 trained inmate laborers. The statewide contract cost will be approximately \$28 million in 2015-16 (upon full implementation), which translates to a cost of \$1.38 per square foot serviced. (For more detail, see the 5/1/14 subcommittee agenda.)

5. **Medical Classification Staffing Model BCP.** The Governor's budget requests the reduction of 148 positions and the approval of the implementation of a new population methodology that will be used to adjust medical staffing based upon patient-inmate acuity and each institution's medical mission. There is no salary savings associated with the reduction in positions. The savings were already captured through the reduction in the prison population due to realignment. (For more detail, see the 5/1/14 subcommittee agenda.)
6. **Armstrong Compliance BCP.** The Governor's budget requests 42 full-time, permanent positions and \$4 million (General Fund) in order to assist in complying with the Armstrong Remedial Plan and the requirements of the Americans with Disabilities Act (ADA). (For more detail, see the 5/1/14 subcommittee agenda.)
7. **Armstrong Spring Finance Letter.** The Administration submitted a Spring Finance Letter requesting a one-time augmentation of \$17.5 million (General Fund) to begin construction of ADA improvements at four prisons and to begin the design phase for improvements at 15 additional institutions. (For more detail, see the 5/1/14 subcommittee agenda.)
8. **Medical Inspections BCP.** The Governor's budget proposes a \$1.262 million (General Fund) augmentation to establish four permanent positions in the Medical Inspections Unit of the Office of the Inspector General (OIG) to evaluate medical care provided to inmates in state prison. In addition, the budget proposes reducing the California Correctional Health Care Services (CCHCS) budget by \$645,000 (General Fund) and two positions. The net cost of the proposal is \$617,000. (For more detail, see the 5/1/14 subcommittee agenda.)
9. **Pharmaceuticals Augmentation BCP.** The Governor's budget proposes adjustments to the inmate pharmaceutical budget for both the current and budget years. For 2013-14, the budget proposes to reduce the current-year pharmaceutical budget to \$168 million. For 2014-15, and ongoing, the budget proposes \$161 million for inmate pharmaceuticals. This \$161 million budget would become the new baseline for the receiver's pharmaceutical spending, establishing an ongoing budget based on current purchasing and prescribing practices. (For more detail, see the 5/1/14 subcommittee agenda.)

Action: Approved Items 1 through 9

Vote: 3 – 0

Items to be Heard

5227 Board of State and Community Corrections

Originally, the Board of Corrections (BOC) was established in 1944 as part of the state prison system. Effective July 1, 2005, as part of the corrections agency consolidation, the Corrections Standards Authority (CSA) was created within the California Department of Corrections and Rehabilitation (CDCR) by bringing together the BOC and the Correctional Peace Officers Standards and Training (CPOST) commission. The reorganization consolidated the duties and functions of the BOC and CPOST and entrusted the CSA with new responsibilities.

Legislation associated with the 2011 Budget Act abolished the CSA and established the Board of State and Community Corrections (BSCC or board) as an independent entity, effective July 1, 2012. The BSCC absorbed the previous functions of the CSA as well as other public safety programs previously administered by the California Emergency Management Agency (CalEMA). Specific statutory changes included:

- Abolishing the CSA within CDCR and established the BSCC as an independent entity.
- Transferring the powers and duties of the CSA to the BSCC.
- Transferring certain powers and duties from the California Emergency Management Agency (CalEMA) to the BSCC.
- Eliminating the California Council on Criminal Justice and assigning its powers and duties to the Board.

Assuming the responsibilities of the CSA, the BSCC works in partnership with city and county officials to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities and for the employment and training of local corrections and probation personnel. The BSCC also inspects local adult and juvenile detention facilities, administers funding programs for local facility construction, administers grant programs that address crime and delinquency, and conducts special studies relative to the public safety of California's communities.

As part of the 2011 Budget Act legislation, the BSCC was tasked with providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system. Particularly, the BSCC coordinates with, and assists local governments, as they implement the realignment of many adult offenders to local government jurisdictions that began in 2011. The intent is for the BSCC to guide statewide public safety policies and ensure that all available resources are maximized and directed to programs that are proven to reduce crime and recidivism among all offenders.

The BSCC is an entity independent from CDCR. However, the BSCC is chaired by a local law enforcement representative and the Secretary of the CDCR serves as its vice chair. The BSCC consists of 13 members, streamlined from both its immediate predecessor (CSA), with 19 members, and its former predecessor (BOC), which had 15 members. Members reflect state, local, judicial, and public stakeholders. The current members of the BSCC are:

Linda Penner	Chair
Jeffrey Beard	Secretary of CDCR
Daniel Stone	Director of Adult Parole Operations, CDCR
Dean Growdon	Sheriff of Lassen County
Geoff Dean	Sheriff of Ventura County
Susan Mauriello	County Administrative Officer, Santa Cruz County
Michelle Brown	Chief Probation Officer, San Bernardino County
Adele Arnold	Chief Probation Officer, Tuolumne County
William R. Pounders	Retired Judge, Los Angeles County
David L. Maggard Jr.	Chief of Police, City of Irvine
Scott Budnick	Founder of the Anti-Recidivism Coalition
David Steinhart	Director of Juvenile Justice Program Commonweal
Mimi H. Silbert	Chief Executive Officer and President of Delancey Street Foundation

The Governor's Budget proposes total funding of \$134.2 million (\$44.9 million General Fund) and 84.3 positions for the BSCC.

(dollars in millions)

	Funding	Positions
Program 10 - Administration, Research and Program Support	\$ 4.6	24.0
Program 15 - Corrections Planning and Grant Programs	103.4	26.3
Program 20 - Local Facilities Standards, Operations, and Construction	3.4	21.0
Program 25 - Standards and Training for Local Corrections	22.8	13.0
BSCC Total	\$134.2	84.3

Issue 1: Public Safety Data Collection and Analysis

Background. One of the primary drivers in establishing the BSCC was the need for a state/local body that could serve as the backbone of California's public safety continuum. To facilitate local success, California needs to strategically coordinate support, foster local leadership, target resources, and provide technical assistance.

Pursuant to the establishing statute, the BSCC is charged with collecting and maintaining available information and data about state and community correctional policies, practices, capacities, and needs; including, but not limited to, prevention, intervention, suppression, supervision, and incapacitation, as they relate to adult corrections, juvenile justice, and gang problems. The BSCC is required to collect and make publicly available up-to-date data and information reflecting the impact of state and community correctional, juvenile justice, and gang-related policies and practices enacted in the state, as well as information and data concerning promising and evidence-based practices from other jurisdictions.

At its January 17, 2013 meeting, the BSCC moved to establish the Data and Research Standing Committee in order to benefit the BSCC by providing expertise and stakeholder input in this subject area. In addition, the BSCC reported last spring that it was in the process of realigning staff and resources to be better positioned to address high-priority issues. From May 2012 through February 2013, the members of the BSCC identified priorities, which they utilized as the basis of a strategic plan being developed by the BSCC staff. Through a collaborative strategic planning process with the Crime and Justice Institute, BSCC developed the following four goals:

1. Collect, analyze, and report corrections data in a manner that meets mandates and informs effective policy and practice at the state and local level.
2. Support the implementation of best practices and policies to produce better outcomes for the criminal justice system and provide comprehensive training and technical assistance.
3. Promote the effective utilization of local corrections facilities and quality alternatives to incarceration to maximize public safety and resource efficiency.
4. Serve as a primary information source on managing criminal and juvenile populations.

2013-14 Budget Act Reporting Requirement. The 2013-14 Budget Act required the BSCC to submit a report to the Legislature by May 1, 2014, detailing the board's recommendations for how it plans to build its clearinghouse and technical assistance capacity for collecting and providing user-friendly information to assist the state and local corrections with selecting, implementing, and evaluating evidence-based or promising programs, services, and treatment practices for managing criminal offenders in the community. The report was also required to include information on how the board developed its recommendations.

On May 5, the BSCC submitted a 6-page paper to the Legislature that provided general information about the role that BSCC intends to play in terms of collecting and disseminating information on state and local criminal justice. Despite its existence since October of 2013, it does not appear from the information provided that the Standing Committee on Research and Data has established any data and research priorities. Nor have they determined the way in which the BSCC will assist the counties in managing their criminal justice populations or reducing recidivism.

Juvenile Justice Data. Along with a need for information on adult offenders, experts in the field of juvenile justice in California have long pointed out the serious lack of information and data on the youth in the state and local juvenile justice systems. Within the BSCC is a Juvenile Justice Standing Committee (JJSC). The 13 member committee includes juvenile justice practitioners and experts representing courts, law enforcement, probation, education, health, philanthropy, youth service and related disciplines. On February 13, 2014, the standing committee released a set of guiding principles for juvenile justice development in California. Among those principles is the following:

In terms of program development, the Principles are presented as an outline of points that deserve attention in the process of formulating programs for children and youth under justice system control. In particular, the principles cited in relation to data development and performance measures are included as statements of how the system could or should operate in a more efficient and more fully resourced future. . . .

5. Juvenile justice system interventions—including programs, facilities, placements, supervision and aftercare—should be monitored appropriately using standardized youth performance outcome measures for all California counties. These performance outcome measures should include, to the extent feasible, measures that go beyond simple recidivism by incorporating and addressing the broader developmental needs of youth under all forms of justice system control. . . .

6. The programs and sanctions implemented by state and local juvenile justice agencies should meet minimum and consistent criteria for program effectiveness. This means that publicly funded juvenile justice programs, facilities and services should be developed and implemented in a manner that is consistent with evidence-based principles for proven and promising practices. A coordinated and statewide effort by juvenile justice stakeholders is needed to guide the development of reasonable performance and quality assurance criteria for publicly funded juvenile justice programs, facilities and services. . . .

7. Juvenile justice performance measures at all levels of intervention must be supported by adequate, modern data systems. Data, including data on caseloads and case outcomes, should be maintained and reported in a consistent and accessible manner at the local and state levels. California's data systems in this regard are presently inadequate, necessitating a further and perhaps substantial investment to modernize and coordinate new data capacity across multiple agencies at the state and local government levels. . . .

8. Comprehensive aggregate data on the caseloads, operations, costs and outcomes of the California juvenile justice system, at the state and local levels, should be transparent and accessible to policymakers, stakeholders and members of the public. To the extent feasible, the information should be available through state-based websites, dashboards or clearinghouses where relevant information can be located and downloaded for multiple uses.

Questions for the Administration. The Administration should be prepared to provide an update on their data collection efforts, present the findings from the plan outlined in their upcoming report and address the following questions:

1. Please explain why the BSCC did not provide the Legislature with a detailed report that contained, among other information, data collection priorities, anticipated data collection efforts, timelines for implementation, information technology needs, and estimated costs.
2. In last year's budget, BSCC was provided with five research positions. Please tell the subcommittee when each of those positions was filled and describe, in detail, what hwat they have accomplished in that time.
3. When do you intend to actually develop and implement data plan and when can the counties and the Legislature expect to begin receiving data on realignment?
4. How does the BSCC propose measuring the successes and failures of the first three or four years of realignment without the appropriate data?
5. Please describe the BSCC's plans for facilitating the principles outlined in the JJSC's guiding principles, particularly those noted above that are directly related to outcome measures, data collection, and evidence-based interventions.
6. How does the BSCC intend to collect and disseminate much needed data on juveniles in our juvenile justice systems?
7. Is data on the state's juveniles who are being supervised by county probation departments being captured in the Child Welfare Services data collection efforts?

Staff Comment. Over two and a half years into public safety realignment, concerns continue to be raised that the state may be risking an opportunity to set and gather baseline and initial metrics and data that will be critical to assessing success and appropriately informing policymakers for future decisions. For instance, various bills, including budget trailer bill language, have been proposed that would impact or alter parts of the 2011 Public Safety Realignment. The data and analysis needed to make informed and objective decisions regarding these matters remains unavailable.

Although the BSCC was established on July 1, 2012, the BSCC's predecessor agencies had historic responsibilities centered on standards for the construction and operation of local jails

and juvenile detention facilities and for the employment and training of local corrections and probation personnel, facility inspection, and grant administration. The majority of the BSCC's personnel have carried over from the CSA and have experience and core competencies in these historic responsibilities. In addition, the BSCC has assumed an increase in responsibilities related to local facility construction and grant management. In assessing the BSCC's assumption of responsibilities related to 2011 public safety realignment data, the Legislature may wish to consider allocating responsibility across multiple entities to take advantage of academic or private resources.

As noted above, despite the addition of five research positions and the direction of the 2013-14 budget act that the BSCC provide a plan for building its clearinghouse and technical assistance capacity in order to assist state and local corrections with selecting, implementing, and evaluating evidence-based programs, services, and treatment practices, the BSCC has failed to provide such a plan. Instead, the BSCC submitted a general discussion of their establishment of a Standing Committee on Research and Data and the fact that it currently has not developed a set of data priorities or a plan for carrying out their mission as a clearinghouse for criminal justice information.

Action: Reduced the BSCC budget by \$385,608 (General Fund) and five positions (one research specialist V, one research specialist III, two research program specialists, and one research analyst I).

Vote: 3 – 0

Issue 2: Community Corrections Partnership Plans Update

Background. Since 2011, the Board of State and Community Corrections (BSCC) has been the repository for the Community Corrections Partnership (CCP) Plans developed by each county to implement the provisions of public safety realignment. Since January 1, 2013, the BSCC is required annually to collect and analyze available data regarding the implementation of local plans and other outcome-based measures. As of July 1, 2013, the BSCC is required to provide the Governor and the Legislature with an annual report on the implementation of the plans.

Community Corrections Partnerships (CCP). In 2009, the Legislature passed, and the Governor signed, the California Community Corrections Performance Incentive Act (SB 678 [Leno], Chapter 608, Statutes of 2009). In part, that legislation created CCPs in each county. The CCPs were tasked with advising the counties in adopting evidence-based programs designed to reduce the number of individuals that each county sent to state prison. CCPs are chaired by the county chief probation officers and are made up of the following members:

1. The presiding judge of the superior court, or his or her designee.
2. A county supervisor or the chief administrative officer for the county.
3. The district attorney.
4. The public defender.
5. The sheriff.
6. A chief of police.
7. The head of the county department of social services.
8. The head of the county department of mental health.
9. The head of the county department of employment.
10. The head of the county alcohol and substance abuse programs.
11. The head of the county office of education.
12. A representative from a community-based organization with experience in successfully providing rehabilitative services to persons who have been convicted of a criminal offense.
13. An individual who represents the interests of victims.

With the implementation of public safety realignment in 2011, the role of the CCPs was expanded to require CCPs to recommend a local plan to the county board of supervisors for the implementation of realignment. The realignment legislation, AB 109 (Committee on Budget), Chapter 15, Statutes of 2011, required each county's local CCP to form an executive committee to develop and recommend a local plan to the county board of supervisors. Consistent with local needs and resources, the plan could include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including, but not limited to, day reporting centers, drug courts, residential multiservice centers, mental health treatment programs, electronic and GPS monitoring programs, victim restitution programs, counseling programs, community service programs, educational programs, and work training programs.

CCP plans are voted on by the executive committee of each county's CCP, which consists of the chief probation officer of the county as chair, a chief of police, the sheriff, the district attorney, the public defender, the presiding judge of the superior court, or his or her designee, and one department representative from the head of the county department of social services, the head of the county department of mental health or the head of the county alcohol and substance abuse programs, as designated by the county board of supervisors for purposes related to the development and presentation of the plan. CCP plans are deemed to be accepted by the county board of supervisors, unless rejected by a vote of four-fifths of the board, in which case the plan goes back to the CCP executive committee for further consideration.

Questions for the Administration. The Administration should be prepared to provide information on how counties are implementing realignment, including which counties are implementing innovative and evidence-based programs, designed to reduce the jail populations. In addition, the Administration should be prepared to address the following questions:

1. What types of variation have you seen among the counties in terms of their approaches to realignment?
2. Are some counties employing more evidence-based sanctions and programs than other counties? If so, have you done any analysis of the results of the different approaches?
3. Based on your analysis, have you found any changes to realignment or additional performance incentives that the Legislature should consider implementing in order to improve local outcomes and further reduce the jail and prison populations?
4. Have you found the make-up of the CCPs to be appropriate for developing the implementation plans and fulfilling their statutory requirements?

Issue 3: Extension of Realignment Training Funds

Spring Finance Letter Request. The Administration submitted a Spring Finance Letter requesting an extension of the deadline for spending \$2 million in statewide Public Safety Realignment training funds appropriated in the 2011 and 2012 budget acts. Any unspent funds are scheduled to revert to the General Fund after June 30, 2015. This letter requests that the date be moved to June 30, 2018.

Background. The foundations of the statewide associations of the counties, probation chiefs, and sheriffs shared in two, one-time General Fund appropriations to support statewide training to counties on the implementation of 2011 Public Safety Realignment AB 109 (Committee on Budget), Chapter 15, Statutes of 2011. The 2011-12 Budget Act provided a first round of \$1 million, which the three foundations, through a jointly-established governing board, decided to pool and deploy in a coordinated fashion. The 2012-13 Budget Act appropriated a second round of \$1 million, which the three foundations opted to keep segregated and are using for individual association-defined training priorities and strategies.

The governing board provided direction to the three associations – which have designated themselves as the Joint Training Partnership (JTP) – on priority training needs. In the intervening two and a half years, the JTP training efforts have reached thousands of county officials and other key stakeholders across a range of disciplines – county supervisors and administrators, probation chiefs, sheriffs, district attorneys, public defenders, judges and court executives, police chiefs, behavioral health directors, other social service officials, as well as a broad array of sheriff and probation mid-level management and line staff. JTP trainings also are open to other interested stakeholders – including legislators, legislative policy and budget staff, state agency personnel and industry officials. In the three jointly sponsored statewide conferences offered by the JTP, more than 1,500 attendees have gathered in Sacramento to share best practices, focus on collaboration, and explore data-driven, evidence-based practices. The JTP is building a successful training “brand,” and its course offerings tend to draw participation from across the state – including representation from a range of disciplines and regions of the state. Additional details on the training initiatives are provided below.

Each statewide association is deploying the second round of funding independently. The deadline to expend both the first and second rounds of funding is June 30, 2015. The associations are seeking an extension of the expenditure authority through June 30, 2018.

Questions for the Administration. The Administration should be prepared to present the proposal and address the following questions:

1. How much of the funding has been spent to date?
2. Are the associations currently having difficulty expending the training funds? If so, why?
3. Why do you anticipate it taking three additional years to expend the remaining realignment training funding?

Staff Comment. No concerns have been brought to the subcommittee's attention regarding this Spring Finance Letter.

Action: Approved the proposed extension of the deadline to June 30, 2018.

Vote: 3 – 0

Issue 4: Statewide Correctional Officer Job Analysis BCP

Governor's Budget Proposal. The Governor's budget proposes a one-time \$410,000 increase in spending authority from the Corrections Training Fund for BSCC to conduct a job analysis of the Adult Corrections Officer, Juvenile Corrections Officer and Probation Officer classifications working in city and county jails, local juvenile facilities, and probation departments. The intent of this study is to establish appropriate selection and training standards for those positions.

Questions for the Administration. The Administration should be prepared to present the proposal, describe the elements of the analysis in detail, and address the following questions:

1. Once the analysis is completed, will the information be purely advisory for the counties or does BSCC have the authority to impose requirements on counties?
2. Will the analysis include information on the educational levels of current community corrections officers and probation officers?
3. Will the analysis provide detailed information on the training being provided by each county?
4. Has the BSCC gathered any information on the training currently being provided by counties for their custodial staff? If so, please provide that information to the subcommittee.

Action: Approved the Governor's proposal.

Vote: 3 – 0

Issue 5: Jail Construction Funding

Governor's Budget. The Governor's budget proposes an additional \$500 million in lease-revenue bond financing for "SB 1022-type" facilities. The proposal would give priority to county applications for construction funding that include documentation that the county uses a risk assessment instrument to determine who to release pending trial in order to reduce overcrowding in the jails. The General Fund payments on these bonds would be approximately \$41 million per year over a 25-year period. Once fully paid off, the cost to the state General Fund will be a total of approximately \$1 billion.

Background. Since 2007, the Legislature has approved two measures authorizing a total of \$1.7 billion in lease-revenue bonds to fund the construction and modification of county jails. Assembly Bill 900 (Solorio), Chapter 7, Statutes of 2007, provided \$1.2 billion to help counties address jail overcrowding. SB 1022 (Committee on Budget and Fiscal Review), Chapter 42, Statutes of 2012, authorized an additional \$500 million to help counties construct and modify jails to accommodate longer-term inmates who would be shifted to county responsibility under the 2011 realignment of lower-level offenders. The Board of State and Community Corrections (BSCC) is responsible for managing the jail construction funding program authorized by these measures, which includes developing requests for proposals, rating applications, awarding and administering funds, and overseeing compliance with the conditions of the awards. The State Public Works Board (SPWB) is tasked with issuing the bonds, as well as approving and overseeing the scope and cost of approved projects.

Lease-Revenue Bond Financing. Bond financing is a type of long-term borrowing that state and local governments frequently use to raise money, primarily for long-lived infrastructure assets. They obtain this money by selling bonds to investors. In exchange, they promise to repay this money, with interest, according to specified schedules. The interest the state has to pay investors on the bonds it issues for public infrastructure is exempt from their federal and state income taxes, which makes the state's interest costs on the bonds less than it otherwise would be. Unlike general obligation bonds backed by the full faith and credit of the state, lease-revenue bonds are not, and they may be authorized by law without voter-approval.

The Long-Term Cost of Bond Financing. Funding infrastructure through the use of bonds is significantly more costly than direct appropriations, due to the interest that has to be paid. This extra cost depends primarily on the interest rate and the time period over which the bonds have to be repaid. For example, in the case of the \$1.7 billion already provided for local jail construction, if the terms of the bond require payment over 25 years, the General Fund impact will be approximately \$137 million per year in debt service payments. By the time the bonds are repaid, they will have cost approximately \$3.4 billion in General Fund. In this case, since the funding is for local jails, the buildings funded by the bonds are not state assets; they will belong to the counties.

AB 900 (Solorio), Chapter 7, Statutes of 2007. AB 900, as amended by subsequent legislation, authorized funding in two phases. Under the first phase, AB 900 required counties applying for a grant to fund at least 25 percent of the construction project's costs. In deciding which counties would be awarded funding under the first phase, the bill required the state to

give preference to those counties that agreed to help site a state reentry facility or provide mental health treatment to former parolees. (The Legislature later eliminated funding for the construction of state reentry facilities, and counties who received awards were not required to fulfill this requirement.) Counties receiving funds under the second phase of AB 900 must provide a 10 percent match, and preference for awards was given to counties who committed the most inmates to state prison in 2010. Under both AB 900 and SB 1022 (discussed below), counties with populations of less than 200,000 can request an exemption from the statutorily-required match.

The BSCC has approved 20 jail construction projects under the first two phases of AB 900. The BSCC estimates suggest that these construction projects will result in a total of about 10,000 jail beds, as well as make improvements at existing jails. Some of the 10,000 beds will be replacements for existing beds and do not result in additional capacity. The following table provides detail on those construction projects.

AB 900 Jail Construction Funding
(Dollar Amounts in Millions)

County	Award Amount	Number of Beds	Estimated Completion Date
Phase I			
Amador	\$23	165	To be determined
Calaveras	\$26	160	August 2013
Madera	\$30	144	September 2013
San Bernardino	\$100	1,368	January 2014
San Diego	\$100	1,270	2016
San Luis Obispo	\$25	198	2015
Solano	\$62	362	April 2014
Total	\$366	3,667	
Phase II			
Imperial	\$33	228	tbd
Kings	\$33	252	April 2016
Los Angeles	\$100	1,604	tbd
Madera	\$3	1	September 2013
Monterey	\$80	576	tbd
Orange	\$100	512	tbd
Riverside	\$100	1,250	tbd
Santa Barbara	\$80	376	February 2018
Siskiyou	\$24	150	tbd
Stanislaus	\$80	456	December 2016
Sutter	\$10	42	tbd
Tulare	\$60	514	tbd
Yolo	\$36	161	tbd
Total	\$739	6,122	
Total Both Phases	\$1,105	9,789	

SB 1022 (Committee on Budget and Fiscal Review), Chapter 42, Statutes of 2012. SB 1022 authorized an additional \$500 million in lease-revenue bonds to fund the construction of local jail facilities. As with AB 900, this legislation required BSCC to administer the program with consideration given to counties that are seeking to replace existing compacted, outdated, or unsafe housing capacity or seeking to renovate existing buildings or build new facilities that provide adequate space for the provision of treatment and rehabilitation services, including mental health treatment. In addition, the legislation specified that a participating county could only add capacity using this authority if it clearly documented an existing housing capacity deficiency and does not lease housing capacity to any other public or private entity for 10 years. As with AB 900, counties applying for jail construction funding under SB 1022 will have to provide a 10 percent match, and awards will be given to counties who are determined by BSCC to be the most prepared to successfully proceed with their projects in a timely manner.

Thirty-six counties applied for construction funding through SB 1022, asking for a total of \$1.3 billion in funding. Of those proposals, 15 counties were awarded funding on January 16, 2014. The following two tables provide detail on all of the counties that submitted funding applications and those projects that were awarded funding.

SB 1022 Total Funding Application Requests
(Amounts in Millions)

County	Requested Amount	Awarded Amount
Butte	\$40	\$0
Colusa	\$15	\$0
Contra Costa	\$80	\$0
Del Norte	\$9	\$0
Fresno	\$79	\$79
Glenn	\$14	\$0
Humboldt	\$18	\$0
Imperial	\$18	\$0
Kings	\$20	\$20
Lake	\$20	\$20
Los Angeles	\$80	\$0
Madera	\$19	\$0
Mendocino	\$10	\$0
Merced	\$40	\$0
Modoc	\$8	\$0
Monterey	\$23	\$0
Napa	\$13	\$13
Orange	\$80	\$80
Riverside	\$80	\$0
Sacramento	\$80	\$57
San Bernardino	\$80	\$0
San Francisco	\$80	\$0
San Joaquin	\$40	\$33
San Mateo	\$24	\$24
Santa Barbara	\$39	\$39
Santa Cruz	\$25	\$25
Shasta	\$20	\$20
Solano	\$23	\$23
Sonoma	\$24	\$0
Stanislaus	\$40	\$0
Tehama	\$20	\$7
Trinity	\$16	\$0
Tulare	\$40	\$40
Tuolumne	\$20	\$20
Ventura	\$41	\$0
Yolo	\$40	\$0
Total	\$1,318	\$500

SB 1022 Funding Awards
(Dollar Amounts in Millions)

County	Award Amount	Number of Beds	Additional Construction or Renovation
Fresno	\$79	300	Program space, medical/mental health services, video visitation, laundry
Kings	\$20	24	Kitchen, vocational space, program rooms
Lake	\$20	79	Stand-alone medical/mental health building, administration building
Napa	\$13	18	Counseling rooms, job search rooms, warming/prep kitchen
Orange	\$80	384	Program space, warehouse and maintenance structures
Sacramento	\$57	26	Mental health treatment building, kitchen, laundry, pharmacy, program space
San Joaquin	\$33	384	Classrooms, vocational space, education program center, medical exam rooms
San Mateo	\$24	46	Mental health treatment center, mental health wellness pod, recreation yard
Santa Barbara	\$39	228	Treatment and program space for transitional re-entry
Santa Cruz	\$25	64	Transitional housing unit, program and vocational space, security upgrades
Shasta	\$20	64	Behavioral program space, medical screening, counseling room, intake
Solano	\$23	-	New programming facility
Tehama	\$7	64	Day reporting center, program space
Tulare	\$40	384	Day reporting center, vocational training center
Tuolumne	\$20	198	Service rooms, exercise yards, security center, kitchen, laundry, intake
Total	\$500	2,263	

Realignment. In 2011, the state approved a broad realignment of public safety, health, and human services programs from state to local responsibility. Included in this realignment were sentencing law changes requiring that certain lower-level felons be managed by counties in jails and under community supervision, rather than sent to state prison. Generally, only felony offenders who have a current or prior offense for a violent, serious, or sex offense are sentenced to serve time in a state prison. Conversely, lower-level felons convicted of non-violent, non-serious, and non-sex-related crimes (colloquially referred to as “non-non-nons”) serve time in local jails under realignment. In addition, of those felons released from state prison, generally only those with a current violent or serious offense are supervised in the

community by state parole agents, with other offenders supervised by county probation departments. Responsibility for housing state parole violators was also shifted from state prisons to county jails.

County Jail Population. After reaching a high of 84,000 inmates in September 2007, the monthly average daily jail population (ADP) declined steadily to a low of 69,000 in May 2011—a decrease of over 17 percent. After realignment, the jail population began to rise and now stands at approximately 82,000 inmates. Of those inmates, 51,000 are awaiting adjudication. Based on the BSCC’s Jail Profile Survey from the 2nd Quarter of 2013, the percentage of inmates in jail awaiting adjudication varies among counties from a high of 83 percent to a low of around 50 percent for larger counties. The statewide average is 63 percent, down from a high of 71 percent in 2010.

According to data provided by the California Probation Officers of California (CPOC), between October 2012 and March 2013, the ADP for realigned inmates incarcerated in county jails was approximately 15,000 inmates. The state and counties are still in the process of determining the average length of jail sentences for the realigned population.

Questions for the Administration. The Administration should be prepared to present the proposal and address the following questions:

1. Besides noting the amount initially requested by counties for SB 1022 jail construction funding, what analysis did the Administration do to determine that counties needed \$500 million more in jail construction funding?
2. The budget proposes establishing “SB 1022-like” requirements for the jail construction funding. However, no language has been provided detailing what the SB 1022-like requirements would be. Please provide that detail to the subcommittee. If it is not available, please explain why and when the Legislature can expect the details?
3. Did the Administration consider broadening the use of local construction grants to allow county boards of supervisors to analyze their local needs in terms of reducing their jail population? For example, perhaps certain counties are in need of treatment beds, mental health facilities or transitional housing, the availability of which might allow them to reduce their jail population and provide much needed services. Wouldn’t such an approach be more in keeping with the spirit of local control envisioned under realignment?
4. Has the Administration considered requiring that counties use risk assessments for the people in jail who are waiting to stand trial?
5. Additionally, has the Administration looked at requiring counties to develop Restoration of Custody (ROC) programs in all of their jails to better deal with the large numbers of mentally ill individuals who are incarcerated for an extended amount of time because they are found to be incompetent to stand trial and beds are not available in the state hospitals?

Legislative Analyst's Office (LAO). It is clear that realignment has resulted in an increase in the county jail population and that some county jails are not currently designed to house long-term offenders. Thus, there is likely a need for funding to support additional county jail projects. However, the Administration has not provided a detailed analysis regarding the magnitude of either programming or capacity needs and the extent to which the Governor's proposal would meet these needs. For example, the Administration has not provided an estimate of the number of additional jail beds counties need or the amount of additional rehabilitation program or health service space needed. Although the population currently exceeds capacity at some jails, we note that few of the grant projects funded from Chapter 42 monies have yet been built.

According to BSCC, it received a total of \$1.2 billion in grant requests in 2013 for jail construction that it did not fund. Although this information could suggest that the current need for additional jail funding potentially exceeds \$500 million, it is insufficient to assess the true extent of the problem. This is because it is unclear whether counties that are requesting additional jail construction funding have:

- **Maximized Alternatives to Increasing Jail Space.** Counties have significant influence over the size of their jail populations. Specifically, counties can use various tools to reduce jail populations, such as split sentences, probation, alternatives to incarceration, rehabilitation programs, flash incarceration, and aggressive pretrial release. Counties can also take other steps, such as contracting for jail space in other county jails. Counties that have not employed such tools may not necessarily need state funds for jail construction to address their jail capacity needs.
- **Planned to Make Effective Use of Program Space.** It is also unclear on the extent to which counties are requesting funding to build facilities that would be used in an effective manner. In particular, while many counties indicate they need additional program space in their jails, such space may not necessarily be used to deliver programs that can be demonstrated to be effective.
- **Identified Local Funding Sources.** In addition, it is unclear to what extent counties have attempted to identify local funding sources to address their jail construction needs.

The absence of such analysis make it more difficult for the Legislature to assess what infrastructure needs counties lack and whether the proposed \$500 million in the Governor's budget for jail construction is needed, or if a different amount would be appropriate.

LAO Recommendation. The LAO recommends that the Legislature request additional information from the Administration justifying the \$500 million in lease-revenue bonds proposed for jail construction. Specifically, they recommend directing the Administration to conduct an analysis of the extent to which counties need additional jail funding. Such an analysis should include an assessment of (1) the extent to which counties have maximized use of existing jail space, (2) how effectively counties plan to use any proposed space for rehabilitation programs, and (3) the ability of counties to fund jail construction with local resources.

Staff Comments

Does the State Need to Invest in More Jail Construction? As noted by the Legislative Analyst's Office in their *Overview of the Governor's Budget*, the Administration has not yet provided an analysis of county jail needs or other rationale for why the level of funding proposed is needed for jail projects or what criteria would be used to award the lease-revenue funding. For example, it is not clear whether funding would be awarded in a manner to alleviate crowding or to build additional facility space for programs, such as substance abuse treatment classes. Without such information, it will be difficult for the Legislature to assess whether the additional funding will be allocated in a manner that is cost effective and in line with state priorities. The Legislature should consider requiring the Board of State and Community Corrections (BSCC) provide a needs assessment before approving any additional jail construction funding.

Are These the Right Local Facilities In Which to Invest? Rather than adding \$500 million in lease-revenue bond financing to the \$1.7 billion that is currently being distributed, the Legislature may want to consider following the examples of states like Texas, that chose to invest in building treatment facilities rather than expanding capacity. Texas found that by adding probation and parole treatment beds, halfway house beds, mental health pre-trial diversion beds, and outpatient drug treatment slots, along with increased funding for programs, they were able to reduce their prison population and save money. Studies by the Texas Public Policy Foundation found that the alternatives to incarceration implemented since 2007-08 had reduced the incarceration rate by 4.5 percent, while nationally the average state incarceration rate increased by almost one percent.

Action 1: Rejected the Governor's proposal to authorize \$500 million in lease revenue bond financing for jail construction and instead provide \$500 million in lease revenue bond financing for county construction projects designed to provide rehabilitative services and housing to individuals convicted of crimes. Those projects can include, but are not limited to, jail construction, transitional housing, day reporting centers, mental health treatment facilities, and substance abuse treatment facilities. Decisions concerning the proposed projects and subsequent grant applications shall be made by county boards of supervisors.

Vote: 3 – 0

Action 2: Rejected the Governor's placeholder trailer bill language and adopt replacement placeholder language expanding construction possibilities to include other types of facilities in addition to jails, such as mental health treatment facilities, day reporting centers, transitional housing, or substance abuse treatment facilities. County Boards of Supervisors would be responsible for developing the proposals and submitting grant applications.

Vote: 2 – 1 (Anderson: No)

Issue 6: Public Safety Trailer Bill

Governor's Proposal. The Administration has proposed trailer bill language related to state and local public safety issues.

Note on All Actions in This Item: The Governor's proposed trailer bill language is adopted as draft language with the understanding that staff will continue to work with the Administration and stakeholders on the final language.

The proposals for the subcommittee's consideration are:

1. **Custody Credits for Electronic Monitoring/Work Furlough**—Eliminates the discrepancy in credit earning eligibility at the local level, allowing participants in electronic monitoring and/or work furlough programs to earn credits at the same rate, whether their participation is voluntarily or involuntarily.

Action: Approved Vote: 2 – 1 (Anderson: No)

2. **Allocations for Law Enforcement Services Account Programs – Juvenile Reentry Grant Minimums**—Clarifies that under public safety realignment the \$15,000 minimum per juvenile is no longer guaranteed because under realignment there is a fixed amount of available funding based upon dedicated revenues rather than upon caseload. Under realignment, JRG allocations will vary based upon the amount of funding deposited into the special account.

Action: Approved Vote: 3 – 0

3. **Enhancing Law Enforcement Activities Subaccount (ELEAS) Cleanup**—The current allocation percentages for each program under Penal Code Section 13821 total 100.00000001 percent. These programs are within the ELEAS in the Law Enforcement Services Account within the Local Revenue Fund 2011. The proposed language reduces the High Technology Theft Apprehension and Prosecution Program in order to correct the error.

Action: Approved Vote: 3 – 0

4. **Felony Disposition Data for Youthful Offender Block Grant (YOBG)**—Requires the Department of Justice to annually provide the number of juvenile felony court dispositions by county for the previous calendar year. This information needs to be collected annually in order to provide for the timely allocation of YOBG funding. The current language only refers to the “most recent data.”

Action: Approved Vote: 3 – 0

5. **Funding for the Administrative Office of the Courts for SB 678 and Realignment Data Collection**—Specifies that the \$1 million appropriation for the Administrative Office of the Courts for SB 678 and realignment data collection is an annual

appropriation. Existing statute states that the current appropriation is available for encumbrance and expenditure only until June 30, 2014.

Action: Approved Vote: 3 – 0

6. **Mandatory Supervision Beginning Upon Release Technical Clean-Up**—SB 76 amended penal code 1170(h) to clarify that the period of mandatory supervision begins upon release from custody. While SB 76 applied the change to the section that became operative on January 1, 2014, SB 463 was subsequently chaptered to change the operative date to January 1, 2017. Therefore, the amendment in SB 76 needs to be applied to the section that is now operative until January 1, 2017, as well.

Action: Approved Vote: 3 – 0

7. **Delete the Sunset for the County-to-County Transfer of Inmates**—Make permanent the authority to allow a county to contract with another county for the housing of their inmates.

Action: Modify the draft language to extend the current sunset by an additional two years, rather than removing the sunset altogether.

Vote: 3 – 0

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Wednesday, May 21, 2014
10:00 a.m. State Capitol Room 113

Consultant: Joe Stephenshaw

Part A

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

PROPOSED FOR VOTE ONLY**Vote Only****7900 California Public Employees' Retirement System****Issue 1 CalPERS Administrative Budget Adjustments**

Governor's Proposal. The May Revision proposes adjustments to eight items in the California Public Employees Retirement System's (CalPERS) administrative budget based on the 2014-15 CalPERS budget approved during the April 16, 2014, board meeting.

Background.

- Item 7900-003-0830, CalPERS board administrative costs paid by the Public Employees Retirement Fund, decreased by \$19,393,000;
- Item 7900-015-0815, CalPERS board administrative costs paid by Judges' Retirement Fund, decreased by \$286,000;
- Item 7900-015-0820, CalPERS board administrative costs paid by Legislators' Retirement Fund, decreased by \$60,000;
- Item 7900-015-0822, CalPERS board administrative costs paid by the Public Employees Health Care Fund, increased by \$522,000;
- Item 7900-015-0830, CalPERS board administrative costs paid by the Public Employees Fund, increased by \$11,582,000 and 42 positions;
- Item 7900-015-0833, CalPERS board administrative costs paid by the Annuitants' Health Care Coverage Fund, decreased by \$235,000;
- Item 7900-015-0884, CalPERS board administrative costs paid by the Judges' Retirement System II Fund, decreased by \$12,000; and
- Reimbursements to the main item decreased by \$2,713,000.

Staff Recommendation. Approve as proposed.

Issue 2 Control Section 3.60

Governor's Proposal. The May Revision includes revised budget bill language to Control Section 3.60 to capture the proposed retirement rates.

Background. The General Fund will increase by \$342,655,000, other special funds will increase by \$166,180,000, and various other nongovernmental cost funds will increase by \$65,828,000 for retirement rate adjustments. The estimated increase in retirement costs are due to the following reasons:

First, on February 20, 2014, the California Public Employees' Retirement System (CalPERS) Board of Administration adopted new demographic assumptions as part of a regular review of demographic experience. Key assumption changes included longer post-retirement life expectancy, earlier retirement ages, and higher than expected wage growth for State Peace Officers/Firefighters and California Highway Patrol.

The impact of the assumption changes will be phased in over three years, with a twenty-year amortization, beginning in FY 2014-15. Of the total, this action accounts for \$430,092,000 (\$254,244,000 General Fund).

Second, retirement rates are higher than originally projected in the Governor's budget due to actual payroll growth being less than actuarially assumed, employees retiring earlier than actuarially assumed, and differences in projected employer contributions and benefit payments as compared to actuals. Of the total increases, this action accounts for \$146,571,000 (\$88,411,000 General Fund).

Staff Recommendation. Adopt Amended budget bill language as provided in the May Revision.

9650 Health and Dental Benefits for Annuitants

Issue 1	Retiree Health and Dental Benefits for Annuitants
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Governor's Proposal. The item proposes provisional language to ensure that final health and dental rates can be updated after they are updated at the end of June 2014. The budget currently includes estimates.

Proposed Provisional Language:

- *The Director of Finance may adjust this item of appropriation to reflect the health benefit premium rates approved by the Board of Administration of the California Public Employees' Retirement System for the 2015 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house of the Legislature that consider appropriations.*

Staff Recommendation. Approve as proposed.

9800 Augmentation for Employee Compensation**Issue 1 Augmentation for Employee Compensation**

Governor's Proposal. The May Revision proposes increases in employee compensation resulting from updated health care and dental enrollment figures, updates to salary information for salary increases previously provided in the Governor's budget, updates to salary survey estimates for the California Highway Patrol (Bargaining Unit 5), health and dental benefits for the state employees of the Judicial Branch and Commission on Judicial Performance, and increases to salaries and benefits associated with International Union of Operating Engineers (Bargaining Unit 13).

Additionally, this request includes provisional language.

Background. Item 9800 in the budget allows for adjustments in departmental budgets to account for changes in employee compensation, including salaries, health and retirement benefits.

This proposal would increase Item 9800-001-0001 by \$12,594,000, would increase Item 9800-001-0494 by \$20,217,000, and would increase Item 9800-001-0988 by \$9,957,000 to reflect changes discussed above.

Proposed Provisional Language. Additionally, this item includes provisional language to allow flexibility to adjust estimates for final health rates, which are not expected until the end of June 2014; and to ratify provisions that require the expenditure of funds associated with various Memorandum of Understanding (MOUs).

- *The Director of Finance may adjust this item of appropriation to reflect the health benefit premium rates approved by the Board of Administration of the California Public Employees' Retirement System for the 2015 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house of the Legislature that consider appropriations.*
- *By inclusion of this provision, for purposes of Section 3517.63 of the Government Code, the Legislature hereby ratifies provisions that require the expenditure of funds with: (1) addendum to the Memorandum of Understanding (MOU) dated November 22, 2013, with State Bargaining Unit 1 (State Employees International Union) for Aviation Consultants, (2) addendum to the MOU dated March 4, 2014, with State Bargaining Unit 19 (American Federation of State, County, and Municipal Employees) for Recreational Therapists, and (3) the MOU dated May 5, 2014, including continuous appropriation of compensation components in the event that a budget act is not in place prior to July 1, 2016, with State Bargaining Unit 13 (International Union of Operating Engineers). The estimated costs to implement these agreements are included in this item.*

Staff Recommendation. Adopt May Revision proposal and provisional language outlined above.

Issue 1 Occupational Safety and Health Staffing

The Governor's budget proposes \$3.3 million from the Occupational Safety and Health (OSH) Fund to support 26.0 of the 31.5 existing, unfunded positions in the Cal/OSHA program to help increase the overall capacity to perform statewide safety inspections.

Background. The Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, protects workers from health and safety hazards on the job in almost every workplace in California through research and standards, enforcement, and consultation programs. Cal/OSHA also oversees programs promoting public safety on elevators, amusement rides, and ski lifts. In addition, the division oversees programs promoting the safe use of pressure vessels (e.g., boilers and tanks).

In 2008-09, about \$24 million of Cal/OSHA's operations were funded by the GF. The 2009-10 budget eliminated GF support for Cal/OSHA and increased the assessment and funding in the OSH Fund to offset the reduction. Historically, funds generated by the OSH Fund were not sufficient to fund the level of staffing authorized in the budget. For example, the department reports that the 2012-13 budget authorized 724.4 positions for DOSH, but OSH Fund revenue only provided sufficient funding for 673 of these staff, leaving 51.4 positions vacant.

Actions taken by this subcommittee last year eliminated a sunset on the employer assessment and provided the Department of Industrial Relations (DIR) the authority to increase the assessment amount, based upon the level of appropriation authorized in the budget. In 2013-14 this provided DIR additional funding to fill vacant positions.

As mentioned previously, the Governor's budget redirects \$3.3 million (OSH Fund) savings associated with the new refinery fee to support 26.0 of 31.5 existing, unfunded positions in the Cal/OSHA program within the DOSH without an increase to the current assessment level. The remaining 5.5 positions are proposed to be abolished.

Staff Recommendation: Approve as proposed.

Issue 2 Public Works Contracting Enforcement

Governor's Budget Proposal. The Governor's budget proposes to stabilize and consolidate funding support for the public works program within the Department of Industrial Relations (DIR), Division of Labor Standards (DLSE), by supporting the function with a new fee on public works contractors. This proposal includes an annual \$300 fee on all contractors, both prime and sub-contractors, who wish to bid on public works projects each year.

Staff Comment. The subcommittee previously held this item open to allow time for stakeholders to work through issues with the proposed trailer bill language. This process has been completed.

Staff Recommendation: Approve the revised trailer bill language, which reflects amendments based on stakeholder concerns.

To Be Heard**7501 Department of Human Resources****Issue 1 In-Home Supportive Services Employer-Employee Relations Act**

Governor's Proposal. The May Revision proposes additional positions to implement the Governor's initiative to create a Statewide Authority to oversee labor relations for the In-Home Supportive Services program (IHSS).

The Department of Finance (DOF) has also proposed a technical scheduling change necessary to correctly schedule funding between programs 10 (Human Resources Management), 30.10 (Administration), and 30.20 (Distributed Administration). This change does not impact the overall appropriation authority being requested.

Background. The proposal requests five permanent positions and \$848,000 (\$424,000 General Fund and \$424,000 Reimbursements) in FY 2014-15, and nine permanent positions and \$1,359,000 (\$679,000 General Fund and \$686,000 Reimbursements) in FY 2015-16 to address workload associated with the passage of SB 1036 (Chapter 45, Statutes of 2012).

The resources are an estimate based on the current assessment of workload. Until the Statewide Authority is established and the duties assigned to CalHR are clearly defined, the staff necessary to complete the assigned workload is not completely known.

The Budget Act of 2012 authorized the Coordinated Care Initiative (CCI), whereby persons eligible for both Medicare and Medi-Cal would receive medical, behavioral, long-term support and services, and home and community based services coordinated through a single health plan in eight demonstration counties (Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara). It is anticipated that CCI will eventually be expanded to cover IHSS recipients and providers in all 58 counties.

SB 1036 enacted the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA), which made substantial changes in how the day-to-day labor relations contract administration and collective bargaining will be conducted by IHSS providers. IHSSEERA established a Statewide Authority to function as the employer of IHSS providers for the purposes of labor relations. The IHSSEERA provides that CalHR, through the Statewide Authority, will assume responsibility for the day-to-day labor relations, contract administration, and collective bargaining with the unions in the eight counties.

The eight demonstration counties were originally scheduled to begin March 2013; however, that date was extended. Currently, one county is scheduled to begin the transition in April 2014 and is scheduled to complete the transition by February 2015. Another four are scheduled to be under the Statewide Authority by August 2015.

Other challenges facing the Statewide Authority is that by the time the counties transition to CCI, all of their MOUs will be expired with the exception of three. This means that CalHR must commence bargaining in these counties immediately upon transition.

In FY 2013-14, CalHR submitted a Spring Finance letter and received funding for four positions to meet the needs of IHSSEERA. The workload from these positions helped to shape the request for the May Revision proposal.

Staff Comment. CalHR does not anticipate any future delays with the project. However, workload is still an estimate at this time and it is unknown what, if any, additional resources will be needed once the Statewide Authority is established.

The additional resources will ensure that the transition of San Mateo County in February 2015, followed by Riverside, San Bernardino, Los Angeles, and San Diego is seamless.

Staff Recommendation. Approve as proposed with the technical change requested by DOF.

7100 Employment Development Department**Issue 1 Unemployment Insurance Program Administration**

Governor's Budget Proposal. The Governor's budget proposes a \$64.0 million augmentation from the Employment Development Department (EDD) Contingent Fund in support of the state's Unemployment Insurance (UI) program. These funds are proposed to be used to minimize the degradation of UI services due to underfunding from the federal Department of Labor (DOL) and the reduction of federal funding due to sequestration. This proposal includes: 1) \$38 million from the Contingency Fund, 2) an increase in withholding penalties deposited into the Contingency Fund from 10 to 15 percent, and 3) a one-time suspension of the transfer of personal income tax withholdings to the GF, and instead retaining \$15.9 million for the program.

The May Revision proposes an increase of \$67.6 million, including \$46.6 million General Fund, to provide additional resources for the administration of the UI Program in 2014-15.

Background. The UI program is a federal-state program that provides weekly UI payments to eligible workers who lose their jobs through no fault of their own. Benefits range from \$40 to \$450 per week, depending on the earnings during a 12-month base period. UI program benefits are financed by employers who pay state unemployment taxes, ranging between 1.5 and 6.2 percent, on the first \$7,000 in wages paid to each employee in a calendar year. Employers responsible for a high number of unemployment claims pay the highest tax rate.

During the recent economic recession, EDD struggled to pay unemployment benefits or answer phone calls from the public in a timely manner. The department recently launched a new system, called the Continued Claim Redesign (CCR), which was intended to allow customers to handle UI transactions through self-service phone and internet interactions. During the fall of 2013, bugs within the CCR system temporarily exacerbated the department's customer service problems.

Notwithstanding workload reductions, the EDD continues to face a shortfall in federal funding to administer the UI program. The federal government is supposed to fund the cost of administering the program based on a forecasted workload model, known as the Resource Justification Model (RJM), provided by EDD. Persistently, the federal government has failed to provide one hundred percent of the funding for the UI program, based on its own RJM formula.

The May Revision proposes additional staff and overtime funding to support the following service levels:

- Process all claims for unemployment benefits within three days of receipt.
- Respond to online inquiries within five days of receipt.
- Schedule 95 percent of eligibility determinations in a timely manner.

- Respond to 50,000 calls per week.

To achieve the service level goals identified in this May Revision proposal, EDD would need to maintain 598.1 positions above the base level, add 175.2 positions to achieve the goals for determinations and calls, and could reduce 18.6 PEs from initial claim and online inquiry workload. This results in a SFY 2014-15 position need of 754.7 above what was included in the Governor's Budget.

Staff Comments. During this past year, EDD has faced many challenges in administering the UI program. Many of these challenges have received significant attention, including: 1) the September 2013 problems with the rollout of the first phase of the CCR, which delayed unemployment checks to approximately 150,000 recipients; 2) a Los Angeles Times report that, from October 2013 to January 2014, phone calls were answered by a live human only 10 percent to 17 percent of the time and, even then, some people had to call 40 times to reach an agent; and, 3) recent reports that at least half of EDD's denials of benefits are reversed on appeal. In addition to these issues with administration of the UI program, a recent audit by the California State Auditor found that EDD failed to participate in a federal program that would have allowed the state to collect hundreds of millions of dollars.

The Labor agency and the department have taken numerous steps in recent months to address the challenges EDD faces in administration of the UI program. The Governor's proposals are an integral part of these efforts.

Staff Recommendation: Adopt the Governor's budget and May Revision proposals with additional Budget Bill language requiring a report no later than March 1, 2015 on the progress in achieving the identified service level outcomes.

Issue 2 Paid Family Leave Outreach

Proposal. A three-year approach to fund Paid Family Leave outreach activities from the State Disability Account has been proposed, as follows:

- 2014-15 - \$1 million
- 2015-16 - \$2.5 million
- 2016-17 - \$3 million

The first year would be dedicated to ramping up and developing materials and the third year would include an evaluation component.

Background. In 2002, legislation was enacted to extend disability compensation to cover individuals who take time off work to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new child. Senate Bill 1661 established the Paid Family Leave insurance program, also known as Family Temporary Disability Insurance program, to be administered by the State Disability Insurance (SDI) program. An estimated 13.1 million California workers who are covered by the SDI program have also been covered for Paid Family Leave insurance benefits as of July 1, 2004.

For California workers covered by SDI, Paid Family Leave insurance provides up to six weeks of benefits for individuals who must take time off to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new child. The fund is projected to have a \$2.8 billion balance in 2013, which is expected to grow to \$3.1 billion this year.

Benefits of Paid Family Leave

A 2011 study of California's Paid Family Leave program by Eileen Appelbaum and Ruth Milkman found that the increased use of Paid Family Leave increased job retention, positively affected respondents' ability to care for a new baby or adopted child and doubled the median duration of breastfeeding for all new mothers who used it.

Awareness

Polling suggests many workers are unaware of the benefits they can receive from Paid Family Leave. In September 2011, a California Field Poll surveyed registered voters to assess their awareness of the state's Paid Family Leave program. The poll included 1,001 registered voters and was conducted from September 1 to 12, 2011.

Overall, well under half (42.7 percent) of respondents had "seen, read or heard" of the PFL program, which was created by a 2002 law. Awareness also varied geographically, with the highest level in the San Francisco Bay Area and the lowest in Los Angeles County. Awareness among low-income groups, Latinos, and young workers was substantially lower than the average.

Staff Recommendation. Approve the three-year plan, as identified above, for EDD to administer a Paid Family Leave outreach campaign and supplemental reporting language requiring EDD to report on the type of, and effectiveness of, outreach activities.

7350 Department of Industrial Relations**Issue 1 Process Safety Management Unit Expansion**

Governor's Budget Proposal. The Governor's budget proposed \$2.4 million from the Occupational Safety and Health Fund and 11 positions to expand the Process Safety Management (PSM) Unit to implement the recommendations of the Governor's Interagency Working Group on Refinery Safety in enforcement of workplace health and safety regulations in 15 refineries and over 1,600 other chemical facilities.

Background. In August 2012, a fire broke out at the Richmond Chevron refinery when a severely corroded pipe in the refinery's #4 Crude Unit began leaking. Chevron managers did not shut the unit down; instead, they instructed workers to remove insulation, which led to the pipe's rupture and a massive fire. While there were no serious worker injuries, a reported 15,000 residents of surrounding communities sought treatment after breathing emissions from the fire.

The PSM Unit within the Division of Occupational Safety and Health (DOSH) enforces "process safety management" procedures regarding potentially hazardous processes that exist in a wide variety of industries, including oil refineries. The PSM Unit was established after the 1999 fire at the Tosco refinery in Martinez that killed four workers.

California is the only state to have a dedicated unit for this function, which, until actions taken by the Legislature in adopting the current year's budget, had a staff of 11 to inspect 15 refineries and over 1,600 other facilities that use, process, or store large quantities of toxic, flammable, or explosive chemicals. On average, from 2001-2012, this unit inspects 27 refineries as well as 112 other facilities per year. Last year, this subcommittee found that the PSM needed at least 15 additional positions to have enough personnel to ensure worker and citizen safety within these industries.

Labor Code Section 7870 states that the department "may fix and collect reasonable fees for consultation, inspection, adoption of standards, and other duties" in relation to process safety management at these hazardous sites. Prior to the adoption of the current year budget, the department did not collect such a fee. The 2013-14 Budget Act contained budget bill language directing the department to use its statutory authority to approve a fee to support an increase in funding and at least 15 new positions for the PSM Unit.

The Governor's budget proposes that positions related to refinery inspection be funded with the new fee on the refinery industry. The newly established regulatory fee for oil refineries is based on the amount of crude oil being processed at each refinery to fund inspections and enforce workplace health and safety regulations.

Refinery Safety Group. Ninety percent of the Refinery Safety Group's time will be spent on in-depth, planned inspections to pro-actively target the most hazardous operations and processes in the refineries to ensure compliance. The following table displays the three types of planned inspection that will be performed by the Refinery Safety Group.

Refinery Safety Group Planned Inspections	
Type	Description
Turnaround Inspections	Inspections of refinery units undergoing “turnarounds,” or scheduled maintenance, repair and replacement work after the units have been shut down. The planned turnaround inspections will involve an average of 1,500 hours of inspector time for pre-turnaround analysis and on-site observation as work is completed.
National Emphasis Program Inspections	Inspections follow the methodology of the federal OSHA National Emphasis Program, which involve 1,200 hours per inspection and evaluate compliance with the 13 elements of the PSM regulation throughout the refinery.
Special Emphasis Program Inspections	Inspections will focus on specific hazards or processes in refineries that have generated incidents, injuries and illnesses, with 500 hours per inspection.
Contract Employee Inspections	Inspections of contractors working in the refineries during any of the other planned inspections.

The following table displays the projected number of refinery inspections, by type and hours.

Projected Inspections at Refineries (14 Inspectors)		
Inspection Type	Number of Inspections	Hours
Unplanned Inspections (Complaints, Accidents, Referrals)	25	2,000
National Emphasis Program	4	4,800
Turnaround Type	4	6,000
Special Emphasis Program	15	7,500
Contractors on Site	60	4,800
Total Refinery Inspections	108	25,100

Non-Refinery Safety Group. The Non-Refinery Safety Group will conduct unplanned and planned inspections in the over 1,600 other PSM-designated facilities that include fertilizer plants, chemical plants, refrigeration plants using ammonia, and water treatment and other facilities using chlorine. Inspections based on complaints, incident investigations and referrals will constitute approximately 20 percent of inspector hours, while the 80 percent

balance will be enhanced, comprehensive inspections evaluating the facilities compliance with program requirements of the PSM regulation. The following table displays the projected number of non-refinery inspections, by type and hours.

Projected Inspections at Non-Refinery PSM Facilities (6 Inspectors)		
Inspection Type	Number of Inspections	Hours
Unplanned Inspections (Complaints, Accidents, Referrals, Follow-ups)	50	4,500
Site Operator	70	4,900
Contractors on Site	5	250
Total Refinery Inspections	125	9,650

As a result of this new fee, the department is redirecting \$3.3 million of Occupational Safety and Health Fund revenues that once supported the PSM program to the overall Division of Occupational Safety and Health program. This allows the department to fill 26 existing positions that lacked funding.

Staff Comment. While the Legislature added staff last year to enhance PSM Unit resources in response to the Chevron refinery fire, work still must be done to ensure that DIR has the support it needs to perform its PSM responsibilities at both refinery and non-refinery facilities. The PSM Unit plays a critical role in protecting workers and the communities in which these facilities operate. Recent incidents at Tesoro Corp.'s Golden Eagle Refinery just outside Martinez, in which two workers suffered first- and second-degree burns when they were splashed with acid from a broken pipe on February 12 of this year, and two contractors doing maintenance work in the same processing unit suffered burns when they were splashed with sulfuric acid the following month, again-remind us of the critical need to ensure appropriate safety measures are in place in our state's refineries.

The PSM Units inspections of non-refinery facilities are no less important, as highlighted by the Central Texas fertilizer plant explosion last year that killed 14 people and injured approximately 200, and the incident in which chemicals used to clean coal leaked into the Elk River in Charleston, West Virginia this past January, contaminating the drinking water of some 300,000 residents.

Along these lines, it is encouraging that, in the aftermath of the fire at Chevron's Richmond oil refinery in August 2012, Governor Brown formed an interagency working group to examine ways to improve public and worker safety through enhanced oversight of refineries, and to strengthen emergency preparedness in anticipation of any future incident. The working group consists of participants from 13 agencies and departments, as well as the Governor's Office. Over an eight-month period, the working group met internally and with industry, labor, community, environmental, academic, local emergency response, and other stakeholders. The working group issued a draft report in July 2013 and received comment on the draft from local governments, industry stakeholders, nongovernmental and labor representatives, and members of the public. The working group issued its final report in February of this year.

Staff Recommendation: Approve the proposal with budget bill language requiring the department to report by February 1, 2015 on the status of Process Safety Management efforts, as follows:

x. The Department of Industrial Relations shall report to the Director of Finance, the chairpersons of the fiscal committees of both houses of the Legislature, and the Legislative Analyst's Office by February 1, 2015 on 1) the status of Process Safety Management and Risk Management Program regulatory changes, and; 2) the status of all efforts the department is taking to implement recommendations of the final report from the Governor's Interagency Working Group on Refinery Safety.

x. The Department of Industrial Relations shall report to the Director of Finance, the chairpersons of the fiscal committees of both houses of the Legislature, and the Legislative Analyst's Office by February 1, 2015 on 1) the status of the department's annual workload evaluation of the staffing needed to meet the enforcement requirements of Section 7870 of the Labor Code, for both refinery facilities and non-refinery facilities that meet the threshold for Cal/OSHA Process Safety Management regulatory oversight, and the aggregate fees needed to support the function; 2) the departments process or plan for categorizing non-refinery facilities that meet the threshold for Cal/OSHA Process Safety Management regulatory oversight by type of facility, risk level, and inspection cycles; 3) The number of staffing vacancies, by classification, within the Process Safety Management Unit, and; 4) the number of inspections performed, to date, during the current fiscal year, by both type of facility and type of inspection.

Senate Budget and Fiscal Review Subcommittee 5

May 21, 2014

Addendum Item

7920 California State Teachers' Retirement System (CalSTRS)

Issue 1: BusinessRenew Reappropriation

Governor's Proposal. A Spring Finance Letter proposes to reappropriate \$2.8 million to support the BusinessRenew information technology project.

Background. The subcommittee heard details of this project at our April 3rd hearing. The BusinessRenew project is intended to implement multiple projects to transform CalSTRS technology infrastructure. It will implement changes in how CalSTRS operates in order to become more efficient, effective, and nimble. Expected outcomes include a reduction in operational risk by ensuring CalSTRS has an adequate system for administering benefits and the fiscal management system required to support business processes so that CalSTRS can provide accurate and timely payments to members, and staff have the tools necessary to perform. The project has been delayed due to issues with data conversion.

Staff Recommendation: Approve as proposed.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



Wednesday, May 21, 2014
10:00 a.m. State Capitol Room 113

Consultant: Joe Stephenshaw

Part A
OUTCOMES

Anderson absent, not voting

Items Proposed for Vote-Only

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9650	Health and Dental Benefits for Annuitants	
Issue 1	Retiree Health and Dental Benefits for Annuitants Staff Reco Approved 2-0	2
9800	Augmentation for Employee Compensation	
Issue 1	Augmentation for Employee Compensation Staff Reco Approved 2-0	3
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7350	Department of Industrial Relations	
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PROPOSED FOR VOTE ONLY**Vote Only****7900 California Public Employees' Retirement System****Issue 1 CalPERS Administrative Budget Adjustments**

Governor's Proposal. The May Revision proposes adjustments to eight items in the California Public Employees Retirement System's (CalPERS) administrative budget based on the 2014-15 CalPERS budget approved during the April 16, 2014, board meeting.

Staff Recommendation. Approve as proposed.

Issue 2 Control Section 3.60

Governor's Proposal. The May Revision includes revised budget bill language to Control Section 3.60 to capture the proposed retirement rates.

Staff Recommendation. Adopt Amended budget bill language as provided in the May Revision.

9650 Health and Dental Benefits for Annuitants**Issue 1 Retiree Health and Dental Benefits for Annuitants**

Governor's Proposal. The item proposes provisional language to ensure that final health and dental rates can be updated after they are updated at the end of June 2014. The budget currently includes estimates.

Proposed Provisional Language:

- *The Director of Finance may adjust this item of appropriation to reflect the health benefit premium rates approved by the Board of Administration of the California Public Employees' Retirement System for the 2015 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house of the Legislature that consider appropriations.*

Staff Recommendation. Approve as proposed.

9800 Augmentation for Employee Compensation**Issue 1 Augmentation for Employee Compensation**

Governor's Proposal. The May Revision proposes increases in employee compensation resulting from updated health care and dental enrollment figures, updates to salary information for salary increases previously provided in the Governor's budget, updates to salary survey estimates for the California Highway Patrol (Bargaining Unit 5), health and dental benefits for the state employees of the Judicial Branch and Commission on Judicial Performance, and increases to salaries and benefits associated with International Union of Operating Engineers (Bargaining Unit 13).

Proposed Provisional Language. Additionally, this item includes provisional language to allow flexibility to adjust estimates for final health rates, which are not expected until the end of June 2014; and to ratify provisions that require the expenditure of funds associated with various Memorandum of Understanding (MOUs).

- *The Director of Finance may adjust this item of appropriation to reflect the health benefit premium rates approved by the Board of Administration of the California Public Employees' Retirement System for the 2015 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house of the Legislature that consider appropriations.*
- *By inclusion of this provision, for purposes of Section 3517.63 of the Government Code, the Legislature hereby ratifies provisions that require the expenditure of funds with: (1) addendum to the Memorandum of Understanding (MOU) dated November 22, 2013, with State Bargaining Unit 1 (State Employees International Union) for Aviation Consultants, (2) addendum to the MOU dated March 4, 2014, with State Bargaining Unit 19 (American Federation of State, County, and Municipal Employees) for Recreational Therapists, and (3) the MOU dated May 5, 2014, including continuous appropriation of compensation components in the event that a budget act is not in place prior to July 1, 2016, with State Bargaining Unit 13 (International Union of Operating Engineers). The estimated costs to implement these agreements are included in this item.*

Staff Recommendation. Adopt May Revision proposal and provisional language outlined above.

Issue 1 Occupational Safety and Health Staffing

The Governor's budget proposes \$3.3 million from the Occupational Safety and Health (OSH) Fund to support 26.0 of the 31.5 existing, unfunded positions in the Cal/OSHA program to help increase the overall capacity to perform statewide safety inspections.

Staff Recommendation: Approve as proposed.

Issue 2 Public Works Contracting Enforcement

Governor's Budget Proposal. The Governor's budget proposes to stabilize and consolidate funding support for the public works program within the Department of Industrial Relations (DIR), Division of Labor Standards (DLSE), by supporting the function with a new fee on public works contractors. This proposal includes an annual \$300 fee on all contractors, both prime and sub-contractors, who wish to bid on public works projects each year.

Staff Recommendation: Approve the revised trailer bill language, which reflects amendments based on stakeholder concerns.

To Be Heard**7501 Department of Human Resources****Issue 1 In-Home Supportive Services Employer-Employee Relations Act**

Governor's Proposal. The May Revision proposes additional positions to implement the Governor's initiative to create a Statewide Authority to oversee labor relations for the In-Home Supportive Services program (IHSS).

The Department of Finance (DOF) has also proposed a technical scheduling change necessary to correctly schedule funding between programs 10 (Human Resources Management), 30.10 (Administration), and 30.20 (Distributed Administration). This change does not impact the overall appropriation authority being requested.

Staff Recommendation. Approve as proposed with the technical change requested by DOF.

7100 Employment Development Department**Issue 1 Unemployment Insurance Program Administration**

Governor's Budget Proposal. The Governor's budget proposes a \$64.0 million augmentation from the Employment Development Department (EDD) Contingent Fund in support of the state's Unemployment Insurance (UI) program. These funds are proposed to be used to minimize the degradation of UI services due to underfunding from the federal Department of Labor (DOL) and the reduction of federal funding due to sequestration. This proposal includes: 1) \$38 million from the Contingency Fund, 2) an increase in withholding penalties deposited into the Contingency Fund from 10 to 15 percent, and 3) a one-time suspension of the transfer of personal income tax withholdings to the GF, and instead retaining \$15.9 million for the program.

The May Revision proposes an increase of \$67.6 million, including \$46.6 million General Fund, to provide additional resources for the administration of the UI Program in 2014-15.

Staff Recommendation: Adopt the Governor's budget and May Revision proposals with additional Budget Bill language requiring a report no later than March 1, 2015 on the progress in achieving the identified service level outcomes.

Issue 2 Paid Family Leave Outreach

Proposal. A three-year approach to fund Paid Family Leave outreach activities from the State Disability Account has been proposed, as follows:

- 2014-15 - \$1 million
- 2015-16 - \$2.5 million
- 2016-17 - \$3 million

The first year would be dedicated to ramping up and developing materials and the third year would include an evaluation component.

Staff Recommendation. Approve the three-year plan, as identified above, for EDD to administer a Paid Family Leave outreach campaign and supplemental reporting language requiring EDD to report on the type of, and effectiveness of, outreach activities.

Department of Industrial Relations**Issue 1 Process Safety Management Unit Expansion**

Governor's Budget Proposal. The Governor's budget proposed \$2.4 million from the Occupational Safety and Health Fund and 11 positions to expand the Process Safety Management (PSM) Unit to implement the recommendations of the Governor's Interagency Working Group on Refinery Safety in enforcement of workplace health and safety regulations in 15 refineries and over 1,600 other chemical facilities.

Staff Recommendation: Approve the proposal with budget bill language requiring the department to report by February 1, 2015 on the status of Process Safety Management efforts, as follows:

x. The Department of Industrial Relations shall report to the Director of Finance, the chairpersons of the fiscal committees of both houses of the Legislature, and the Legislative Analyst's Office by February 1, 2015 on 1) the status of Process Safety Management and Risk Management Program regulatory changes, and; 2) the status of all efforts the department is taking to implement recommendations of the final report from the Governor's Interagency Working Group on Refinery Safety.

x. The Department of Industrial Relations shall report to the Director of Finance, the chairpersons of the fiscal committees of both houses of the Legislature, and the Legislative Analyst's Office by February 1, 2015 on 1) the status of the department's annual workload evaluation of the staffing needed to meet the enforcement requirements of Section 7870 of the Labor Code, for both refinery facilities and non-refinery facilities that meet the threshold for Cal/OSHA Process Safety Management regulatory oversight, and the aggregate fees needed to support the function; 2) the departments process or plan for categorizing non-refinery facilities that meet the threshold for Cal/OSHA Process Safety Management regulatory oversight by type of facility, risk level, and inspection cycles; 3) The number of staffing vacancies, by classification, within the Process Safety Management Unit, and; 4) the number of inspections performed, to date, during the current fiscal year, by both type of facility and type of inspection.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



PART B

Wednesday, May 21, 2014, 10:00 a.m.
State Capitol - Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY**5225 Department of Corrections and Rehabilitation**

1. **Statewide Capital Outlay Budget Packages and Advanced Planning.** The Governor's budget proposes \$500,000 (General Fund) to support workload associated with planning capital outlay projects at youth and adult correctional facilities. This workload typically consists of site assessments, environmental reviews, and the development of scope, cost, and schedule projections.
2. **SB 105 Adjustment (Including Recidivism Reduction Fund).** The May Revision includes a decrease of \$26.8 million to reflect a decrease in the projected adult inmate contract bed need for 2014-15. As a result of this adjustment, the May Revision includes an increase of \$9.9 million in the Recidivism Reduction Fund, bringing total funding to \$91 million.
3. **Workers' Compensation Shortfall.** The Governor's budget includes a one-time \$75 million (General Fund) augmentation to address the California Department of Corrections and Rehabilitation's (CDCR) rising workers' compensation costs. From 2009-10 to 2012-13, CDCR's workers' compensation costs grew by nearly \$90 million due to increases in open claims, cost-of-living adjustments, retirement and medical benefits, and State Compensation Insurance Fund fees.
4. **Custody Relief.** The Governor's January budget proposes to change the methodology CDCR uses to calculate the relief factor. Under the proposal, the relief factor would be calculated based solely on statewide actual leave usage rather than a combination of actual leave usage and accrual rates. In addition, the proposed methodology would incorporate types of leave (such as furlough days) that are not accounted for in the current relief factor. These changes result in the need for an additional \$9 million in General Fund support and 84 positions in 2014-15. Under the Governor's proposal, the relief factor would be adjusted annually based on updated data on actual usage of staff leave in the prior year.
5. **Adult Population Adjustments.** The May Revision includes an increase of \$5.3 million General Fund in 2013-14 and \$4.2 million General Fund in 2014-15 for costs directly related to adult inmate and parole population changes. The revised average daily population projections for adult inmates are 134,214 in 2013-14 (a decrease of 771 inmates below the Governor's January budget) and 136,530 in 2014-15 (a decrease of 1,258 inmates below the Governor's January budget). The revised average daily parolee population projection is 47,247 in 2013-14 (an increase of 1,313 parolees above the Governor's January budget) and 41,866 in the budget year (an increase of 5,214 parolees above the Governor's January budget).

6. **Juvenile Population Adjustments.** The May Revision includes a decrease of \$271,000 General Fund in 2013-14 and an increase of \$258,000 General Fund in 2014-15 for juvenile population adjustments. The revised average daily population projections for wards are 707 in the current year (a decrease of four wards below the Governor's January budget) and 656 in the budget year (an increase of 11 wards over the Governor's January budget).
7. **Technical Amendments to SB 1022 Statutes.** The Governor's spring finance letter requests an amendment to the Government Code that would allow counties with awards from multiple lease revenue bond jail financing programs to enter into leases and agreements with either CDCR or the Board of State and Community Corrections.
8. **Community Corrections Performance Incentive Grant Funding.** The May Revision requests a reduction of \$3.5 million in funding for the Community Corrections Performance Incentive Grants based on updated caseload data.

0250 Judicial Branch

9. **Technical Adjustment to Reduce Excess Expenditure Authority.** The May Revision requests a \$2 million reduction in the Judicial Council's expenditure authority.

0280 Commission on Judicial Performance

10. **Rent Increase.** The May Revision requests a \$40,000 General Fund increase to reflect the increased rent costs for the Commission on Judicial Performance.

0855 California Gambling Control Commission

11. **Indian Gaming Revenue Sharing Trust Fund Transfer.** The May Revision requests the authority for the California Gambling Control Commission to increase the revenue contribution to the Indian Gaming Revenue Sharing Trust Fund in order to fulfill the quarterly payment obligations to non-gaming and limited gaming tribes.

ITEMS TO BE HEARD

5227 Board of State and Community Corrections

Issue 1: Realignment Funding Allocation Formula

Background. Under public safety realignment, the state requested that counties allocate criminal justice realignment funds among themselves. To this end, the California State Association of Counties (CSAC) asked the County Administrative Officers Association of California (CAOAC) to develop an AB 109 allocation formula. CAOAC created a Realignment Allocation Committee in 2011 composed of nine members, all CAOs. Three each came from urban, suburban, and rural counties.

Because the policy was so far-reaching and the committee's timeframe was short, and also because so much information was as yet unknown, the committee decided that the initial formula should be temporary and only apply to the first nine months of the operation of AB 109 (October 2011 through June 2012). The committee then developed subsequent short term formulas and has been tasked with developing a permanent formula for 2015-16. The committee has worked for over a year on the permanent formula and intends to complete their work late this summer.

Under current law, the formula is presented to the Department of Finance for their review and approval. The Legislature does not have a role in approving the final funding allocation formula.

Issue 2: City Law Enforcement Grants

May Revision Proposal. The May Revision includes a \$12.5 million General Fund augmentation to the existing law enforcement grant program. This increase brings the funding total to \$40 million. The grants are administered by the Board of State and Community Corrections (BSCC) and are intended for frontline law enforcement activities.

Background. The 2012 budget act established a three-year, \$20 million per year, grant program to help local law enforcement to mitigate the impact on cities from the economic downturn. The initial \$20 million funding has been raised in subsequent budget proposals. As noted above, the Governor's request would increase the 2014-15 funding to \$40 million and total funding for the three years would be \$91 million.

Legislative Analyst's Office (LAO). The LAO recommends rejecting this proposal for several reasons. According to DOF, the primary purpose of the grant program is to provide additional financial assistance to local law enforcement agencies that have reduced services as a result of economic decline. Despite this justification, the

Administration does not provide a rationale for why this funding amount is appropriate. For example, it is unclear how much additional service city law enforcement should be providing. Moreover, the LAO notes that these funds could be used to supplant current local funding. This would result in the funding burden being shifted to the state without necessarily increasing the level of police services. Additionally, it is unclear how the funds will be allocated as distribution of the funds has been delegated to the California Police Chief's Association.

Issue 3: Post Release Community Supervision (PRCS)

May Revision Proposal. The May Revision includes an increase of \$11.3 million General Fund to be allocated to county probation departments for the temporary increase in the PRCS caseload due to the federal court-ordered changes in the calculation of credit earnings for individuals who are serving terms for non-violent, non-sex offense second strikes. The May Revision assumes an increase in the PRCS caseload of 216 in 2013-14, and 819 in 2014-15, due to this change in policy.

Justification. The February 10, 2014 federal court order increased credit earnings for non-violent, non-sex second strikers, increasing credits from 20 percent to 33.3 percent. Under 2011 Realignment, inmates with non-violent and non-serious offenses are released onto post release community supervision under the jurisdiction of counties. While the initial intent was to retain these offenders on parole until they otherwise would have been released, law enforcement concurs that it is in the best interest of public safety for these offenders to be under the supervision of one jurisdiction for the length of their supervision term. The statewide post release community supervision average daily population impact is estimated to be 216 in 2013-14 and 819 in 2014-15.

Legislative Analyst's Office. The LAO recommends rejecting this proposal for several reasons. While these early inmate releases will increase the PRCS population, it is unclear whether the PRCS population in 2014-15 will be larger than originally projected. This is because, in prior years, data collected by the Chief Probation Officers of California (CPOC) suggest that actual PRCS populations were well below original projections. For example, counties expected to manage a population of 46,500 PRCS offenders in 2012-13, but CPOC data suggest that the actual PRCS population was only about 33,000. In addition, the expected increase in PRCS populations is not the product of new offenders being placed on PRCS; rather it is the result of offenders being released to PRCS ahead of schedule. Despite this, the Administration does not propose reducing future allocations to counties to account for the corresponding drop in the PRCS population, meaning that this proposal will result in counties being effectively being paid twice for these offenders. Finally, the 2011 realignment legislation did not envision the state providing counties funding based on actual caseloads. As such, this proposal is not consistent with the original intent of the legislation.

Issue 4: Executive Steering Committee for YOBG reporting

Trailer Bill Language. The Governor's January budget proposal includes trailer bill language creating an executive steering committee at BSCC to develop language that would streamline and potentially consolidate these reporting requirements for the Juvenile Justice Crime Prevention Act (JJCPA) and the Youthful Offender Block Grant (YOBG) programs, as well as make the reported information more useful for stakeholders at both the state and local level.

Background. As discussed during the May 8th subcommittee hearing, experts in the field of juvenile justice in California have long pointed out the serious lack of information and data on the youth in the state and local juvenile justice systems. Within the BSCC is a Juvenile Justice Standing Committee (JJSC). The 13 member committee includes juvenile justice practitioners and experts representing courts, law enforcement, probation, education, health, philanthropy, youth service, and related disciplines. The members of the JJSC created a set of guiding principles. Among those principles was the need to establish performance outcomes to measure program effectiveness and that data, including data on caseloads and case outcomes, should be maintained and reported in a consistent and accessible manner at the local and state levels.

Issue 5: Alternative Custody Program for Women

Trailer Bill Language. The Governor's January budget proposal includes trailer bill language allowing county sheriffs or county directors of correction to establish Alternative Custody Programs (ACP) for female inmates at the county level.

Background. Under the ACP program, eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, are allowed to participate in lieu of their confinement in state prison. Through this program, female inmates may be placed in a residential home, a nonprofit residential drug-treatment program, or a transitional-care facility that offers individualized services based on an inmate's needs. The program focuses on reuniting low-level inmates with their families and reintegrating them back into their community.

CDCR implemented ACP on September 12, 2011. Since its inception, 345 women have participated in the program and an additional nine women are currently awaiting transfer into the program. As of February 25 of this year, the daily population was 77 women. There are currently 287 women in various stages of the application process. Approximately one-third of those women will be deemed eligible; the remainder will most likely be disqualified because of their offenses. Of the 345 participants to date, 39 have been returned to prison due to their behavior in the community or for committing new crimes.

5225 Department of Corrections and Rehabilitation

Issue 6: California Health Care Facility (CHCF) Custody Staffing

May Revision Proposal. The May Revision includes an increase of \$12.5 million General Fund to address problems raised by the federal healthcare receiver around plant operations, food services, and custody staffing.

Background. The California Health Care Facility (CHCF) was designed and constructed to be a state-of-the-art medical facility that would provide care to inmates with high medical and mental health care needs. The construction of CHCF was completed in July 2013 and the receiver and CDCR began shifting inmates to the new hospital facility. The facility provides about 1,800 total beds including about 1,000 beds for inpatient medical treatment, about 600 beds for inpatient mental health treatment, and 100 general population beds. The CHCF cost close to \$1 billion to construct and has an annual operating budget of almost \$300 million.

Almost immediately after activation began, serious problems started to emerge. Reports suggested that there was a shortage of latex gloves, catheters, soap, clothing, and shoes for the prisoners. In addition, over a six-month period, CHCF went through nearly 40,000 towels and washcloths for a prison that was housing approximately 1,300 men. Investigations by officials at the facility found that the linens were being thrown away, rather than laundered and sanitized. In addition, the prison kitchen did not pass the initial health inspections, resulting in the requirement that prepared meals be shipped in from outside the institution. The problems were further compounded by staffing shortages and a lack of training. For example, a lack of training for nurses on the prison's bedside call system may have contributed to the death of an inmate in January. In addition, early this year, the prison suffered from an outbreak of scabies which the receiver's office attributes to the unsanitary conditions at the hospital.

In February of this year, the receiver closed down intake at the facility and stopped admitting new prisoners. In addition, the receiver delayed the activation of the neighboring DeWitt-Nelson facility, which is designed to house inmate labor for CHCF, mentally ill prisoners, and prisoners with chronic medical conditions who need on-going care.

Prior Subcommittee Action. On May 1, 2014, the subcommittee received an update from CDCR, and the health care receiver on the activation of both CHCF and the DeWitt correctional facility. No action was taken at that time.

Legislative Analyst's Office (LAO). The LAO recommends rejecting this proposal unless CDCR is able to provide additional information regarding savings from delayed activation of CHCF. While the requested funding level assumes that CHCF will be fully occupied for the entire 2014-15 budget year, there have been significant activation delays at CHCF that make this unlikely. For example, CDCR's most recent activation

schedules indicates that Facility E will have an average population of 10 percent less than design capacity which could result in several million dollars in savings in 2014-15. In addition, the receiver has indefinitely suspended intake at Facilities C and D which is likely to result in further budget year savings. The LAO is also concerned that CDCR has also not provided a detailed accounting of how it used the savings from delays in the activation of CHCF in the 2013-14 fiscal year. The LAO recommends that the Legislature direct the department to provide an updated estimate of the savings that will result from the continuing delays in the activation of CHCF and that it adjust this proposal accordingly.

Issue 7: Conversion of Licensed Health Care Beds

May Revision Proposal. The May Revision includes a decrease of \$1.9 million General fund (\$5.6 million on-going) due to downgrading 420 in-institution licensed general acute care hospital or intermediate care facility beds to correctional treatment center beds.

The proposal requests converting General Acute Care Hospital (GACH) and Intermediate Care Facility (ICF) programs to more a more cost effective Correction Treatment Center (CTC) program at California State Prison – Corcoran, California Men’s Colony, and California Medical Facility. This change is expected to result in converting 336 GACH licensed beds and 84 ICF licensed beds to CTC licensed beds with an on-going out-year savings of almost \$5.6 million.

Issue 8: Enhanced Drug and Contraband Interdiction and Non-Reentry Hub Substance Abuse Treatment Program

Governor’s Budget. The Governor’s budget for 2014-15 proposes an augmentation of \$14 million in General Fund support and 81 positions to expand CDCR’s interdiction program. Under the proposal, these levels would increase to \$18.5 million and 148 positions in 2015-16. The proposal consists of four separate initiatives aimed at deterring the smuggling of drugs and contraband into prison and deterring inmates from using drugs. These initiatives involve: (1) increasing from 29 to 100 the number of trained canines to detect contraband possessed by inmates; (2) increasing from 7 to 35 the number of ion scanners available to detect drugs possessed by inmates, visitors, or staff; (3) purchasing an additional 240,000 urinalysis kits to randomly drug test inmates; and (4) equipping inmate visiting rooms with video surveillance technology and requiring inmates in visiting rooms to wear special clothing intended to prevent the smuggling of drugs and other contraband.

In addition, for 2014-15, the proposal requests \$11.8 million from the Recidivism Reduction Fund and 44 positions to contract with substance abuse treatment providers to administer the program at 10 institutions that do not have a reentry hub. In 2015-16,

CDCR requests a total of 91 positions and \$23.9 million General Fund to further expand substance abuse treatment programs to the 11 remaining institutions that do not house reentry hubs.

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing and was held open.

Issue 9: Correctional Staff Training

Budget Proposal. The Governor's budget proposal includes \$61.7 million (General Fund) and 147 positions to increase the CDCR's Basic Correctional Officer Academy capacity from 720 in 2013-14 to 3,400 in 2014-15. This augmentation will allow CDCR to fill an increasing number of vacancies in its correctional officer classification due to retirements and other attrition.

Of the \$61.7 million, the Office of Peace Officer Selection (OPOS) would receive \$14.5 million and 69 positions to recruit and process up to 32,500 applicants annually, and process the applicants through the screening process.

The Office of Training and Professional Development, under this proposal, would receive \$47.3 million and 78 positions. \$38 million of that funding would be directly related to funding the Academy.

To facilitate an increased number of cadets, the Administration proposes shifting from a 16 week academy to a 12-week academy, with the final four weeks of training provided at an institution.

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing and was held open.

Staff Comment. The subcommittee members and staff have expressed concern with the lack of certain types of training provided in the academy such as crisis intervention, motivational interviewing, mental health staff and custody staff collaboration, the importance of rehabilitation programming, and other types of training designed to help CDCR further their mission to prepare inmates to return to their communities and to help custody staff deal with an increasingly challenging population. The subcommittee expressed further concern with the shortening of the academy from 16 weeks to 12 weeks. Toward that end, the Legislature may wish to consider expanding the annual training requirements for institutional staff.

Issue 10: CDCR Overtime and Lump Sum Payouts

Budget Proposal. The Governor's 2014-15 budget proposes \$207.2 million in General Fund support for overtime costs. This represents a slight increase from the \$201.3 million included in the 2013-14 budget for overtime costs.

The budget also proposes eliminating the separate budget item for custody overtime (Program 26) and including those overtime costs in the general custody salaries and wages budget item (Program 25).

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing. The subcommittee rejected the Governor's proposal to eliminate Program 26. In addition, the subcommittee directed the Legislative Analyst's Office, CDCR, and the Department of Finance to determine exactly how much of the CDCR overtime budget is being used for overtime and how much is being shifted to fund worker's compensation and lump-sum salary payouts.

Issue 11: Workload Increase for Expanded Parole

May Revise Proposal. The May Revision request \$3.1 million dollars General Fund and 23.8 positions for the workload associated with expanded medical parole, implementing an elderly parole program, and establishing a parole process for non-violent, non-sex related second strikers that have served 50 percent of their sentence, and to reduce the hearing preparation timeline.

Prior Subcommittee Action. During the March 27th subcommittee hearing, the subcommittee rejected the BCP requesting funding for the workload associated with expanded parole. The proposal was rejected because the Administration informed the subcommittee that the initial proposal was a placeholder item and that they were unsure of the amount of additional funding they would need for the increased workload. This proposal represents their revised proposal and represents a decrease of approximately \$4 million.

Issue 12: California Men's Colony: Central Kitchen Replacement

Spring Finance Request. The Governor is requesting an increase of \$8,655,000 from the Public Buildings Construction Fund (lease-revenue bonds) for increased design and construction costs for the central kitchen replacement at the California Men's Colony in San Luis Obispo. In addition, the Governor is requesting the authority to re-appropriate \$15.3 million in unspent funding for working drawings and construction that was contained in the 2012 budget act.

Issue 13: AB 900 Health Care Facility Improvement Program (HCFIP)

May Revision Trailer Bill Proposal. The May Revision requests the adoption of trailer bill language to allow the use of AB 900 General Fund for the design and construction of projects in HCFIP. Essentially, the issue before the subcommittee is the Governor's request to authorize the use of unexpended bond authority (from 2007) to support the design and construction of CDCR construction projects intended to address directives outlined in the *Plata v. Brown* case on inmate medical care.

Background. HCFIP was established to perform facility assessment and identify areas of deficiency in terms of medical facilities at each institution. The assessment determined that HCFIP projects were needed at 31 institutions. Currently, 25 HCFIP projects have been established by the State Public Works Board and one project is proposed in the Governor's January budget. There are five remaining projects that have not been established and the existing expenditure authority of \$900.4 million has been fully allocated. The Administration estimates that CDCR will need approximately \$75 million in additional funding for the five remaining projects.

0250 Judicial Branch

Issue 14: Capital Outlay Spring Finance Letter

Spring Finance Letter. The Governor's spring finance letter requests an increase of \$44.6 million from the Immediate and Critical Needs Account (ICNA) for the design and construction of the Los Angeles County Mental Health Court House at the site of the Hollywood Courthouse. Renovating the Hollywood Courthouse represents a change in scope that is estimated to save approximately \$50 million.

In addition, the spring letter asks for a change in scope for the Alameda East County Hall of Justice. The change would shift the project from a lease purchase to a cash-funded acquisition. Finally, the letter asks for re-appropriations for projects in Imperial and Riverside Counties.

Issue 15: Trial Court Funding

May Revise Proposal. The May Revision includes an increase of \$60 million for trial court funding, for a total increase of \$160 million. The May Revision further revises the Governor's January proposal for trial court funding to specifically provide a five percent increase in state trial court operations, for a total increase of \$86.3 million. In addition, the May Revision includes an increase of \$42.8 million to reflect increased health benefit and retirement adjustment costs for trial court employees. Finally, the May Revision reflects a General Fund increase of \$30.9 million to account for an estimated shortfall in the Trial Court Revenue Trust Fund.

Issue 16: Rent Increases

May Revision Proposal. The May Revision requests an increase of \$2,240,000 General Fund to reflect increased rent costs for the Supreme Court, Courts of Appeal, and the Administrative Office of the Courts. This increase is based upon the Department of General Services' lease rates for state-owned buildings, as published in their annual price book.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell



OUTCOMES

PART B

Wednesday, May 21, 2014, 10:00 a.m.
State Capitol - Room 113

Consultant: Julie Salley-Gray

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

PROPOSED FOR VOTE ONLY**5225 Department of Corrections and Rehabilitation**

1. **Statewide Capital Outlay Budget Packages and Advanced Planning.** The Governor's budget proposes \$500,000 (General Fund) to support workload associated with planning capital outlay projects at youth and adult correctional facilities. This workload typically consists of site assessments, environmental reviews, and the development of scope, cost, and schedule projections.

Action: Approve Vote: 2 – 0

2. **SB 105 Adjustment (Including Recidivism Reduction Fund).** The May Revision includes a decrease of \$26.8 million to reflect a decrease in the projected adult inmate contract bed need for 2014-15. As a result of this adjustment, the May Revision includes an increase of \$9.9 million in the Recidivism Reduction Fund, bringing total funding to \$91 million.

Action: Approve Vote: 2 – 0

3. **Workers' Compensation Shortfall.** The Governor's budget includes a one-time \$75 million (General Fund) augmentation to address the California Department of Corrections and Rehabilitation's (CDCR) rising workers' compensation costs. From 2009-10 to 2012-13, CDCR's workers' compensation costs grew by nearly \$90 million due to increases in open claims, cost-of-living adjustments, retirement and medical benefits, and State Compensation Insurance Fund fees.

Action: Approve Vote: 2 – 0

4. **Custody Relief.** The Governor's January budget proposes to change the methodology CDCR uses to calculate the relief factor. Under the proposal, the relief factor would be calculated based solely on statewide actual leave usage rather than a combination of actual leave usage and accrual rates. In addition, the proposed methodology would incorporate types of leave (such as furlough days) that are not accounted for in the current relief factor. These changes result in the need for an additional \$9 million in General Fund support and 84 positions in 2014-15. Under the Governor's proposal, the relief factor would be adjusted annually based on updated data on actual usage of staff leave in the prior year.

Action: Approve a one-time \$9 million General Fund increase in the custody relief budget. Reject the additional 84 custody relief positions. Vote: 2 – 0

5. **Adult Population Adjustments.** The May Revision includes an increase of \$5.3 million General Fund in 2013-14 and \$4.2 million General Fund in 2014-15 for costs directly related to adult inmate and parole population changes. The revised average daily population projections for adult inmates are 134,214 in 2013-14 (a

decrease of 771 inmates below the Governor's January budget) and 136,530 in 2014-15 (a decrease of 1,258 inmates below the Governor's January budget). The revised average daily parolee population projection is 47,247 in 2013-14 (an increase of 1,313 parolees above the Governor's January budget) and 41,866 in the budget year (an increase of 5,214 parolees above the Governor's January budget).

Action: Approve Vote: 2 – 0

- 6. Juvenile Population Adjustments.** The May Revision includes a decrease of \$271,000 General Fund in 2013-14 and an increase of \$258,000 General Fund in 2014-15 for juvenile population adjustments. The revised average daily population projections for wards are 707 in the current year (a decrease of four wards below the Governor's January budget) and 656 in the budget year (an increase of 11 wards over the Governor's January budget).

Action: Approve Vote: 2 – 0

- 7. Technical Amendments to SB 1022 Statutes.** The Governor's spring finance letter requests an amendment to the Government Code that would allow counties with awards from multiple lease revenue bond jail financing programs to enter into leases and agreements with either CDCR or the Board of State and Community Corrections.

Action: Approve Vote: 2 – 0

- 8. Community Corrections Performance Incentive Grant Funding.** The May Revision requests a reduction of \$3.5 million in funding for the Community Corrections Performance Incentive Grants based on updated caseload data.

Action: Approve Vote: 2 – 0

0250 Judicial Branch

- 9. Technical Adjustment to Reduce Excess Expenditure Authority.** The May Revision requests a \$2 million reduction in the Judicial Council's expenditure authority.

Action: Approve Vote: 2 – 0

0280 Commission on Judicial Performance

10. **Rent Increase.** The May Revision requests a \$40,000 General Fund increase to reflect the increased rent costs for the Commission on Judicial Performance.

Action: Approve Vote: 2 – 0

0855 California Gambling Control Commission

11. **Indian Gaming Revenue Sharing Trust Fund Transfer.** The May Revision requests the authority for the California Gambling Control Commission to increase the revenue contribution to the Indian Gaming Revenue Sharing Trust Fund in order to fulfill the quarterly payment obligations to non-gaming and limited gaming tribes.

Action: Approve Vote: 2 – 0

ITEMS TO BE HEARD

5227 Board of State and Community Corrections

Issue 1: Realignment Funding Allocation Formula

Background. Under public safety realignment, the state requested that counties allocate criminal justice realignment funds among themselves. To this end, the California State Association of Counties (CSAC) asked the County Administrative Officers Association of California (CAOAC) to develop an AB 109 allocation formula. CAOAC created a Realignment Allocation Committee in 2011 composed of nine members, all CAOs. Three each came from urban, suburban, and rural counties.

Because the policy was so far-reaching and the committee's timeframe was short, and also because so much information was as yet unknown, the committee decided that the initial formula should be temporary and only apply to the first nine months of the operation of AB 109 (October 2011 through June 2012). The committee then developed subsequent short term formulas and has been tasked with developing a permanent formula for 2015-16. The committee has worked for over a year on the permanent formula and intends to complete their work late this summer.

Under current law, the formula is presented to the Department of Finance for their review and approval. The Legislature does not have a role in approving the final funding allocation formula.

Issue 2: City Law Enforcement Grants

May Revision Proposal. The May Revision includes a \$12.5 million General Fund augmentation to the existing law enforcement grant program. This increase brings the funding total to \$40 million. The grants are administered by the Board of State and Community Corrections (BSCC) and are intended for frontline law enforcement activities.

Background. The 2012 budget act established a three-year, \$20 million per year, grant program to help local law enforcement to mitigate the impact on cities from the economic downturn. The initial \$20 million funding has been raised in subsequent budget proposals. As noted above, the Governor's request would increase the 2014-15 funding to \$40 million and total funding for the three years would be \$91 million.

Legislative Analyst's Office (LAO). The LAO recommends rejecting this proposal for several reasons. According to DOF, the primary purpose of the grant program is to provide additional financial assistance to local law enforcement agencies that have reduced services as a result of economic decline. Despite this justification, the

Administration does not provide a rationale for why this funding amount is appropriate. For example, it is unclear how much additional service city law enforcement should be providing. Moreover, the LAO notes that these funds could be used to supplant current local funding. This would result in the funding burden being shifted to the state without necessarily increasing the level of police services. Additionally, it is unclear how the funds will be allocated as distribution of the funds has been delegated to the California Police Chief's Association.

Action: Reject the additional \$12.5 million in unspecified funding. Instead, appropriate \$12.5 million to expand or implement gang violence and firearm reduction programs such as project cease fire and for targeted innovative police training designed to strengthen public confidence in the police, address community gang issues, and enhance officer competency and safety in dealing with members of the public who are mentally ill, substance abusers, or homeless.

Vote: 2 – 0

Issue 3: Post Release Community Supervision (PRCS)

May Revision Proposal. The May Revision includes an increase of \$11.3 million General Fund to be allocated to county probation departments for the temporary increase in the PRCS caseload due to the federal court-ordered changes in the calculation of credit earnings for individuals who are serving terms for non-violent, non-sex offense second strikes. The May Revision assumes an increase in the PRCS caseload of 216 in 2013-14, and 819 in 2014-15, due to this change in policy.

Justification. The February 10, 2014 federal court order increased credit earnings for non-violent, non-sex second strikers, increasing credits from 20 percent to 33.3 percent. Under 2011 Realignment, inmates with non-violent and non-serious offenses are released onto post release community supervision under the jurisdiction of counties. While the initial intent was to retain these offenders on parole until they otherwise would have been released, law enforcement concurs that it is in the best interest of public safety for these offenders to be under the supervision of one jurisdiction for the length of their supervision term. The statewide post release community supervision average daily population impact is estimated to be 216 in 2013-14 and 819 in 2014-15.

Legislative Analyst's Office. The LAO recommends rejecting this proposal for several reasons. While these early inmate releases will increase the PRCS population, it is unclear whether the PRCS population in 2014-15 will be larger than originally projected. This is because, in prior years, data collected by the Chief Probation Officers of California (CPOC) suggest that actual PRCS populations were well below original projections. For example, counties expected to manage a population of 46,500 PRCS offenders in 2012-13, but CPOC data suggest that the actual PRCS population was only about 33,000. In addition, the expected increase in PRCS populations is not the product of new offenders being placed on PRCS; rather it is the result of offenders being released to PRCS ahead of schedule. Despite this, the Administration does not propose

reducing future allocations to counties to account for the corresponding drop in the PRCS population, meaning that this proposal will result in counties being effectively being paid twice for these offenders. Finally, the 2011 realignment legislation did not envision the state providing counties funding based on actual caseloads. As such, this proposal is not consistent with the original intent of the legislation.

Action: Approve Vote: 2 – 0

Issue 4: Executive Steering Committee for YOBG reporting

Trailer Bill Language. The Governor's January budget proposal includes trailer bill language creating an executive steering committee at BSCC to develop language that would streamline and potentially consolidate these reporting requirements for the Juvenile Justice Crime Prevention Act (JJCPA) and the Youthful Offender Block Grant (YOBG) programs, as well as make the reported information more useful for stakeholders at both the state and local level.

Background. As discussed during the May 8th subcommittee hearing, experts in the field of juvenile justice in California have long pointed out the serious lack of information and data on the youth in the state and local juvenile justice systems. Within the BSCC is a Juvenile Justice Standing Committee (JJSC). The 13 member committee includes juvenile justice practitioners and experts representing courts, law enforcement, probation, education, health, philanthropy, youth service, and related disciplines. The members of the JJSC created a set of guiding principles. Among those principles was the need to establish performance outcomes to measure program effectiveness and that data, including data on caseloads and case outcomes, should be maintained and reported in a consistent and accessible manner at the local and state levels.

Action: Reject the proposed trailer bill language and instead adopt the following as draft, placeholder trailer bill language:

(a) There is hereby created within the Board of State and Community Corrections the California Juvenile Justice Data Working Group. The purpose of the Working Group is to produce a cost and implementation plan to coordinate and modernize the antiquated and fragmented juvenile justice data systems and reports that are presently administered and produced by different agencies and departments in California.

(b) The Working Group shall:

- 1) Analyze the capacities and limitations of the current data systems and networks used to collect and report state and local juvenile justice caseload and outcome data from the point of arrest to final disposition of each case. The analysis shall include review of relevant data systems, studies or models from California and other states having elements worthy of replication in California and shall,***

in addition, identify changes or upgrades to improve the capacity and utility of juvenile justice caseload and outcome data in California, including changes to support gathering more comprehensive juvenile justice outcome and recidivism information as well as changes to improve performance outcome measurement for state-local juvenile justice grant programs.

2) Produce, by January 1, 2016 a report and implementation plan, including a cost plan, for the comprehensive inter-agency coordination, modernization and upgrading of California state and local juvenile justice data and information systems, including the collection and reporting tasks and responsibilities for agencies, departments or providers affected by the plan. The plan shall include recommendations and a development plan for the creation of a web-based statewide clearinghouse or information center that would make relevant juvenile justice information on operations, caseloads, dispositions and outcomes available in a user-friendly, query-based format for stakeholders and members of the public.

(c) The California Juvenile Justice Data Working Group shall include representatives from the Department of Justice, the Board of State and Community Corrections, the California Division of Juvenile Justice, the Chief Probation Officers of California, the California Judicial Council, the California State Association of Counties, and other representation deemed appropriate by the board. Members of the Working Group shall include persons have experience or expertise related to the California juvenile justice system and/or to the design and implementation of juvenile justice data systems. The Working Group shall include at least one designated member of the Juvenile Justice Standing Committee of the board and one designated member of the California State Advisory Group on Juvenile Justice. The Working Group shall have staff support provided by the Juvenile Justice Research Specialist identified in subdivision (d) of this Section. The Working Group shall meet no less once each quarter and may establish subcommittees or steering committees including stakeholders and experts from relevant disciplines to support its efforts. Following release and submission of the plan described in subdivision (b) the Working Group shall continue to meet, monitor and oversee plan implementation strategies, including budget and legislative recommendations, for no less than one year following the issuance of the plan.

Vote: 2 – 0

Issue 5: Alternative Custody Program for Women

Trailer Bill Language. The Governor's January budget proposal includes trailer bill language allowing county sheriffs or county directors of correction to establish Alternative Custody Programs (ACP) for female inmates at the county level.

Background. Under the ACP program, eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, are allowed to participate in lieu of their confinement in state prison. Through this program, female inmates may be placed in a residential home, a nonprofit residential drug-treatment program, or a transitional-care facility that offers individualized services based on an inmate's needs. The program focuses on reuniting low-level inmates with their families and reintegrating them back into their community.

CDCR implemented ACP on September 12, 2011. Since its inception, 345 women have participated in the program and an additional nine women are currently awaiting transfer into the program. As of February 25 of this year, the daily population was 77 women. There are currently 287 women in various stages of the application process. Approximately one-third of those women will be deemed eligible; the remainder will most likely be disqualified because of their offenses. Of the 345 participants to date, 39 have been returned to prison due to their behavior in the community or for committing new crimes.

Action: Adopt the proposed trailer bill language as draft placeholder trailer bill language with the following modification:

- **Allow counties to create an ACP program for both women and men.**

Vote: 2 – 0

5225 Department of Corrections and Rehabilitation

Issue 6: California Health Care Facility (CHCF) Custody Staffing

May Revision Proposal. The May Revision includes an increase of \$12.5 million General Fund to address problems raised by the federal healthcare receiver around plant operations, food services, and custody staffing.

Background. The California Health Care Facility (CHCF) was designed and constructed to be a state-of-the-art medical facility that would provide care to inmates with high medical and mental health care needs. The construction of CHCF was completed in July 2013 and the receiver and CDCR began shifting inmates to the new hospital facility. The facility provides about 1,800 total beds including about 1,000 beds for inpatient medical treatment, about 600 beds for inpatient mental health treatment, and 100 general population beds. The CHCF cost close to \$1 billion to construct and has an annual operating budget of almost \$300 million.

Almost immediately after activation began, serious problems started to emerge. Reports suggested that there was a shortage of latex gloves, catheters, soap, clothing, and shoes for the prisoners. In addition, over a six-month period, CHCF went through nearly 40,000 towels and washcloths for a prison that was housing approximately 1,300 men. Investigations by officials at the facility found that the linens were being thrown away, rather than laundered and sanitized. In addition, the prison kitchen did not pass the initial health inspections, resulting in the requirement that prepared meals be shipped in from outside the institution. The problems were further compounded by staffing shortages and a lack of training. For example, a lack of training for nurses on the prison's bedside call system may have contributed to the death of an inmate in January. In addition, early this year, the prison suffered from an outbreak of scabies which the receiver's office attributes to the unsanitary conditions at the hospital.

In February of this year, the receiver closed down intake at the facility and stopped admitting new prisoners. In addition, the receiver delayed the activation of the neighboring DeWitt-Nelson facility, which is designed to house inmate labor for CHCF, mentally ill prisoners, and prisoners with chronic medical conditions who need on-going care.

Prior Subcommittee Action. On May 1, 2014, the subcommittee received an update from CDCR, and the health care receiver on the activation of both CHCF and the DeWitt correctional facility. No action was taken at that time.

Legislative Analyst's Office (LAO). The LAO recommends rejecting this proposal unless CDCR is able to provide additional information regarding savings from delayed activation of CHCF. While the requested funding level assumes that CHCF will be fully occupied for the entire 2014-15 budget year, there have been significant activation delays at CHCF that make this unlikely. For example, CDCR's most recent activation

schedules indicates that Facility E will have an average population of 10 percent less than design capacity which could result in several million dollars in savings in 2014-15. In addition, the receiver has indefinitely suspended intake at Facilities C and D which is likely to result in further budget year savings. The LAO is also concerned that CDCR has also not provided a detailed accounting of how it used the savings from delays in the activation of CHCF in the 2013-14 fiscal year. The LAO recommends that the Legislature direct the department to provide an updated estimate of the savings that will result from the continuing delays in the activation of CHCF and that it adjust this proposal accordingly.

Action: Approve the May Revision proposal.

Vote: 2 – 0

Issue 7: Conversion of Licensed Health Care Beds

May Revision Proposal. The May Revision includes a decrease of \$1.9 million General fund (\$5.6 million on-going) due to downgrading 420 in-institution licensed general acute care hospital or intermediate care facility beds to correctional treatment center beds.

The proposal requests converting General Acute Care Hospital (GACH) and Intermediate Care Facility (ICF) programs to more a more cost effective Correction Treatment Center (CTC) program at California State Prison – Corcoran, California Men’s Colony, and California Medical Facility. This change is expected to result in converting 336 GACH licensed beds and 84 ICF licensed beds to CTC licensed beds with an on-going out-year savings of almost \$5.6 million.

Action: Approve the May Revision proposal.

Vote: 2 – 0

Issue 8: Enhanced Drug and Contraband Interdiction and Non-Reentry Hub Substance Abuse Treatment Program

Governor’s Budget. The Governor’s budget for 2014-15 proposes an augmentation of \$14 million in General Fund support and 81 positions to expand CDCR’s interdiction program. Under the proposal, these levels would increase to \$18.5 million and 148 positions in 2015-16. The proposal consists of four separate initiatives aimed at deterring the smuggling of drugs and contraband into prison and deterring inmates from using drugs. These initiatives involve: (1) increasing from 29 to 100 the number of trained canines to detect contraband possessed by inmates; (2) increasing from 7 to 35 the number of ion scanners available to detect drugs possessed by inmates, visitors, or staff; (3) purchasing an additional 240,000 urinalysis kits to randomly drug test inmates; and (4) equipping inmate visiting rooms with video surveillance technology and requiring

inmates in visiting rooms to wear special clothing intended to prevent the smuggling of drugs and other contraband.

In addition, for 2014-15, the proposal requests \$11.8 million from the Recidivism Reduction Fund and 44 positions to contract with substance abuse treatment providers to administer the program at 10 institutions that do not have a reentry hub. In 2015-16, CDCR requests a total of 91 positions and \$23.9 million General Fund to further expand substance abuse treatment programs to the 11 remaining institutions that do not house reentry hubs.

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing and was held open.

Action: Reject, without prejudice, the \$11.8 million in funding from the recidivism fund for substance abuse treatment providers in the institutions that do not have a reentry hub. Reduce the Enhanced Drug and Contraband Interdiction funding by \$8.8 million and direct the administration to conduct a two-year pilot program in five institutions.

At the end of the two-year pilot program CDCR is required to provide an evaluation of the pilot to the Senate and Assembly budget committees and both public safety committees. The report would include at a minimum, the following information:

- **The number of positive drug tests prior to the implementation of the pilot at an institution and after the enhanced program was implemented.**
- **A comparison of the positive drug tests between the pilot institutions and the non-pilot institutions during the same time period.**
- **A breakout of the types and amount of contraband seized prior to the pilot and after its implementation.**
- **A comparison of the types and amounts of contraband seized between the pilot institutions and the non-pilot institutions during the same time period.**
- **A breakdown of who was caught with contraband (e.g. inmates, visitors, custody staff, medical staff, administrative staff, management, vendors, volunteers, program staff) during the duration of the pilot.**

Adopt draft, placeholder trailer bill language requiring that the enhanced drug and contraband interdiction measures be applied to all individuals in the institution (e.g. inmates, visitors, custody staff, medical staff, administrative staff, management, vendors, contract employees, volunteers, program staff) and that the measures not be phased in by population-type at an institution.

Vote: 2 – 0

Issue 9: Correctional Staff Training

Budget Proposal. The Governor's budget proposal includes \$61.7 million (General Fund) and 147 positions to increase the CDCR's Basic Correctional Officer Academy capacity from 720 in 2013-14 to 3,400 in 2014-15. This augmentation will allow CDCR to fill an increasing number of vacancies in its correctional officer classification due to retirements and other attrition.

Of the \$61.7 million, the Office of Peace Officer Selection (OPOS) would receive \$14.5 million and 69 positions to recruit and process up to 32,500 applicants annually, and process the applicants through the screening process.

The Office of Training and Professional Development, under this proposal, would receive \$47.3 million and 78 positions. \$38 million of that funding would be directly related to funding the Academy.

To facilitate an increased number of cadets, the Administration proposes shifting from a 16 week academy to a 12-week academy, with the final four weeks of training provided at an institution.

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing and was held open.

Staff Comment. The subcommittee members and staff have expressed concern with the lack of certain types of training provided in the academy such as crisis intervention, motivational interviewing, mental health staff and custody staff collaboration, the importance of rehabilitation programming, and other types of training designed to help CDCR further their mission to prepare inmates to return to their communities and to help custody staff deal with an increasingly challenging population. The subcommittee expressed further concern with the shortening of the academy from 16 weeks to 12 weeks. Toward that end, the Legislature may wish to consider expanding the annual training requirements for institutional staff.

Action: Approve the January Governor's budget proposal. In addition, increase the annual training for CDCR institutional staff by 16 hours for a total of \$24 million. The funding would be in the Office of Training and Professional Development in collaboration with the Office of Correctional Safety. The additional 16 hours of training shall consist of motivational interviewing, stress management training for employees, crisis intervention training, and CDCR custody, health care, and mental health staff collaboration training.

Provide \$500,000 General Fund for an independent evaluation of the CDCR correctional positions minimal education requirements and current educational level of the staff. At a minimum, the evaluation should contain the following:

- A survey of the educational level of all current correctional staff, including wardens.
- An analysis of the current minimal education requirements, including an assessment of what the ideal minimal requirements should be for each position.
- An analysis of the national standards and the educational requirements in other states.
- A strategic plan for implementing minimal higher education requirements that includes both incentives for current staff to attain higher levels of education, including feasible accommodations within their work schedules, and a strategy for the implementing minimal higher education requirements for each position.

CDCR shall contract with an independent firm that has expertise in this type of analysis and the contract shall include a requirement that the firm consult with the department, outside experts in the correctional field, and the labor union representing the correctional officers. The Administration shall provide the result of the evaluation to both the budget committees and public safety committees in both houses by April 1, 2015. Any unspent funds will revert to the General Fund.

Vote: 2 – 0

Issue 10: CDCR Overtime and Lump Sum Payouts

Budget Proposal. The Governor's 2014-15 budget proposes \$207.2 million in General Fund support for overtime costs. This represents a slight increase from the \$201.3 million included in the 2013-14 budget for overtime costs.

The budget also proposes eliminating the separate budget item for custody overtime (Program 26) and including those overtime costs in the general custody salaries and wages budget item (Program 25).

Prior Subcommittee Action. This budget proposal was originally discussed at the subcommittee's March 27th hearing. The subcommittee rejected the Governor's proposal to eliminate Program 26. In addition, the subcommittee directed the Legislative Analyst's Office, CDCR, and the Department of Finance to determine exactly how much of the CDCR overtime budget is being used for overtime and how much is being shifted to fund worker's compensation and lump-sum salary payouts.

Staff Comment. The following recommended action reflects the agreement developed by the LAO, CDCR, and DOF.

Action: The total overtime budget is reduced by \$74.848 million, and the Program 25.50 General Security is augmented by \$74.848 million in recognition of unbudgeted General Security employee compensation costs, including \$52 million for employee leave separation payments and \$22.848 million for health

benefits for staff on leave for workers' compensation. Specifically, the Program 25.70 General Security Overtime budget will be reduced by \$64.105 million and the Program 25.80 Health Care Access Unity Security Overtime budget will be reduced by \$10.743 million to reflect estimated overtime need.

Approve the consolidation of overtime in Program 25 with separate element displays in the Governor's Budget:

- Program 25.50 General Security.
- Program 25.60 Health Care Access Unit Security.
- Program 25.70 General Security Overtime.
- Program 25.80 Health Care Access Unit Security Overtime.

The Administration shall provide a detailed report of all Program 25 expenditures, including actual expenditures for the prior fiscal year, estimated expenditures for the current fiscal year, and proposed expenditures for the budget year, broken-out by category of expense, in the Governor's budget. The report shall include expenditures on salaries and wages, overtime by activity, temporary help, lump sum payments, and benefits, including worker's compensation.

Vote: 2 – 0

Issue 11: Workload Increase for Expanded Parole

May Revise Proposal. The May Revision request \$3.1 million dollars General Fund and 23.8 positions for the workload associated with expanded medical parole, implementing an elderly parole program, and establishing a parole process for non-violent, non-sex related second strikers that have served 50 percent of their sentence, and to reduce the hearing preparation timeline.

Prior Subcommittee Action. During the March 27th subcommittee hearing, the subcommittee rejected the BCP requesting funding for the workload associated with expanded parole. The proposal was rejected because the Administration informed the subcommittee that the initial proposal was a placeholder item and that they were unsure of the amount of additional funding they would need for the increased workload. This proposal represents their revised proposal and represents a decrease of approximately \$4 million.

Action: Approve the May Revision proposal.

Vote: 2 – 0

Issue 12: California Men's Colony: Central Kitchen Replacement

Spring Finance Request. The Governor is requesting an increase of \$8,655,000 from the Public Buildings Construction Fund (lease-revenue bonds) for increased design and

construction costs for the central kitchen replacement at the California Men's Colony in San Luis Obispo. In addition, the Governor is requesting the authority to re-appropriate \$15.3 million in unspent funding for working drawings and construction that was contained in the 2012 budget act.

Action: Approve the spring finance letter request.

Vote: 2 – 0

Issue 13: AB 900 Health Care Facility Improvement Program (HCFIP)

May Revision Trailer Bill Proposal. The May Revision requests the adoption of trailer bill language to allow the use of AB 900 General Fund for the design and construction of projects in HCFIP. Essentially, the issue before the subcommittee is the Governor's request to authorize the use of unexpended bond authority (from 2007) to support the design and construction of CDCR construction projects intended to address directives outlined in the *Plata v. Brown* case on inmate medical care.

Background. HCFIP was established to perform facility assessment and identify areas of deficiency in terms of medical facilities at each institution. The assessment determined that HCFIP projects were needed at 31 institutions. Currently, 25 HCFIP projects have been established by the State Public Works Board and one project is proposed in the Governor's January budget. There are five remaining projects that have not been established and the existing expenditure authority of \$900.4 million has been fully allocated. The Administration estimates that CDCR will need approximately \$75 million in additional funding for the five remaining projects.

Action: Approve the proposed trailer bill language as placeholder trailer bill language.

Vote: 2 – 0

0250 Judicial Branch

Issue 14: Capital Outlay Spring Finance Letter

Spring Finance Letter. The Governor's spring finance letter requests an increase of \$44.6 million from the Immediate and Critical Needs Account (ICNA) for the design and construction of the Los Angeles County Mental Health Court House at the site of the Hollywood Courthouse. Renovating the Hollywood Courthouse represents a change in scope that is estimated to save approximately \$50 million.

In addition, the spring letter asks for a change in scope for the Alameda East County Hall of Justice. The change would shift the project from a lease purchase to a cash-funded acquisition. Finally, the letter asks for re-appropriations for projects in Imperial and Riverside Counties.

Action: Approve the spring finance letter.

Vote: 2 – 0

Issue 15: Trial Court Funding

May Revise Proposal. The May Revision includes an increase of \$60 million for trial court funding, for a total increase of \$160 million. The May Revision further revises the Governor's January proposal for trial court funding to specifically provide a five percent increase in state trial court operations, for a total increase of \$86.3 million. In addition, the May Revision includes an increase of \$42.8 million to reflect increased health benefit and retirement adjustment costs for trial court employees. Finally, the May Revision reflects a General Fund increase of \$30.9 million to account for an estimated shortfall in the Trial Court Revenue Trust Fund.

Action: Approve the Governor's May Revise request, including the corresponding reduction in the Trial Court Revenue Trust Fund to reflect the shortfall.

In addition, provide \$121 million in funding to the trial courts.

- **Within that additional funding, increase funding for dependency court attorneys in 2014-15 by \$11 million, growing to \$22 million in 2015-16, and further increasing to \$33 million in 2016-17 and on-going.**
- **Buy out the \$50 million annual transfer from the Immediate and Critical Needs Account (ICNA) over the next five years. Completely eliminating the transfer by year six.**

- The judicial branch has discretion over the remaining \$100 million augmentation in trial court funding.

Vote: 2 – 0

Issue 16: Rent Increases

May Revision Proposal. The May Revision requests an increase of \$2,240,000 General Fund to reflect increased rent costs for the Supreme Court, Courts of Appeal, and the Administrative Office of the Courts. This increase is based upon the Department of General Services' lease rates for state-owned buildings, as published in their annual price book.

Action: Approve the May Revision request.

Vote: 2 – 0