

# Senate Budget and Fiscal Review

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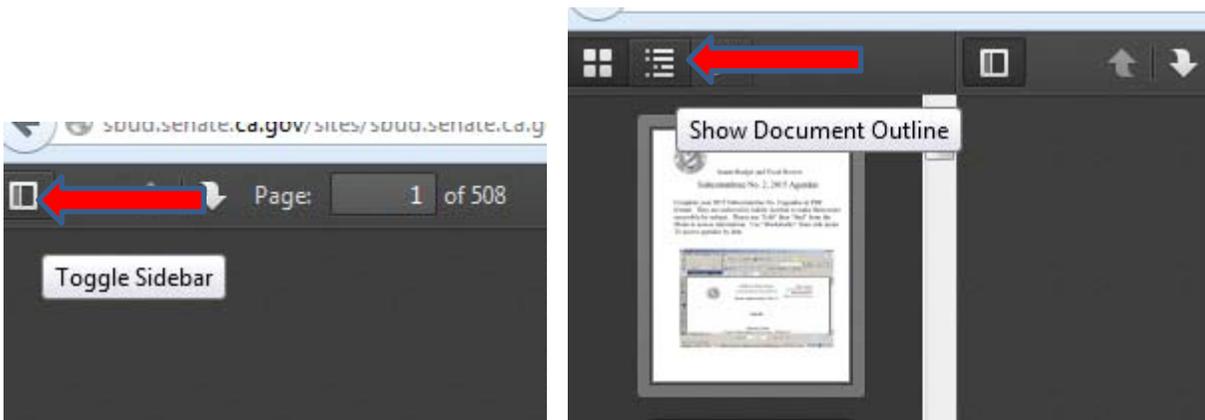
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# **SUBCOMMITTEE NO. 5**

# **Agenda**

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**Senator Nancy Skinner, Chair**  
**Senator Joel Anderson**  
**Senator Jim Beall**



**Thursday, March 8, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Julie Salley

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## ITEMS TO BE HEARD

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

#### Issue 1: CDCR Overview

**Governor's Budget.** The budget proposes total funding of \$12 billion (\$11.7 billion General Fund and \$313 million other funds) for CDCR in 2018-19. This is an increase of approximately \$1 billion over 2016-17 actual expenditures. The following table shows CDCR's total operational expenditures and positions for 2016-17 through 2018-19.

**CDCR – Total Operational Expenditures and Positions  
(Dollars in thousands)**

Funding	2016-17	2017-18	2018-19
General Fund	\$10,575,577	\$11,520,105	\$11,641,364
General Fund, Prop 98	16,567	20,004	20,017
Other Funds	3,315	4,196	4,202
Reimbursements	233,832	236,442	236,504
Inmate Welfare Fund	60,954	69,552	73,459
SCC Performance Incentive Fund	-1,000	-1,000	-1,000
<b>Total</b>	<b>\$10,889,245</b>	<b>\$11,849,299</b>	<b>\$11,974,546</b>
<b>Positions</b>	<b>55,081</b>	<b>56,452</b>	<b>57,001</b>

**Background.** 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.

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 Rehabilitation Programming: Education, Vocational, and Offender Programs, Education, Substance Abuse Programs, Inmate Activities, Administration
- Adult Health Care Services

The 2017 budget act assumed that the average daily adult prison population in 2017-18 would be 127,693. However, the proposed budget assumes an average population of 130,317 for 2017-18. This is a difference of over 2,600 people. (*The prison population will be discussed in detail in the next agenda item.*) The proposed budget assumes that the population will drop by 2.2 percent or 2,905 people in 2018-19.

As of February 21, 2018, CDCR is responsible for overseeing 182,725 people. Most of those people are in custody (129,431) and the remainder are on parole (46,563) or not currently under CDCR's jurisdiction while they are confined in another state or out to court, for example. The institution population on February 21<sup>st</sup> was 113,902, which constitutes 133.9 percent of prison capacity. The most overcrowded prison is Valley State Prison in Chowchilla, which is currently at 178.4 percent of its capacity. For female inmates, Central California Women's Facility in Chowchilla is currently the most overcrowded at 147.6 percent of its capacity.

**Three Judge Panel and Population Reduction.** In 2009, a federal three-judge panel declared that overcrowding in the state's 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 at the time. 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, fire camps, or community reentry facilities 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 was required 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.

As a result of the court ruling and the requirement that the state maintain a prison population that remain under a 137.5 percent capacity cap, significant policy changes designed to reduce the number of people in prison have been implemented over the last eight years. The following are among the most significant changes:

**Public Safety Realignment.** In 2011, the Legislature 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, under realignment, 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. 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.

In adopting this realignment the Legislature had multiple goals, including reducing the prison population to meet the federal court-ordered cap, reducing state correctional costs, and reserving state prison for the most violent and serious offenders. Another goal of realignment was to improve public safety outcomes by keeping lower-level offenders in local communities where treatment services exist and where local criminal justice agencies can coordinate efforts to ensure that offenders get the appropriate combination of incarceration, community supervision, and treatment. For many, realignment was based on confidence that coordinated local efforts are better suited for assembling resources and implementing effective strategies for managing these offenders and reducing recidivism. This was rooted partly in California's successful realignment reform of its juvenile justice over the last 20 years and the success of SB 678 (Leno), Chapter 608, Statutes of 2009, which incentivized evidence-based practices for felony probationers through a formula that split state prison savings resulting from improved outcomes among this offender population.

***Passage of Proposition 36.*** The passage of Proposition 36 in 2012 resulted in reduced prison sentences served under the Three Strikes law for certain third strikers whose current offenses were non-serious, non-violent felonies. The measure also allowed resentencing of certain third strikers who were serving life sentences for specified non-serious, non-violent felonies. The measure, however, provides for some exceptions to these shorter sentences. Specifically, the measure required that if the offender has committed certain new or prior offenses, including some drug-, sex-, and gun-related felonies, he or she would still be subject to a life sentence under the three strikes law.<sup>1</sup>

***February 2014 Court Order.*** On February 10, 2014, the federal court ordered the state to implement several population reduction measures to comply with the court-ordered population cap and appointed a compliance officer with the authority to order the immediate release of inmates should the state fail to maintain the final benchmark. The court reaffirmed that CDCR would remain under the jurisdiction of the court for as long as necessary to continue compliance with the final benchmark of 137.5 percent of design capacity and establish a durable solution.

The February 10, 2014, order required the CDCR to:

- Increase prospective credit earnings for non-violent second-strike inmates as well as minimum custody inmates.
- Allow non-violent second-strike inmates who have reached 50 percent of their total sentence to be referred to the Board of Parole Hearings for parole consideration.

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<sup>1</sup> Legislative Analyst's Office, “Proposition 36: Three Strikes Law. Sentencing for Repeat Felony Offenders. Initiative Statute.” July 18, 2012.

- Release inmates who have been granted parole by the Board of Parole Hearings but have future parole dates.
- Expand CDCR's medical parole program.
- Allow inmates age 60 and over who have served at least 25 years of incarceration to be considered for parole (the "elderly parole" program).
- Increase its use of reentry services and alternative custody programs.

**SB 260 and 261.** In 2013, SB 260 (Hancock), Chapter 312, Statutes of 2013, created a youthful offender parole process. Under this bill, individuals who committed their crimes under the age of 18 would be eligible for parole, even if serving a life sentence. Specifically, the legislation established a youth offender parole hearing which is a hearing by the Board of Parole Hearings (BPH) for the purpose of reviewing the parole suitability of any prisoner who was under 18 years of age at the time of his or her controlling offense. The bill created the following parole mechanism for a person who was convicted of a controlling offense that was committed before the person had attained 18 years of age:

- If the controlling offense was a determinate sentence the person is be eligible for release after 15 years.
- If the controlling offense was a life-term of less than 25 years then the person is eligible for release after 20 years.
- If the controlling offense was a life-term of 25 years to life then the person is eligible for release after 25 years.

In addition, SB 260 required that BPH in reviewing a youthful offender's suitability for parole must give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the person.

In 2015, SB 261 (Hancock), Chapter 471, Statutes of 2015, expanded the youthful parole process to include people who were convicted of committing a crime prior to attaining the age of 23.

**Passage of Proposition 47.** In November 2014, the voters approved Proposition 47, the Reduced Penalties for Some Crimes Initiative, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing.

Proposition 47 requires that state savings resulting from the proposition be transferred into a new fund, the Safe Neighborhoods and Schools Fund. The new fund will be used to reduce truancy and support drop-out prevention programs in K-12 schools (25 percent of fund revenue), increase funding for trauma recovery centers (10 percent of fund revenue), and support mental health and substance use disorder treatment services and diversion programs for people in the criminal justice system (65

percent of fund revenue). The Director of Finance is required on or before July 31 of each fiscal year to calculate the state savings for the previous fiscal year compared to 2013-14.<sup>2</sup>

In the proposed budget, the Administration estimates that the 2017-18 savings associated with Proposition 47, will be \$64.4 million in 2017-18, an increase of \$18.8 million in savings over 2016-17. Ongoing savings are estimated to be approximately \$69 million.

**Passage of Proposition 57.** Approved by voters in November 2016, Proposition 57, the California Parole for Non-Violent Criminal and Juvenile Court Trial Requirements Initiative, brought three major changes to sentencing:

- Allowed individuals convicted of nonviolent felonies to be considered for parole after completing the sentence for their primary offense.
- Allowed CDCR to award additional sentence reduction credits for rehabilitation, good behavior or educational achievements.
- Required a judge's approval before most juvenile defendants can be tried in an adult court.

**CDCR Regulations.** In November 2017 the Administration filed final regulations with the Office of Administrative Law. Those regulations, which were similar to the March 2017 emergency regulations, provide the following parameters for implementing the proposition:

**Expand Sentencing Credits.** The Administration increased the number of credits inmates earn for good behavior and participation in rehabilitation programs. The changes to good conduct credits went into effect on May 1, 2017 under the emergency regulations. The regulations allowing inmates to earn credits for participation in rehabilitation programs, such as modifications to milestone credits, went into effect on August 1, 2017. Specifically, the regulations made the following changes:

**Good Conduct Credit**

- The regulations simplified the existing categories around which inmates can receive credit for good behavior and how much they can receive.
  - Condemned inmates and inmates serving life without the possibility of parole (LWOP) are not allowed to receive credit, which is the same as the previous policy.
  - Violent felons could previously receive a reduction between zero and 15 percent of their sentence for good behavior. Under the regulations, all violent felons receive a reduction of up to 20 percent of their sentence for good behavior.
  - Nonviolent third strike inmates are able to receive a reduction of up to 33.3 percent of their time.

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<sup>2</sup> 2015-16 Governor's Budget Summary

- Inmates in minimum custody facilities receive up to half of their time off for good behavior.
- Inmates who are working in fire camps earn up to 66.6 percent of their time off for good behavior if they are in for a nonviolent offense. Those in for a violent offense earn a reduction of 50 percent of their time.

### ***Milestone Completion Credits***

- Previously, only people serving terms for non-violent crimes were eligible for milestone credits. The Proposition 57 regulations extended eligibility for milestone credits to all inmates, with the exception of those who are condemned or serving LWOP sentences.
- Expanded the amount of milestone credits an inmate can earn from six weeks per year to 12 weeks.
- Programs eligible for milestone credits include academic programs, substance use disorder treatment, social life skills programs, career technical education, cognitive behavioral treatment, enhanced outpatient programs, or other approved programs with demonstrated rehabilitative qualities.
- The milestone credits were not applied retroactively.

### ***Rehabilitation Achievement Credits***

- These credits constitute a new type of credit earning. Under the regulations, inmates participating in volunteer programs are now eligible to earn credits toward their sentences for participation.
- As with milestone credits, all inmates regardless of their offense, with the exception of condemned and LWOP inmates are eligible for achievement credit earnings.
- Under the regulations, an inmate can earn one week of credit for every 52 hours of participation in a volunteer activity – with a maximum of four weeks per year.
- As with the milestone credits, these credits were not applied retroactively.
- Wardens at each institution are responsible for creating an eligible list of volunteer programs for their prison.

### ***Educational Merit Credit***

- As with the rehabilitation achievement credits, this is a new credit under Proposition 57. Inmates now receive credit for extraordinary educational achievements.
  - Inmates completing their GED or high school diploma receive three months of credit.

- Inmates completing an AA, BA, or other college degree receive six months of credit.
- Inmates completing their offender mentor certificate program receive six months of credit.
- Unlike the previous credits, this credit is retroactive and will be cumulative for those inmates receiving more than one degree or certificate.
- In order to receive the credit, the inmate needs to have done at least 50 percent of the work toward the degree or certificate in prison.

### *Heroic Acts Statute*

- Under current law, an inmate can be awarded up to 12 months credit for a heroic act. Proposition 57 did not change that credit earning.

**New Nonviolent Offender Parole Consideration Process.** On July 1, 2017, the Administration began the parole consideration process for nonviolent offenders. Under the proposition inmates are eligible for parole consideration upon the completion of the sentence for their primary offense. Prior to Proposition 57, any enhancements included in the sentence were included in establishing an eligible parole date. The changes brought by Proposition 57 are similar to the changes implemented by CDCR several years ago for second strike offenders. CDCR is viewing Proposition 57 as an expansion of that existing paper review parole process. The proposition gave the CDCR secretary a significant amount of latitude in terms of implementation. As part of that latitude, CDCR's regulations limited the impact of the proposition on three groups of people: youthful offenders, people serving time for a non-violent third strike, and people who are required to register as sex offenders upon their release.

***Impact of Proposition 57 on Youthful Offenders.*** For youthful offenders, the credit earnings created under proposition 57 apply to their original eligibility parole date and not to their youthful offender parole eligibility date. However, youthful offenders are included in the new formula that calculates eligibility for parole based upon their primary offense and not on the enhancements to their sentences.

***Impact of Proposition 57 on Non-Violent Third Strikers.*** Under the regulations put in place by CDCR, "nonviolent offenders" are defined in such a way as to exclude people who are in prison for a third-strike offense, even if that third strike is a nonviolent offense.

***Impact of Proposition 57 on Sex Offenders.*** Similar to people serving time for a third strike, the regulations also exclude anyone who is required to register as a sex offender under Penal Code 290, the Sex Offender Registration Act, whether or not their current offense is a sex offense.

***Prison Population Decline.*** Thanks in large part to efforts over the last eight years, California's prison population, which peaked at 173,000 in 2007, has declined to 113,912 adult inmates in the state's prisons as of February 21, 2018. Those reductions seem to have stalled over the last year, however, despite the implementation of Proposition 57. Currently, the state's prisons are at 133.9 percent of their

design capacity, which is roughly the same as February 2017. As these sentencing changes continue to be implemented the Administration expects the population to continue its decline. (*The projected prison population estimate will be discussed in detail in the next item.*)

**2017 Legislation.** In addition to the changes mentioned above, a number of bills were passed by the Legislature and signed by the Governor that should ultimately reduce the prison population by reducing sentences. Among those bills are:

- ***SB 180 (Mitchell and Lara) Chapter 677, Statutes of 2017***, repeals the three year sentencing enhancement for people convicted of a prior minor drug crime.
- ***SB 394 (Lara and Mitchell) Chapter 68, Statutes of 2017***, conforms state law to recent U.S. Supreme Court decisions banning mandatory life sentences for those under 18 convicted of murder by automatically giving the youthful offenders a chance at parole after serving 25 years of their sentence.
- ***SB 620 (Bradford) Chapter 682, Statutes of 2017***, gives judges discretion over whether or not to impose additional years in prison on people who use guns when committing crimes, no longer making the sentence enhancement automatic.
- ***AB 1308 (Stone) Chapter 675, Statutes of 2017***, extends the youthful offender parole process created by SB 260 and 261 (discussed above) to people up through the age of 25.

### Staff Comments

***Proposition 57.*** Critics have argued that prohibiting non-violent third strikers and certain sex offender registrants from consideration in the nonviolent parole process constitutes a violation of the intent of the proposition, which states that all people convicted of a nonviolent felony offense shall be eligible for parole consideration after completing the term of their primary offense. The primary offense is defined as the longest term imposed excluding any additional terms added to an offender's sentence, such as any sentencing enhancements.

This past February, Sacramento County Superior Court Judge Allen Sumner affirmed the position of the critics and has preliminarily ordered prison officials to rewrite part of the regulations for Proposition 57. Specifically, he stated that in regard to people who have committed a sex offense, the scope of exclusions should be narrowed to only those now serving time for a violent sex offense, thus allowing sex offender registrants who are currently in prison for a nonviolent offense to participate in the parole consideration process.

In addition, critics have urged the state to use the youthful offender parole date when calculating the impact of credit earnings, rather than the date of their original parole date. Using the youthful offender parole date could conceivably affect the parole dates of a significant portion of 17,825 youthful offenders who are currently in prison.

Given the exclusion of these three populations in the regulations, the Senate may wish to consider statutory language expanding the nonviolent parole process to include nonviolent third strikers, nonviolent sex registrants, and to require that the parole consideration date for youthful offenders be the calculated based on either their original sentence or their youthful offender date, whichever is earlier. Allowing these groups of inmates to come before the parole board does not automatically make them eligible for release. It simply grants them a parole hearing and leaves it to the parole board to

decide whether or not the individuals are suitable for parole. Therefore, this expansion should not have an impact on public safety.

**Staff Recommendation.** This is an overview item designed to provide an update on the correctional system prior to the subcommittee beginning its in-depth review of the proposed CDCR budget. No action is necessary at this time.

**Issue 2: Adult Prison Population Estimates**

**Governor's Budget.** The budget proposes total funding of \$12 billion (\$11.7 billion General Fund and \$313 million other funds) for the California Department of Corrections and Rehabilitation (CDCR) in 2018-19. This is an increase of approximately \$1 billion over 2016-17 actual expenditures. This increase reflects higher costs related to (1) over \$350 million in annual employee benefit increases, (2) \$131 million for roof replacements and mold remediation, and (3) increased payments for debt service related to previous infrastructure lease revenue bonds. The proposed budget reflects a per inmate annual cost of \$79,701 in 2017-18, growing to \$80,729 in 2018-19. Both years represent an increase over the actual 2016-17 per inmate cost of \$73,694.

**Adult Institution Population.** The adult inmate average daily population is projected to decline from 130,317 in 2017-18 to 127,412 in 2018-19, a decrease of 2,905 inmates. This population projection constitutes a significant increase from the 2017 Budget Act's 2017-18 projection. The 2017 Budget Act assumed that the average daily prison population in 2017-18 would be 127,693. However, the proposed budget increases that number and assumes an average population of 130,317 for 2017-18. This is a difference of over 2,600 people.

**Mental Health Program Caseload.** The population of inmates requiring mental health treatment is projected to be 36,854 in 2017-18 and 35,826 in 2018-19. This is an increase of 922 people in 2017-18 and a decrease of 107 people in 2018-19 over the projected population in the 2017 Budget Act. According to CDCR's most recent Offender Data Points report, approximately 30 percent of the people in prison have a mental health diagnosis. (*Budget proposals related to the treatment, housing and programs for people with a mental health diagnosis who are in prison will be discussed during the March 15 subcommittee hearing.*)

**Background.** Despite the policy changes designed to reduce the prison population discussed in the previous agenda item, the number of people in prison remains very close to the court ordered cap. As noted above, the current year population projections were off by almost an entire prison's worth of people, over 2,600. At one point this last fall, the state came within approximately 300 people of the court-ordered population cap, which is significantly smaller than CDCR's preferred population buffer of roughly 2,000 people.

In fact, the current prison population is approximately the same as it was one year ago, despite the implementation of Proposition 57 over six months ago and increased investments in community reentry facilities. On February 22, 2017, the prison population was 114,056 (134.1 percent of capacity) and on February 21, 2018, the prison population was 113,912 (133.9 percent of capacity), a difference of 144 people. The static prison population is not the result of returning more people from out-of-state prison facilities. This time last year, the state was housing 4,536 people out of state. Currently, the state is housing 4,238 people in private prisons in Mississippi and Arizona. In addition, in the last 12 months the state has increased the number of people who are housed in alternative custody and community reentry settings, outside of the prisons. Last year, 892 people were in alternative custody placements, currently there are 1,112 people in those placements. Finally, roughly the same number of inmates are currently in fire camps throughout the state as there were last year at this time. Overall, in February 2017, there were 129,356 people in custody, including community placements, fire camps and prisons. Currently, there are 129,431 people in the state's custody, an increase of 75 people.

**Legislative Analyst's Office (LAO).** Traditionally, the LAO withholds their recommendation on the Administration's adult population funding request pending updates in the May Revision. However, they do agree with the Administration that CDCR is likely to experience a decline of roughly 5,000 inmates over the next few years.

**Staff Comments.** As noted above, despite a myriad of policies designed to reduce the prison population, the number of people in prison remains very close to the court ordered cap. As a result of the unexpected population increase, the Administration has proposed delaying their efforts to close the state's out-of-state prison facilities (*discussed in more detail in the next agenda item*). According to the department, the error in the population projection is not the result of faulty assumptions in their estimates surrounding the impact of Proposition 57 on the prison population, which, based on their 2017 Budget Act estimates means that approximately 2,700 people will be released from prison in this year due to the proposition. Therefore, eight months into the fiscal year, almost 1,800 inmates should have been released. Given this fact, it is unclear what factors are driving the persistently high population, whether it is more people being sent to prison or fewer people being released from prison. Likely it is a combination of both factors.

**Crime Rates.** According to the Attorney General's 2016 *Crime in California* report, crime rates continue to be far lower than they were in the 1990s. However, between 2015 and 2016, the violent crime rate did increase by 4.1 percent. However, property crimes decreased by 2.9 percent. Between 2015 and 2016, the arrest rate also decreased by four percent. Specifically, the adult arrest rate decreased by 3.1 percent and the juvenile rate decreased by 15.2 percent. In addition, the felony arrest-rate decreased by 2.6 percent and the violent offence rate decreased by 1.5 percent. 66.4 percent of the adult felony arrests resulted in a conviction, with most of those convictions resulting in a sentence of jail and probation. However, the rate of convictions resulting in a prison sentence has increased from 14.8 percent of all convictions in 2014 to 18.5 percent in 2016.

**County of Commitment.** Over the years, there has been a persistent question around whether or not counties are finding ways to send more people to state prison in a post-realignment environment by increasing the type and severity of criminal charges. Not surprisingly, the majority of people in prison as of December 2017 originally came from Los Angeles County (42,689). When comparing the proportion of adults in prison from each county with the county's proportion of the population, overwhelmingly most counties are home, generally speaking, to a proportional number of inmates. For example, San Joaquin County contains 1.9 percent of the state's population and is the county of commitment for 2.15 percent of the state's prison population. However, a handful of the state's counties appear to be sending a disproportionate number of people to the state prison. Primarily, roughly 26 percent of the state's population lives in Los Angeles, but approximately 33 percent of the prison population is from Los Angeles County. Less dramatically, Sacramento is responsible for over five percent of the prison population and houses approximately four percent of Californians. Similarly, Riverside County is home to six percent of Californians but accounts for almost eight percent of the prison population. Conversely, there are counties that send less people to prison than their population would suggest. For example, Orange County is home to over eight percent of Californians, but only five percent of people in prison came from Orange County. Similarly, Alameda, Contra Costa, San Diego, San Francisco, San Mateo and Santa Clara counties all send proportionally less people to prison.

There may be many reasons why a higher proportion of the population is sent to prison in some counties over others. Differences in crime rates could have an impact, for example. In looking at the violent crime rates among the ten largest counties, the rate in Los Angeles County is roughly equal to the proportion of people sent to prison (32.26 percent of violent crimes committed in 2016 were committed in Los Angeles). However, when looking at Riverside County, the same does not appear to be true. As noted above, Riverside has six percent of the state's population and accounts for almost eight percent of the prison population. However, Riverside County only accounts for just over four percent of violent crimes committed in 2016. Alameda County, on the other hand, which is responsible for fewer than three percent of the prison population, was the location of almost six percent of the state's violent crimes in 2016.

***Declining Recidivism Rate.*** The state defines recidivism as “conviction of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction.”<sup>3</sup> The definition also allows for supplemental measures of recidivism including: new arrests, returns to custody, criminal filings, or supervision violations.

CDCR produces an annual *Outcome Evaluation Report* that provides data on the recidivism rate for people who have been released from prison. The 2016 report shows that of those inmates released in 2011-12, 25 percent had returned to prison three years later. In 2017, the three-year recidivism rate had improved with 22.2 percent of inmates released in 2012-13 having returned to prison, a 2.8 percent decrease. Similarly, of those same two cohorts, in 2016, 32.4 percent of people released three years earlier had a new felony criminal conviction and in 2017 that figure had decreased to 27.2 percent. Of note, however, is that the overall conviction rate for people with a mental health diagnosis in both cohorts remains over 50 percent and, as would be expected, those individuals with a more serious diagnosis recidivate at a higher rate than those in the Correctional Clinical Case Management System caseload (the classification for those people who are stable and able to function in the general prison population).

The continuing decline in the recidivism rate suggests that recidivism or a failure in the rehabilitation and parole/community supervision process is not contributing to an increase in the prison population.

***Increasing Numbers of People Released on Parole.*** Since 2007, the number of parole hearings has decreased from 6,177 that year to 5,344 in 2017. However, despite the decline in hearings, the number of people released on parole has increased significantly. In 2007, 119 (two percent) of the over 6,000 were granted parole. In 2017, that number had grown to 915 (17 percent) of the 5,300 people who were granted a hearing. This marks the highest number of people granted parole over the last 20 years. Data going back to 1999 shows that in that year only 13 people were granted parole out of the approximately 160,000 people in CDCR's institutions. The number of people granted parole has been consistently high over the last four years. In 2013, 592 people were granted parole. By 2014, that number was up to 905. In the next three years, that number was 906, 817, and 915 respectively.

**Staff Recommendation.** Hold open pending May Revise updates.

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<sup>3</sup> Section 3027 of California Penal Code required the Board of State and Community Corrections to develop a state-wide definition of recidivism.

**Issue 3: Out-of-State Correctional Facilities**

**Governor's Budget.** The proposed budget requests an increase of \$28 million General Fund and 18.3 positions in the current year due to a delay in the removal of inmates housed in out-of-state prisons. In the budget year, the Administration projects a \$40 million General Fund savings and a reduction of 33.1 positions. Specifically, the budget projects an average daily population of 4,067 people in out of state prisons in 2017-18, which is an increase of 1,049 over the 2017 Budget Act. However, in 2018-19 the budget assumes that on average 1,548 people will be housed in out of state prisons. The Governor proposes removing inmates from the contract facility in Mississippi by June 2018 and from the Arizona facility by fall 2019.

**Background.** In the 1970s and 80s, the war on drugs and harsher sentencing policies, including mandatory minimum sentences, fueled a rapid expansion in the nation's prison population. The resulting burden on the public sector led private companies to step in during the 1970s to operate halfway houses. They extended their reach in the 1980s by contracting with the Immigration and Naturalization Service (INS) to detain undocumented immigrants. These forms of privatization were followed by the appearance of for-profit, private prisons.

There are two private, for-profit companies providing the majority of private housing and rehabilitation services to inmates in the United States: 1) Corrections Corporation of America (now CoreCivic), established in 1983; and 2) Wackenhut Corrections Corporation (now the GEO Group, Inc.), established in 1984. Today, CoreCivic and GEO Group collectively manage the majority of the contracts in the United States, which resulted in combined revenues exceeding \$3.2 billion in 2015. CoreCivic, as the largest private prison company, manages more than 89,000 inmates and detainees in 77 facilities. GEO Group, as CoreCivic's closest competitor, operates slightly fewer, with 64 facilities and 74,000 beds. Smaller companies, including Management & Training Corporation, LCS Correctional Services, and Emerald Corrections also hold multiple prison contracts throughout the United States.

As of 2014, over eight percent of U.S. prisoners were held in privately-owned prisons. In 2014, seven states housed at least 20 percent of their inmate populations in private prisons. A total of 131,300 inmates were housed in private facilities between those states and the federal bureau of prisons. This figure represents a decrease of 2,100 prisoners from 2013. According to the federal Bureau of Justice Statistics, since 1999, the size of the private prison population grew 90 percent, from 69,000 inmates in 1999 to 131,000 in 2014. The use of private prisons was at its peak in 2012, when 137,000 inmates (almost nine percent of the total prison population) were housed in private facilities.

In addition to federal prisoners, the United States detains approximately 400,000 immigrants per year. As of 2016, the Detention Watch Network (DWN) reports that 73 percent of detained immigrants were held in private, for profit prisons. That percentage equates to almost 300,000 individuals held in private, for-profit immigration detention facilities throughout the United States, including in California.

Concerns about the use of for-profit contractors in state and federal prisons have grown in recent years. Reports detailing physical and sexual abuse, contraband, excessive use of force, inadequate safety measures, lack of adequate healthcare, and lack of programming have surfaced in many states, including federal facilities in California.

In 2010, the American Civil Liberties Union (ACLU) filed a suit against CoreCivic related to their running of the Idaho Correctional Center (ICC) in Boise, Idaho. The suit came about after reports began to surface about violence in ICC. The ACLU's complaint detailed more than 30 assaults that they argued might have been prevented had CoreCivic operated ICC in a responsible manner. In addition, in 2010, the Governor of Kentucky ordered the removal of over 400 female inmates from a CoreCivic run facility after over a dozen women complained of being sexually assaulted by male correctional officers.

CoreCivic, however, is far from alone in complaints about the conditions in their institutions and the treatment of inmates. In 2012, the New York Times published a series of investigative articles related to the treatment and oversight of inmates at the Albert M. "Bo" Robinson Assessment and Treatment Center in New Jersey run by Community Education Centers (CEC). The complaints ranged from the sexual assault of inmates by CEC staff to a lack of security that led to inmates assaulting and robbing each other during the night when only one or two staff were assigned to overseeing housing units of 170 inmates. According to the New York Times' findings, inmates regularly asked to be returned to a state-run prison where they felt safer.

In Mississippi, a prison run by Management and Training Corporation (MTC) was deemed by one federal judge to be so corrupt that it was "effectively run by gangs in collusion with corrupt prison guards." In 2012, federal judge Carlton Reeves wrote in a settlement order that it "paints a picture of such horror as should be unrealized anywhere in the civilized world." That prison was shut down in September of 2016.

GEO Corporation has also faced its share of issues over the years. Of particular note are reports on the treatment of immigrants being detained in GEO's detention facility in Adelanto, California. The ACLU, DWN, and Community Initiatives for Visiting Immigrants in Confinement (CIVIC) have all detailed abuses related to the Adelanto facility. In an October 2015 report, CIVIC and DWN outline complaints of medical abuse and neglect relating to at least one preventable death and four instances of physical abuse by GEO staff.

In addition, GEO's Walnut Grove Youth Correctional Facility in Mississippi was under federal investigation in 2012 after receiving hundreds of brutality complaints. The facility was also the subject of a federal lawsuit claiming that inmates "live in unconstitutional and inhumane conditions and endure great risks to their safety and security" due to understaffing, violence, corruption, and a lack of proper medical care.

Generally, complaints about the private prison industry have been focused on the fact that facilities contain too few staff and that they are both underpaid and undertrained for their jobs. Thus as a result of inadequate staffing, inmates in private prisons are subject to more violence and sexual assault, higher rates of contraband, inadequate food, and inadequate medical care.

***California's Private Prison Facilities.*** Private, contract prison facilities have been an important tool for California in reducing overcrowding in its prisons in recent years. 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 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 contracts were intended to be short-term in nature and were entered into in lieu of building additional prisons throughout the state. In 2014, the state housed approximately 9,000 inmates in out-of-state, private prisons. Since that time, the state has considerably reduced its reliance on out of state, private prisons and now houses approximately half of the 2014 number of inmates out of state. CoreCivic runs both out-of-state prisons used by California to house 4,238 inmates, 3,147 in Arizona and 1,091 in Mississippi.<sup>4</sup>

In California, GEO and CoreCivic currently operate eight state facilities, including a contract with CoreCivic for a 120-bed community reentry facility in San Diego. The 2018-19 proposed budget assumes the state will house 6,467 California inmates in private prisons (4,067 in out-of-state prisons and 2,400 in in-state prisons) in 2017-18. These totals do not include the estimated 2,381 inmates who will be housed in California City, a prison owned by CoreCivic and run by the state. In addition to prison facilities, the state currently contracts with both GEO and CoreCivic to provide reentry services, parole services, substance use disorder treatment, and cognitive behavioral therapy.

***Monitoring of Private Facilities.*** California does not seem to have encountered the same problems with private facilities as other states and the federal government. One reason for that may be the policies put in place to closely monitor and oversee the running of the private facilities. For example, all inmates housed in private facilities must be supervised in the same manner and under the same rules as the state-run prisons. These rules include an appeals process that all complaints filed by inmates be handled in the same manner as in the state-run prisons. In addition, CDCR has an appeals coordinator and two analysts who monitor the appeals process for all of the contracted facilities. These appeals are also tracked using the state's Inmate Appeals Tracking Systems.

In addition to CDCR's monitoring of contract facilities, the state's Inspector General has the same oversight and authority over private facilities as he does over the state-run prisons. For example, the Office of the Inspector General (OIG) monitors all use-of-force complaints, Prison Rape Elimination Act (PREA) complaints, and surveys rehabilitation programming. In addition, notices are required to be posted throughout the prison providing the information necessary for inmates to contact the OIG directly with complaints and concerns. The OIG, however, does not monitor healthcare in the contract facilities.

Under the state's current healthcare structure, California Correctional Healthcare Services, under the leadership of the federally appointed receiver, monitors medical care at all contract facilities. The receiver's office notes that they audit all of the facilities at least once a year and then post those audits online for the public to access. According to the introduction for the audit reports, the standardized audit tool is designed to evaluate the effectiveness, efficiency and compliance of the health care processes implemented at each contracted facility. The audit instrument is intended to measure the facility's compliance with various elements of inmate-patient access to health care and to assess the quality of health care services provided to the inmate-patient population housed in these facilities. The

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<sup>4</sup> Out-of-state population based on CDCR's weekly population report for the week ending February 21, 2018.

audits include both a review of relevant paperwork and interviews with staff and inmates in the facilities.<sup>5</sup>

**Legislative Analyst’s Office (LAO).** In order to accommodate the anticipated decline in the inmate population due to Proposition 57, the LAO recommends that the Legislature consider directing CDCR to close the California Rehabilitation Center (CRC) in Norco and remove inmates from the contract facility in Mississippi—rather than closing all out-of-state contract facilities as proposed by the Governor. If the Legislature decides to close CRC, they recommend directing CDCR to provide a detailed plan on the closure. If the Legislature decides not to close CRC, CDCR should provide it with a plan for making the necessary infrastructure improvements at the prison.

### Staff Comments

*California does not appear to have the same oversight and monitoring problems as the federal government and other states, except in the area of healthcare.* As noted previously, in general, a system of oversight and monitoring has been put in place that helps to insure that inmates in private prisons are receiving the same supervision and care and have the same protections as those in the state-run prisons. The one area that may warrant closer oversight, and that has been of concern nationally, is the healthcare provided in the private facilities. As noted previously, all but one of the contract facilities is providing inadequate healthcare to inmates.

Currently, the OIG is responsible for monitoring the medical care for inmates in all of the state facilities. However, that monitoring does not extend to the contract facilities. The Inspector General notes that the reason they do not do medical inspections is because anyone with a serious health condition cannot be housed in a contract facility. However, given the generally poor quality of medical care found by the receiver at out-of-state facilities, the Legislature may wish to expand OIG medical oversight to include private facilities. If the Legislature decides not to have the OIG monitor healthcare at private facilities while the receivership is in place, they may wish to shift the monitoring from the receiver to the OIG once the receivership ends. Absent placing the audit responsibility with the OIG, it is likely those monitoring functions would be transferred to CDCR when the receivership ends.

*Ending private contracts or closing a prison.* The 2012 Budget Act included an additional \$810 million of lease-revenue bond financing authority for the design and construction of three new level II dormitory housing facilities at existing prisons. Two of these new dormitory housing facilities are located adjacent to Mule Creek State Prison in Ione, and the third is located adjacent to Richard J. Donovan Correctional Facility in San Diego. All three infill projects have been completed and activated. At the time the Legislature approved the infill projects, the understanding was that the cost of operating the facilities would be offset by the closure of CRC in Norco. CRC is one of the state’s most dilapidated prisons and it is in need of several hundred million dollars in repairs. Therefore, the new infill projects were intended to replace the prison beds at CRC. That closure would have saved the state approximately \$160 million in General Fund per year.

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<sup>5</sup> <http://www.cphcs.ca.gov/ContractPrisonFacilities.aspx>

However, in budget discussions over the last two years, the Administration has successfully argued that CRC needed to be kept open in the short-term in order to insure that the state would stay safely below the federal population cap of 137.5 percent of the state's prison capacity.

While it may be prudent to get rid of the state's contract facilities as quickly as possible, it is unlikely the state would be able to end the contracts *and* close a prison in the near future. Therefore, if the contracts are terminated prior to a closure of one of the state's prisons, it is unlikely that a prison will be closed. It is more likely that the state will need to invest in the repair and rebuilding of CRC.

If the ultimate goal of the Legislature continues to be achieving long-term savings through the closure of one of the state's prisons, they may need to prioritize that over ending the use of private contract facilities. In the long-term, that strategy will achieve greater General Fund savings. Not only will the state save a minimum of \$160 million per year by reducing the number of prisons, but the state can also save over time as the number of contract beds are reduced. Unlike the budget for the state prisons, where the number of security staff is based upon the design of the facility rather than the number of inmates, the state pays for contract beds on a per-inmate basis.

**Staff Recommendation.** Hold open pending May Revise updates.

**Issue 4: Institution Staffing Needs**

**Governor's Budget.** The budget proposes \$4.4 million General Fund and 31.6 positions ongoing to augment custody positions in the prisons. The requests includes an increase in coverage for identified security issues, Health Care Facility Improvement Project modifications, and to increase coverage for third-watch rehabilitative programs.

CDCR notes that they are currently paying staff to work overtime to provide the necessary security coverage and that the funding for that workload is coming from vacancies in administrative and operational support positions and that this is a short-term solution that is not sustainable for the long run. The department notes that they are actively engaged in attempting to fill those critical operational support vacancies.

**Background.** In the 2012 blueprint, CDCR established a standardized staffing model at the adult institutions to achieve budgetary savings and improve efficiency in operations. Prior to standardized staffing, the department's budget was adjusted on a 6:1 inmate-to-staff ratio based on changes in the inmate population. For every six inmates, the department received or reduced the equivalent of one position. These staffing adjustments occurred even with minor fluctuations in population and resulted in staffing inconsistencies among adult institutions. The prior staffing model allowed local institutions to have more autonomy in how budgeted staffing changes were made. The standardized staffing model provides consistent staffing across institutions with similar physical plant/design and inmate populations. The model also clearly delineates correctional staff that provides access to other important activities, such as rehabilitative programs and inmate health care. The concept that an institution could reduce correctional staff for marginal changes in the inmate population was not valid without further detriment to an institution's operations. Therefore, the standardized staffing model was established to maintain the staff needed for a functional prison system.

According to the Administration, given the significant population reductions as a result of realignment, using the CDCR's ratio-based adjustment would have resulted in a shortage of staff and prison operations would have been disrupted. The Administration has argued that a standardized methodology for budgeting and staffing the prison system was necessary to provide a staffing model that could respond to fluctuations in the population and allow for the safe and secure operation of housing units at each prison regardless of minor population changes.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Recommendation.** Hold open pending May Revise updates.

**Issue 5: Housing Unit Conversions**

**Governor's Budget.** The proposed budget contains 24 separate housing unit conversions throughout the prison system. As a result of those conversions, the budget projects a savings of \$8.6 million General Fund and reduction of 61.2 positions in the current year and a cost of \$14.5 million General Fund and increase of 104.7 positions in 2018-19.

**Background.** As part of CDCR's annual population projections and estimates, they adjust the types of housing units they will need to meet the housing needs of the prison population in the coming year. For example, the adjustments in the proposed budget includes an increase in the number of mental health beds that are needed in the Short Term Restricted Housing units. In addition, for example, the adjustment includes a reduction in 143 beds due to the closure of the administrative segregation unit at Deuel Vocational Institution.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Recommendation.** Hold open pending May Revise updates.

**Issue 6: Office of Research Resources**

**Governor’s Budget.** The proposed budget requests \$755,000 General Fund and six positions ongoing for CDCR’s Office of Research.

**Background.** The Office of Research is responsible for publishing a variety of reports ranging from statistical summaries of CDCR's adult and juvenile offender populations to evaluations of innovative rehabilitative treatment programs. In addition, the office is responsible for producing the population projections twice a year upon which the CDCR budget is built.

The Office of Research also carries out short-term and long-term evaluations for programs within CDCR, conducts research projects to enhance the classification of offenders according to their treatment needs and risks, conducts research designed to assess facility program needs, and provides research-based information to CDCR administrators, staff, and facilitates external research requests to others (Governor, legislators, press, etc.).

According to data provided by CDCR, the workload in the Office of Research has increased significantly as a result of the large number of criminal justice reforms carried out in the last eight years. Specifically, the department notes that in the last two years they have seen an increase of approximately 60 percent in the number of specialized data requests from external stakeholders. Since 2012-13, the number of specialized data requests has grown from 480 a year to 960 in 2017-18. These specialized requests equate to approximately 40 percent of the office’s workload.

**Legislative Analyst’s Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Recommendation.** Hold open.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, March 15, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

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***PROPOSED FOR VOTE ONLY*****5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)****1. REAPPROPRIATIONS**

The California Department of Corrections and Rehabilitation (CDCR) requests the following reappropriation:

**California Men’s Colony: Central Kitchen Replacement.** This project includes the design and construction of a new central services kitchen and two satellite dining facilities.

The project is 17 percent complete. Due to delays caused by workforce availability, weather, and extended reviews of contract and procurement submittals, the project will not be completed before funding expires June 30, 2018. Therefore, the department is requesting a reappropriation of \$22 million in funding for the construction phase in the 2018 Budget Act, to ensure that funding remains available for this project.

**Staff Recommendation.** Approve as budgeted.

**2. AB 900 REDUCTION IN LEASE REVENUE BOND AUTHORITY – TRAILER BILL**

The proposed trailer bill language reduces the lease revenue debt authority by \$2,640,000 from AB 900 (Chapter 7, Statutes of 2007) Phase II (County Jail Projects) due to Stanislaus' savings from their completed county jail project. This savings could not be allocated to another county as all eligible counties have been established and received their maximum award.

**Staff Recommendation.** Approve as draft, placeholder language.

## ITEMS TO BE HEARD

### 5225 CORRECTIONAL HEALTH CARE SERVICES

#### Issue 1: Prison Health Care Update

**Governor's Budget.** The budget includes \$3.1 billion in 2017-18 for providing health care to 119,202 inmates. Of that amount, \$2.2 billion is dedicated to prison medical care under the oversight of the receivership. At the request of the receiver, this amount includes \$8.3 million to complete the comprehensive electronic health record system (EHRS) and \$4.5 million to lease an automated drug delivery system. The Administration notes that these augmentations support the transition of medical care back to the state.

**Background.** On June 30, 2005, the United States District Court ruled in the case of *Marciano Plata, et al v. Arnold Schwarzenegger* 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.*

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. The receivership continues to be unprecedented in size and scope nationwide.

Program	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Medical	\$10,840	\$12,917	\$12,591	\$13,661	\$15,496	\$16,745	\$17,297	\$18,369
Dental	\$1,000	\$1,057	\$1,095	\$1,167	\$1,222	\$1,321	\$1,317	\$1,347
Mental Health	\$2,587	\$2,069	\$2,118	\$2,399	\$2,783	\$3,057	\$3,226	\$3,561
Psychiatric Program	-	-	-	-	-	-	-	\$2,228
Dental and MH Admin	\$313	\$238	\$231	\$269	\$295	\$322	\$444	\$431
<b>Total Health Care</b>	<b>\$14,740</b>	<b>\$16,281</b>	<b>\$16,035</b>	<b>\$17,496</b>	<b>\$19,796</b>	<b>\$21,445</b>	<b>\$22,284</b>	<b>\$25,936</b>
Notes:								
[1] Medical Services includes expenditures for pharmaceuticals for all healthcare programs.								
[2] Beginning 2011-12, Mental Health Nursing was transferred to the Medical Program								
[3] Psychiatric Program was transferred to CCHCS from the Department of State Hospitals effective July 1, 2017.								
[4] 2017-18 is based on the budget authority as of the 2018-19 Governor's Budget.								

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 11,830.4 prison health care employees, including doctors, nurses, pharmacists, psychiatric technicians and administrative staff. Over the last thirteen years, healthcare costs have risen significantly. The estimated per inmate health care cost for 2017-18 (\$25,936) is three times the cost for 2005-06 (\$7,668). 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 approximately \$3.1 billion in 2017-18 for 119,202 inmates. Of that amount, \$2.2 billion is dedicated to prison medical care under the oversight of the receivership.

Since the appointment of the receivership, spending on inmate health care has almost tripled. A new prison hospital has been built, a new Electronic Health Records System was implemented in the fall of 2017, and new procedures are being created that are intended to improve health outcomes for inmates. According to California Correctional Health Care Services (CCHCS), in the month of November 2017 over 565,000 health care appointments were requested for inmates. The rate of preventable deaths has dropped significantly since 2006 (from 38.5 per 100,000 inmates in 2006 to 14.0 per 100,000 inmates in 2016).

**Chief Executive Officers for Health Care.** Each of California's 34 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.

**Process for Delegating Responsibility to State.** In March 2015, the Plata court issued an order outlining the process for transitioning responsibility for inmate medical care back to the state. Under the order, responsibility for each institution, as well as overall statewide management of inmate medical care, must be delegated back to the state. The court indicates that, once these separate delegations have occurred and CDCR has been able to maintain the quality of care for one year, the receivership would end.

The federal court order outlines a specific process for delegating authority for medical care at CDCR institutions back to the state. Specifically, each institution must first be inspected by the Office of the Inspector General (OIG) to determine whether the institution is delivering an adequate level of care. The receiver then considers the results of the OIG inspection—regardless of whether the OIG declared the institution proficient, adequate or inadequate—along with other health care indicators, including those published on each institution's Health Care Services Dashboard, to determine whether the level of care is sufficient to be delegated back to CDCR. To date in the OIG's Cycle 5, the OIG has issued final reports for 19 institutions and has found one to be proficient, 11 to be adequate, and seven to be inadequate.

As of March 8, 2018, the receiver has delegated authority back to CDCR at the following institutions:

1. Folsom State Prison
2. Correctional Training Facility
3. Chuckawalla Valley State Prison
4. California Correctional Institution
5. Pelican Bay State Prison
6. Centinela State Prison
7. Sierra Conservation Center
8. California Institution for Men
9. Avenal State Prison
10. San Quentin
11. California Institution for Women
12. Kern Valley State Prison
13. California City Correctional Facility
14. Pleasant Valley State Prison
15. Calipatria State Prison

The receiver continues to determine whether to delegate the other seven institutions that have been deemed adequate by the OIG, and he can also delegate care at institutions deemed inadequate by the OIG based on other performance measures available for consideration.

The process for delegating the responsibility for headquarters functions related to medical care does not require an OIG inspection. Under the court order, the receiver only has to determine that CDCR can adequately carry out these functions.

**Staff Recommendation.** This is an item intended to provide the subcommittee with an update on the state of inmate healthcare and to serve as an introduction to the budget requests that follow. As such, no action is required at this time.

**Issue 2: Electronic Health Record System**

**Governor’s Budget.** The Governor’s budget proposes \$8.3 million from the General Fund in 2018-19 for the EHRS. (Under the Governor’s proposal, this amount would decline to \$7.1 million annually beginning in 2019-20.) Specifically the Governor proposes to:

- **Increase Number of Concurrent User (CCU) Licenses (\$5.9 Million).** The Administration requests \$5.9 million to increase the number of CCUs from 6,000 to 6,600 in 2018-19 and requests more resources to fund that number of CCUs. This amount includes \$1.1 million in one-time costs for additional remote hosting space and \$4.8 million for the ongoing costs of these licenses. Under the Governor’s proposal, the number of CCUs would increase to 7,100 in 2019-20. Each license costs \$110 per month. This increase in CCUs reflects the need for dental and mental health staff to have access to the system.
- **Increase System Responsiveness to Disaster Recovery (\$1.2 Million).** The proposal includes \$1.2 million to decrease the time it would take the vendor to restore the system to operation in the event of a disaster from 30 days to no more than 72 hours.
- **Increase Number of Registered User Licenses (\$600,000).** The Administration is proposing \$600,000 to increase the number of registered user licenses from 12,000 to 18,000, primarily for dental and mental health staff.
- **Replace Dictation Software (\$300,000).** The current dictation software, which allows the EHRS to automatically transcribe speech into text, will no longer be supported by the EHRS vendor. Accordingly, the Administration requests \$300,000 annually to update and operate new dictation software that will be supported by the vendor.
- **Provide Training (\$250,000).** The Administration proposes \$250,000 to provide ongoing training to 167 staff members.

The above adjustments would increase the total project costs to \$406 million, an increase of \$19.6 million (five percent) above the most recent cost estimate for the project.

**Background.** EHRS was designed to provide a single electronic medical record for every inmate, which would be accessible to staff at all institutions, rather than having to continuously transfer paper files amongst staff (both within and across institutions) or maintain duplicate files. In 2012, the receiver contracted with Cerner Corporation (Cerner) to develop the EHRS. The project was initially estimated to cost \$182 million and be completed by June 2017. The 2016-17 budget included funding to expand the EHRS to include dental and mental health records and address shortcomings that the Receiver identified with the initial plan for the EHRS (such as the need for additional equipment). These changes more than doubled the total cost of the project to \$386 million and delayed the project’s completion until December 2019.

In order for an individual CDCR staff member to access the system, a “registered user” license must be purchased for that person. Currently, the state maintains 12,000 registered user licenses for EHRS. In addition, in order for staff members to access the system simultaneously, a CCU license must be purchased monthly for each person seeking access simultaneously. While the receiver’s budget for 2017-18 includes around \$4 million for 2,600 CCUs, the contract was amended in December 2017 to allow CDCR to purchase as many as 3,400 additional CCUs—for a total of 6,000.

**Legislative Analyst's Office (LAO).** The LAO recommends the Legislature approve the Governor's proposed funding increases for EHRS. However, they also recommend budget bill language that requires the department to use funding intended to purchase additional user licenses throughout the year only for this purpose.

**Staff Recommendation.** Approve as budgeted.

**Issue 3: Correctional Clinic Model -- Pharmaceuticals**

**Governor's Budget.** The Governor's budget includes \$4.5 million General Fund in 2018-19 and \$4.3 million ongoing to lease an automated drug delivery system as part of the California Correctional Health Care Services (CCHCS) implementation of a correctional clinical model. In addition, the budget includes trailer bill language establishing a correctional clinical model.

**Background.** Under the current system of medication distribution, physician orders are reviewed by a pharmacist. A 30-day supply of the medication is then filled and labeled for that specific patient at either the local pharmacy or CCHCS Central Fill Pharmacy and delivered to the medication distribution location which serves that patient in health care areas, medication rooms, nursing stations, or pill lines. Institutional outpatient medication distribution locations are not licensed and cannot legally utilize a floor stock system.

Not only are current practices fraught with inefficiencies and waste, current storage handling of controlled substances is out of compliance with Title 21 of the Federal Code of Regulations and could expose CCHCS to costly fines or labor-related grievances. The largest fines levied against pharmacies have involved the mishandling of controlled substances. Besides the risk of fines, the importance of proper handling of these substances is magnified in the prison environment where a high percentage of the population is dealing with some form of addiction. The Office of the Inspector General has reported deficiencies, and the Board of Pharmacy (Board) has expressed concern about current practices. Implementing a non-patient-specific medication model is not permitted under current regulations and would put the institution's pharmacy license at risk.

To address these deficiencies, CCHCS has developed a Correctional Clinical Model and seeks the requisite statutory authority to allow each of the medication distribution locations to operate as a correctional clinic. Each correctional clinic would be issued a permit allowing it to obtain and dispense non-patient-specific medications, provided they have the proper security in place. There is no cost for the licensure as the Board waives the cost for state agencies. Automated Drug Delivery Systems within the clinics are needed to provide the proper level of security and accountability for controlled substances as well as high-dollar medications for which elevated accountability is preferred.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Recommendation.** Approve as budgeted and adopt trailer bill language as draft, placeholder language.

**Issue 4: Janitorial Services at the California Health Care Facility**

**Governor's Budget.** The Governor's budget requests \$185,000 General Fund and 148.9 positions in 2018-19 and \$3.6 million General Fund and 207.8 positions in 2019-20 and ongoing to transition from their janitorial contract with PRIDE Industries to a civil service janitorial staff for the California Health Care Facility (CHCF) in Stockton.

**Background.** Janitorial issues within the health care areas have existed at all institutions for many years. To address the cleanliness issues within the institutions, CDCR has contracted with the California Prison Industry Authority (CALPIA) to clean the health care areas to an acceptable standard. CALPIA has managed to run a successful Healthcare Facilities Maintenance program within the remaining 34 institutions. Unfortunately, due to the size, scope, and lack of eligible inmates to perform the work, CHCF could not be included in the CALPIA contract.

CDCR turned to private contractors to perform the work in an effort to address the poor cleanliness of its main health care facility. The Budget Act of 2015 provided resources to CCHCS to contract with PRIDE Industries to clean the facility. PRIDE is a national organization that has experience successfully cleaning large-scale facilities, including the Sacramento International Airport. Shortly after the proposal was approved, the Service Employees International Union (SEIU) Local 1000 filed a grievance with the California Department of Human Resources to contest the contract, saying the work could be performed by a civil service classification (Government Code 19130). CDCR was made aware of the grievance and in response developed a transition plan to civil service staff.

The transition plan involves converting the contracted janitorial operations with PRIDE to civil service staff over the span of three fiscal years. CDCR is currently in the second fiscal year of the plan. This proposal is needed to attain the appropriate level of civil service staff to maintain the janitorial program and health care level of cleanliness as required at CHCF.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Recommendation.** Hold open.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION****Issue 5: Dental Equipment and Dental Oral Surgery**

**Governor's Budget.** The Governor's budget contains two dental related budget proposals.

1. The Governor's budget proposes \$3.5 million from the General Fund in 2018-19 to replace equipment in immediate need of replacement and \$2.5 million from the General Fund in 2019-20 and annually thereafter to replace about 140 pieces of equipment annually. According to the department, having newer dental equipment that is less prone to breakage will reduce interruptions in dental service.
2. The Governor's budget proposes \$3.9 million ongoing to fund a contract to provide oral surgery services for inmate patients. The CDCR dental program estimates that the number of oral surgery procedures will exceed 10,000 for 2017-18 and 2018-19.

**Background**

**Dental Equipment.** CDCR is required by statute to provide adequate, appropriate, judicious, and timely clinical services to incarcerated patients, regardless of their incarceration time remaining. This requirement includes dental care. The federal courts have interpreted failure to do so as a violation of the Eighth and Fourteenth Amendments to the United States Constitution.

*Perez, et al v. Tilton* was a class action lawsuit filed in 2005. This lawsuit alleged that CDCR failed to provide a constitutionally adequate level of dental care and that the Inmate Dental Services Program lacked a system for the timely delivery of dental care to prevent needless suffering, pain, and/or risks to patients' health. In 2006, all parties agreed to a Stipulation Order to settle the lawsuit and an implementation plan, policies, and procedures were developed to address deficiencies in the dental program.

As a result of the Perez lawsuit, CDCR replaced much of the aging dental equipment between 2006 and 2008. Now that a decade has passed, much of this old equipment is in disrepair, outdated, and beyond its service life. Equipment failures which disrupt timely provision of dental services are increasing. Additionally, digital radiographic technology has been introduced since the 2006-2008 equipment refresh, and should replace outdated dental machinery

**Dental Oral Surgery.** CDCR is required by statute to provide adequate, appropriate, judicious, and timely clinical services to patients in its custody, regardless of incarceration time remaining. The Inmate Dental Services Program's Policies and Procedures Manual contains established guidelines and parameters governing timely delivery of necessary oral surgery services to patients in the custody of CDCR. The dental program's policy also specifies that all necessary oral surgery procedures that cannot be provided by CDCR dentists will be made available through contracted oral surgeons or outside facilities.

The remote locations of many of the institutions, the absence of a statewide contract, and the lack of dedicated funding have historically made it difficult to provide critical statewide dental services. In 2015-16, the dental program established a contract to provide the services that are beyond the scope of

CDCR's general practice of dentists. This contract secured nine providers of Oral and Maxillofacial Surgeon Services who performed over 9,800 procedures in 2015-16. The following table shows the actual and projected numbers of procedures and costs of providing these oral surgery services.

**Number of surgeries performed and annual total cost**

<b>Fiscal year</b>	<b>Number of procedures</b>	<b>Annual cost</b>
2014-15	6,966	\$1.5 million
2015-16	9,821	\$3.532 million
2016-17	8,592	\$3.064 million
2017-18 projected	10,501	\$3.820 million
2018-19 projected	10,512	\$3.900 million

The decrease in the total number of procedures in 2016-17 was caused by having fewer providers during the implementation of a bidding system used to retain the most qualified dental care providers in the most cost effective manner. This decrease in the number of procedures created a backlog of oral surgeries. For the current fiscal year, through October 31, 2017, a total of 3,488 oral surgeries were performed within the institutions, with eight months remaining in this fiscal year. The number of procedures is projected to remain approximately the same in 2018-19. Meanwhile, the cost per procedure is projected to increase by two percent between 2017-18 and 2018-19.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns related to the oral surgery proposal. Regarding the dental equipment, they recommend that the Legislature modify the Governor's proposal to replace dental equipment by reducing the requested amount by \$150,000 annually to account for CDCR's anticipated savings in equipment repair.

**Staff Recommendation.** Adopt LAO recommendation.

**Issue 6: Mental Health Bed Management**

**Governor's Budget.** The proposed budget requests \$20.1 million General Fund and 115.9 positions ongoing to address the shortage of mental health treatment beds, improve health care data reporting, and manage patient referrals. Specifically, the primary components of the request are the following:

**Activate 60 Flex Beds.** This proposal includes 55 positions to convert 60 high-custody intermediate care facility (ICF) beds at the California Medical Facility (CMF) and the California Health Care Facility in Stockton into flex beds. According to the Administration, these beds would be staffed in a manner that allows them to flex between being used as high-custody ICF beds, acute psychiatric program (APP) beds, or mental health crisis beds (MHCBS). Since MHCBS have higher staffing requirements than inpatient psychiatric program beds, the requested funds would add enough staff to the 60 existing ICF beds so that they are always staffed like MHCBS and, thus, can be used to meet multiple bed needs.

**Activate 15 MHCBS and Five Flex Beds.** This proposal includes 40.2 positions to activate 15 MHCBS and five flex beds for the California Institution for Women (CIW).

**Increase Health Care Placement and Oversight Program (HCPOP) Staff.** The proposal includes funding for HCPOP to (1) continue the five existing, limited-term positions on an ongoing basis and (2) add three new permanent positions. According to the Administration, this would allow HCPOP to review referrals for appropriate housing assignments more quickly and better manage the mental health patient movement process.

**Require CDCR Conduct Mental Health Projections.** The proposal includes an increase of nine positions for CDCR's Office of Research to use the court-approved methodology to conduct mental health population projections, rather than McManis Consulting. (This would be in addition to the \$150,000 currently provided to McManis Consulting.) According to the Administration, moving the mental health projections from the contractor to CDCR would demonstrate to the court that the department can do these projections internally. The department states that it needs approval from the federal court, which it is in the process of seeking, to be able to do its own projections. CDCR indicates that the current contract with McManis Consulting is likely necessary through the end of 2020-21 to allow the department to develop its own projections in accordance to the court-approved methodology.

**Increase Inpatient Reporting Unit (IRU) Staff.** The proposal includes funding for IRU to (1) continue the two existing, limited-term psychologists on an ongoing basis and (2) add four additional psychologists. According to the Administration, this would allow additional clinical reviews of referrals to take place and reduce the number of MHCBS patients that remain in the beds beyond the ten-day limit established by the court.

**Background.** Over the past few decades, state prisons have increasingly become mental health treatment facilities. Data suggests that the number of people with mental illness in prison has almost doubled in the last 15 years. Almost half of the people in the state prisons have been treated within the last year for a severe mental illness. The population of inmates requiring mental health treatment is projected to be 36,854 in 2017-18 and 35,826 in 2018-19. This is an increase of 922 people in 2017-18

and a decrease of 107 people in 2018-19 over the projected population in the 2017 Budget Act. According to CDCR's most recent Offender Data Points report, approximately 30 percent of the people in prison have a current mental health diagnosis.

***Ralph Coleman, et al. v. Edmund G. Brown Jr, et al.*** Primarily because the prison system was severely overcrowded and the provision of mental health treatment was significantly lacking for inmates in need, a class action suit was filed in the United States District Court in 1991 arguing that prisoners with mental illness were subjected to cruel and unusual punishment, a violation of the inmates eighth amendment protections.

In 1995, following a 39-day trial, District Court Judge Lawrence Karlton found that current treatment for mentally ill inmates violated those inmates' eighth amendment protections against cruel and unusual punishment. Judge Karlton found "overwhelming evidence of the systematic failure to deliver necessary care to mentally ill inmates" who, among other illnesses, "suffer from severe hallucinations, [and] decompensate into catatonic states." Although a special master was appointed by the court to oversee implementation of a remedial plan, the situation continued to deteriorate, according to periodic reports from the special master.<sup>1</sup> Twenty-five years after the federal suit was filed, the state remains under the control of the federal court in *Coleman v. Brown* and is under regular review and oversight by the special master.

In the original ruling, the court identified six areas in which CDCR needed to make improvements: mental health screening, treatment programs, staffing, accurate and complete records, medication distribution and suicide prevention. In subsequent rulings, the courts expanded the areas of concern to include use of force and segregation policies. In addition, the courts also required that condemned inmates in San Quentin State Prison have access to inpatient, acute-care treatment.

**The Coleman Class.** As of February 26, 2018, there are currently 38,238 inmates in the *Coleman* class (35,720 men and 2,518 women). According to a December 24, 1998, court ruling on the definition of the class, the plaintiffs' class consists of all inmates with serious mental disorders who are now, or who will in the future, be confined within CDCR. A "serious mental disorder" is defined as anyone who is receiving care through CDCR's Mental Health Services Delivery System (MHSDS).

MHSDS provides four levels of care, based on the severity of the mental illness. The first level, the Correctional Clinical Case Management System (CCCMS), provides mental health services to inmates with serious mental illness with "stable functioning in the general population, an administrative segregation unit (ASU) or a security housing unit (SHU)" whose mental health symptoms are under control or in "partial remission as a result of treatment." As of February 26, 2018, 28,703 inmates with mental illness were at the CCCMS level-of-care.

The remaining three levels of mental health care are for inmates who are seriously mentally ill and who, due to their mental illness, are unable to function in the general prison population. The Enhanced Outpatient Program (EOP) is for inmates with "acute onset or significant decompensation of a serious mental disorder." EOP programs are located in designated living units at "hub institution[s]." As of February 26, 2018, 7,870 inmates with mental illness were receiving EOP services and treatment.

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<sup>1</sup> Stanford Law School Three Strikes Project, "When Did Prisons Become Acceptable Mental Healthcare Facilities?"

Mental health crisis beds (MHCBs) are for inmates with mental illness in psychiatric crisis or in need of stabilization pending transfer either to an inpatient hospital setting or a lower level-of-care. MHCBs are generally licensed inpatient units in correctional treatment centers or other licensed facilities. Stays in MHCBs are limited to not more than ten days. Currently, there are 312 inmates receiving this level-of-care.

Finally, several inpatient hospital programs are available for class members who require longer-term, acute care. The state has five inpatient psychiatric programs for acute and long-term care. As of February 26, 2018, 1,297 patients are receiving that level of care, 45 of those patients were women receiving care at the California Institution for Women (CIW) and 27 were condemned inmates housed at San Quentin State Prison. The remaining 1,225 are receiving care in one of CDCR's three other facilities.

In addition to the patients in the prison-based psychiatric programs, approximately 246 *Coleman* class inmates are receiving care at Atascadero State Hospital and Coalinga State Hospital. The Department of State Hospital (DSH) budget for those patients is \$52 million General Fund per year.

**Return of the Inpatient Programs to CDCR.** The 2017 Budget Act shifted responsibility for the state's three inpatient psychiatric programs for prison inmates operated by the DSH in state prisons to CDCR beginning July 1, 2017. Accordingly, the budget transferred approximately \$250 million General Fund and 1,978 positions from DSH to CDCR effective July 1, 2017. Almost 90 percent of these positions are for treatment staff, including 495 psychiatric technicians and 374 registered nurses.

### **Legislative Analyst's Office (LAO)**

**Adopt Modified Governor's Flex Bed Proposal.** The LAO finds that the Governor's flex bed proposal makes sense because it addresses the immediate and short-term need for additional MHCBs. However, since the need for flex beds is estimated to be short-term in nature, they recommend providing funds for the 60 flex beds on a four-year, limited-term basis. This would allow the department to address the near-term need for MHCBs—as well as any unexpected increases—until the need for these additional beds is projected to be eliminated. They also recommend that the Legislature approve supplemental reporting language requiring the department to report annually starting on January 10, 2019, for the next four years on how frequently the flex beds were used as MHCBs, ICF beds, or APP beds. This would provide the Legislature with the information it would need to determine whether to maintain flex beds on an ongoing basis. If there is still an MHCB waitlist after limited-term funding expires, the Legislature could consider providing funding to continue to operate these beds as necessary. To the extent that the additional funding to operate these beds as flex beds expires, these beds would continue to operate as ICF beds.

**Reject Proposed Research Staff.** The LAO recommends that the Legislature reject the proposed nine positions and \$1.2 million for CDCR's Office of Research to assume responsibility for conducting mental health projections, as the proposed resources have not been fully justified. However, to the extent that the court orders the state to complete the projections with its own staff, the Legislature could consider a request for resources at that time.

**Approve Proposed IRU and HCPOP Staffing Resources.** Most of the staffing requested for the IRU and HCPOP replace existing limited-term staff that are necessary to continue to meet court-approved

guidelines for transferring patients to MHCBS and inpatient psychiatric programs. The additional staff requested for these units would allow CDCR to manage referrals more quickly, which would further reduce the need for costly MHCBS and inpatient psychiatric program beds. Accordingly, the LAO recommends that the Legislature approve the requested staffing resources.

**Staff Recommendation.** Hold open pending any updates in the May Revise.

**Issue 7: Health Care Access Vehicles**

**Governor's Budget.** The Governor's budget proposes \$17.5 million from the General Fund on a one-time basis in 2018-19 to purchase 338 vehicles that are used for transporting inmates to health care and other appointments (such as attending court). Specifically, the budget proposes:

- \$14.6 million to replace 291 existing health care vehicles ranked highest in CDCR's replacement priority order. According to CDCR, it intends to either dispose of or sell at the state auction the vehicles proposed for replacement.
- \$2.9 million for 47 additional health care vehicles—thereby increasing the size of the department's vehicle fleet.

The department indicates that it is prioritizing the replacement and addition of vehicles used to transport inmates to attend health care and other appointments over vehicles used for other purposes, such as construction, grounds keeping, or perimeter security. This is due to the more serious consequences of delays or cancellations in inmate health care appointments or court appearances resulting from unavailable or unreliable vehicles. Specifically, CDCR reports that over 1,000 inmate court or health care transports (two percent) of the estimated 44,000 inmate transports that occurred between July 2016 and January 2017 were delayed, canceled, rescheduled, or required outside ambulance assistance due to the lack of a vehicle.

**Background.** CDCR incarcerates more than 130,000 offenders in 35 institutions and 47 conservation camps. To support efforts to provide secure facilities and adequate supervision, CDCR maintains a fleet of nearly 7,700 vehicles and other fleet assets. CDCR's fleet includes vehicles for emergency medical transportation, fire protection, parolee supervision, construction support, institution perimeter security, and a variety of other activities. Many of these assets require specialty modifications, such as security caging, gun racks, law enforcement radio systems, security cameras, and wheelchair lifts.

Health care access vehicles are of particular importance to the department's operations. As discussed in a previous item, in 2012, the judge in the Plata case ordered the department to begin the transition of medical care back to CDCR control, and in 2015, that process began. However, the court noted in its 2015 transition order that CDCR had areas where progress was still needed. In particular, the court highlighted the need for improved access to care. Access to care is highly dependent on adequate, operable vehicles to transport inmates to medical appointments, hospital and emergency services, and specialty care. Currently, about 15 percent of the Department's vehicles are health care access vehicles. However, 23 percent of these health care access vehicles are in junk or poor condition and 291 are considered high priority for replacement.

CDCR's Statewide Transportation Unit uses a variety of fleet asset types, including buses, vans, paratransit vehicles, sport utility vehicles, and sedans to transport inmates statewide. CDCR determines the most appropriate vehicle type based upon the institution's geographical location, medical designation, security level, operational need, and the mileage and/or age of the vehicle being replaced.

SUVs are utilized as inmate transport and chase vehicles in geographically remote locations. Institutions located in rural areas face great geographical challenges, and could be up to 120 miles

from access to higher level of medical care. In such cases, two coverage teams are dispatched for three days and two chase vehicles are required for each inmate admitted to a hospital.

Vans are a key component in the transportation of inmates to and from medical appointments. Vans can hold several inmates, celled separately, in one vehicle, which decreases the amount of vehicles sent out to a specialty appointment. Vans are also used during emergency, or “Code 3”, medical transports as a chase vehicle. This allows CDCR to transport weapons and resources in a secure manner, outside the reach of inmates. Additionally, vans are used to transport inmates between areas within a single institution.

**Legislative Analyst’s Office (LAO).** The LAO finds that the Governor’s proposal to provide \$17.5 million for CDCR to purchase new health care vehicles merits legislative consideration, given the condition of the department’s vehicle fleet and the negative impact of not having sufficient vehicles available to transport inmates. However, they recommend that the Legislature direct the department to report at budget hearings on the extent to which it could repurpose any of the 291 vehicles that it intends to auction or dispose of after they are replaced with new vehicles, as this would allow these vehicles to be used for other purposes and improve the condition of its non-health care fleet.

**Staff Recommendation.** Hold open.

**Issue 8: Video Surveillance for Mental Health Units at the CSP - Sacramento**

**Governor's Budget.** The Governor's budget proposes \$1.5 million General Fund in 2018-19 and \$177,000 ongoing to install and monitor an audio/video surveillance system within designated mental health segregation units at California State Prison – Sacramento (SAC).

**Background.** In the fall of 2016, a *Coleman* Special Master monitoring team toured SAC and discovered an increasing number of allegations against staff from its psychiatric services unit (PSU) and Administrative Segregation Units (ASU)/ Enhanced Outpatient Program (EOP) inmates. In their report, the monitoring team recommended that CDCR should implement video surveillance cameras to increase observation and provide transparency in these areas at the Sacramento prison where the increased allegations originate.

This proposal requests funding to install and monitor high definition cameras to cover the PSU, Treatment Centers, and ASU/EOP areas in the institution to increase observation and provide transparency in investigations of misconduct and other incidents, thereby improving a safe environment for inmates and staff.

**Current Video Surveillance.** Following a special review at High Desert State Prison (HDSP) in 2015, the Office of Inspector General recommended CDCR to "immediately install cameras in all inmate areas, including, but not limited to, the exercise yards, rotundas, building dayrooms, patios, and program offices of HDSP." In 2016, CDCR installed 207 cameras, as well as video monitoring software in designated high traffic and large congregation areas within the institution. Advanced video surveillance technology enables institutions to provide more comprehensive monitoring and a heightened level of safety and security.

Since the transfer of women offenders from Valley State Prison for Women to the Central California Women's Facility (CCWF), there has been an increase in violence, and/or attempted suicide, and drug and contraband trafficking. Although video surveillance enhancement is needed at all institutions, CDCR determined that CCWF and HDSP are the institutions with the greatest and most immediate need. While CDCR has policies and procedures in place to prevent suicides, physical incidents, staff misconduct, and contraband trafficking, video surveillance, CDCR argued at the time, would give CCWF and HDSP the opportunity to use state-of-the-art technology to augment staff resources with objective, available as needed, video cameras.

As part of the approval for video surveillance in the 2017 Budget Act, the Legislature required CDCR to review video of any incidents prior to determining the disposition of a major inmate complaint or appeal, especially in the case of staff complaints. In addition, the budget required CDCR to retain video footage for 90 days.

**Legislative Analyst's Office (LAO).** The LAO recommends that the Legislature withhold action on the Governor's proposal to implement video surveillance at the PSU and ASU/EOP at SAC until the evaluation report on the surveillance system at HDSP is available in spring. In order to ensure that the evaluation report is available to inform the Legislature's deliberations on the 2018-19 budget, we also recommend that the Legislature require the Administration to provide it with the results of the HDSP evaluation prior to the May Revision. They further recommend requiring CDCR to report at spring

budget hearings on other strategies it is developing to address the concerns at SAC, such as ensuring that staff are adequately trained to work with inmates in the PSU and ASU-EOP units.

**Staff Recommendation.** Hold open pending review of the evaluation report.

**Issue 9: Radio Communications**

**Governor's Budget.** The Governor's budget proposes \$32.9 million in General Fund in 2018-19 to replace the public safety radio system, infrastructure, and subscriber equipment at nine institutions, two juvenile justice facilities, and fire camps, and add interoperability to the CDCR transportation unit.

**Background.** CDCR implemented and began using trunked radio communication systems in the late 1980s. Radio systems are a critical component of CDCR's core mission, as they are used in daily operation and to communicate during emergency situations. CDCR's radio systems currently serve adult institutions, juvenile justice facilities, fire camps, the peace officer academy, parole, transportation, internal affairs, and safety units, supporting over 20,000 subscribers.

The California Governor's Office of Emergency Services (CalOES), Public Safety Communications is responsible for the oversight and maintenance of state public safety radio systems. According to CalOES and the Federal Communications Commission, the lifecycle of the radio system infrastructure is approximately 10 years. Given that CDCR's radio systems are over 30 years old, they are unquestionably antiquated, overtaxed, and unreliable. Furthermore, the aging radio communications systems are no longer supported by the original equipment manufacturers or secondary markets.

Radio systems operating above maximum capacity pose a great risk to officers and staff requesting assistance. A report conducted by CalOES in 2010 revealed that a majority of CDCR's adult institution radio systems have exceeded their capacity, with one radio system operating at over 225 percent of the traffic loading maximum capacity.

In July 2009, the California Department of Technology hired the consulting firm Gartner Group to complete a ten-year strategic plan for all state public safety agencies that participated in the Public Safety Radio Strategic Planning Committee. The results showed that CDCR is ranked highest among public safety agencies for significant deficiencies based on the gap between technical capabilities and operations/interoperability capabilities, with the immediate risks impacting staff and public safety.

CDCR replaced two radio systems as part of the RJ Donovan and Mule Creek infill projects, and 24 radio systems using existing resources, for a total of 26 radio systems. However, these resources are not likely to be available in future years and the remaining outdated department-wide systems continue to frequently break down and are in eminent risk of extended or catastrophic failure.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Recommendation.** Approve as budgeted.

**Issue 10: Corcoran Levee Assessment**

**Governor's Budget.** The Governor's budget requests \$1.9 million General Fund in 2018-19 and 2019-20 to fund the state's share of costs for emergency levee improvements to the Corcoran Levee.

**Background.** The Corcoran Levee is 14.5 miles of earthen levees and was constructed in 1983 by the United States Army Corps of Engineers at the culmination of the six wettest years of record in the Tulare Lake Hydrologic Region. The levee protects a variety of land including agricultural, industrial, commercial, governmental, educational, residential, as well as California State Prison, Corcoran, and California Substance Abuse Treatment Facility and State Prison. The Cross Creek Flood Control District (District) was formed in 1983 to maintain the Corcoran Levee.

During this past winter's historic rainfall, the District was concerned that the Corcoran Levee was in danger of overtopping or breaching when the snow melted in the spring. The District determined that land subsidence had led to a two-foot drop in the levee's elevation, necessitating emergency levee improvements. In 2017, the District completed a \$10 million levee improvement project that raised the height of the levee and extended its length in other areas to ensure protection of District lands. Upon completion, the District assessed landowners for the ongoing operation and maintenance of the levee based on the benefits received from the levee. The improvements to the Corcoran Levee benefited CDCR in that a flood would disrupt prison operations.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this request.

**Staff Recommendation.** Approve as budgeted.

**Issue 11: Roof Replacement and Mold Remediation**

**Governor’s Budget.** The Governor’s budget requests \$60.7 million General Fund in 2018-19 for roof repairs at three state facilities and \$20 million to repair interior water damage caused from roof leaks at various facilities. In addition, the budget requests \$58.2 million General Fund in 2019-20 for roof replacements at two additional prisons.

**Background.** California statewide experienced an unprecedented season level of precipitation in 2016-17, comparable with California’s wettest season ever recorded in 1982-83. Several storms included significant winds and sustained atmospheric river events. These events create high altitude streams of moisture that carry water from the Pacific Ocean in sometimes violent spurts, leading to sustained heavy rains. The rain resulted in significant damage to institution roofs.

According to statistics from the California Department of Water Resources, the annual rainfall and snow water content total for the period between October 2016 and June 2017 was 94.23 inches, which is 194 percent higher than average for California. For the 2015-16 water year, the rainfall and snow water content was 27.1 inches, or about 98 percent of average. Several counties were severely impacted by the increased rains, some receiving triple and quadruple the amount of rainfall in the 2016-17 water year (through June 2017) compared to 2015-16.

The annual baseline special repair funding is \$26 million for adult institutions and \$2 million for Division of Juvenile Justice facilities and was augmented by Control Section 6.10 of the Budget Act in 2015-16 and 2016-17. Significant amounts of the special repair, supplemental support budget funding and Control Section 6.10 funding have been directed to roof replacements over the last several fiscal years. The 2017-18 Budget Act authorized \$34.9 million of funding for roof replacements at the California Correctional Institution, Pleasant Valley State Prison, and Salinas Valley State Prison. Providing this additional funding specifically for roofs allows the department to use special repair funding for other critical infrastructure needs, such as water conservation projects (e.g., leaking hydronic loops resulting in significant water loss) and regulatory compliance (e.g., damaged pond liners resulting in costly mitigation efforts).

**Legislative Analyst’s Office (LAO).** The LAO did not raise any concerns with this request.

**Staff Recommendation.** Hold open.

**Issue 12: CDCR Capital Outlay Proposals**

**Governor's budget.** The Governor's budget requests approximately \$51 million in General Fund for 28 construction projects that are estimated to cost the state a total of approximately \$280 million when completed. The following are those capital outlay proposals:

**1. MEDICATION DISTRIBUTION IMPROVEMENTS – 14 INSTITUTIONS**

The budget requests \$3.3 million General Fund for design and construction of a second phase of medication distribution improvements at 14 institutions. These projects are required to address recent population mission changes, along with projects inadvertently omitted from the original phase. While this request is combined into one proposal for efficiency purposes, this is not a joint appropriation; it is 14 separate projects with the same objective. The requested funding is for the preliminary plans phase of the 14 separate projects, each subject to project authority separately and individually.

The total estimated cost of all 14 projects is \$38,620,000.

**Background.** As a result of the *Plata v. Kernan* case, the CDCR health care delivery system was placed under a federal Receiver in 2006. Subsequently, CDCR and the federal Receiver developed the Health Care Facility Improvement Program (HCFIP) to improve the physical plant serving CDCR's health care delivery system, with medication distribution improvements as a primary program component.

A medication preparation room (MPR) is designed for nursing staff to prepare medications to provide to people being housed in an administrative segregation unit (ASU). After preparation of the medications in the MPR, the medications are taken on a cart to each cell front and provided to the inmate at that location through the cuff port because there is no free movement of inmates in ASU.

A medication distribution rooms (MDR) is designed to directly dispense the medications to the inmate population by means of pass-through windows. Medication distribution windows are the most efficient and secure method of medication distribution to non-ASU inmates. There are three medication cycles per day; morning, noon, and evening. In order to minimize impact on custody programs and allow inmates to participate in rehabilitative, educational, and vocational activities, each medication cycle is completed within a two-hour distribution cycle.

**2. CLASSROOM SPACE – PELICAN BAY**

This proposal requests \$1 million General Fund for the preliminary plans, working drawings and construction necessary to modify an existing 2,500 square foot (sf) storage room in Facility D at Pelican Bay State Prison (PBSP) into three separate classrooms to support education and cognitive behavioral treatment (CBT) programming. Education courses will include career technical education (CTE), adult basic education (ABE), and college courses. The CBT program includes substance use disorder treatment (SUDT), anger management, criminal thinking, and family relationships.

The total estimated project cost is \$1,002,000.

**Background.** In 2012, a class action lawsuit (*Ashker v. Brown*) challenged the use of long-term solitary confinement. In 2015, a settlement was reached resulting in inmates no longer being housed in the SHU based solely on gang affiliation, but rather on committing SHU-eligible offenses. Inmates previously housed based on gang affiliation have participated in a step-down program. The step-down program is 24 months in duration and consists of four program steps (six months each). Each step provides incremental increases in privileges and freedom of movement. Inmates who do not complete the program are placed in a Restricted Custody General Population facility. This policy change has dramatically reduced the SHU population at PBSP, allowing for conversion of Facility D to a Level II facility.

Because SHU inmates at PBSP did not participate in group programming such as education, there is no traditional rehabilitative programming space for general population inmates at Facility D. Traditional classrooms provide general population inmates an opportunity to participate in education and rehabilitative programs within a group setting. Now that Level II inmates are housed in Facility D, it is important to provide them with the same range of academic and CBT programs available to Level II inmates housed at other prisons. The need to provide rehabilitative program opportunities to these inmates is critical with the current implementation of Proposition 57.

Due to a lack of available space, PBSP has identified a receiving and release storage room on Facility D to conduct its education and CBT programs. This space was originally designed as a clothing distribution facility and is not functional on a permanent basis to provide multiple classroom-style rehabilitative programming. Currently, the existing receiving and release storage room is subdivided by a portable divider to create two classrooms; however, this is not a viable long-term solution for a classroom environment due to insufficient sound barriers provided by six-foot tall dividers. Permanent floor to ceiling walls are needed to provide the proper classroom environment.

### 3. NEW CLASSROOMS FOR COGNITIVE BEHAVIORAL THERAPY – CSP-SACRAMENTO

This proposal requests \$459,000 for the preliminary planning phase of a project to construct three 1,300 square foot classrooms with inmate and staff restrooms and staff offices to support the cognitive behavioral treatment (CBT) program at California State Prison, Sacramento (SAC). Classes include substance use disorder treatment (SUDT), anger management, criminal thinking, and family relationships.

The total estimated project cost is \$6,437,000.

**Background.** In 2012, CDCR issued “The Future of California Corrections” (commonly referred to as the Blueprint), which established the department’s goal of providing rehabilitative programs to 70 percent of its population.

To help meet that goal, CDCR’s Division of Rehabilitative Programs offers evidence-based CBT programs to prepare inmates for release by developing the knowledge and skills necessary to successfully reintegrate back into the community and reduce recidivism. CBT programs are designed to address an offender’s specific criminogenic needs and teach offenders positive behaviors to replace their old ways of getting through life.

Priority placement into CBT programs is provided to inmates who have a criminogenic need identified by a validated automated risk and needs assessment tool. CBT programs include SUDT, anger management, criminal thinking, and family relationships.

California Code of Regulations Title 15 requires that CDCR offer SUDT programming to inmates who: receive a second drug or alcohol-related rules violation report (disciplined for alcohol and/or drug related offense while serving their sentence); have a self-indicated substance use disorder; or, have an arrest conviction history for any controlled substance related incident.

Proposition 57, the Public Safety and Rehabilitation Act of 2016, further incentivizes inmates to participate in approved rehabilitative programs, by providing credits for participation to advance their release date or advance their initial parole hearing date.

The SUDT classes meet five days a week, 3.5 hours per day for five months. The curriculum includes pretreatment, motivation and engagement, cognitive restructuring, emotional regulation, social skills, problem-solving, and relapse prevention.

The curriculum for anger management addresses aggression, impulse control, hostility, anger and violence. The goal of this program is to help displace out-of-control, destructive behaviors with constructive pro-social behavior. The criminal thinking curriculum addresses criminal thinking, behaviors and associations as well as moral development, narcissism, low ego, resistance to changes, defensive attitudes, reasoning and behavioral traits that lead to criminal activity. Anger management and criminal thinking classes are held two days a week, 3.25 hours per day for three months.

The family relationship curriculum addresses marriage, family, and relationships. It includes parenting, domestic violence, and family reunification for offenders who have been away for an extended period of time and have had little contact with family members. The goal is to promote healthy family values and parenting skills. The Family Relationship class is held one day a week, 3.25 hours per day for six months.

#### **4. COGNITIVE BEHAVIORAL TREATMENT SPACE – SAN QUENTIN**

This proposal requests \$296,000 General Fund for the preliminary planning for the remodel of approximately 8,000 square feet of vocational Building 32 for CBT programs at San Quentin State Prison (SQ).

The estimated total project cost is \$3,104,000.

**Background.** CDCR notes, to help meet the 70 percent goal discussed above, CDCR's Division of Rehabilitative Programs offers evidence-based CBT programs to prepare inmates for release by developing the knowledge and skills necessary to successfully reintegrate back into the community and reduce recidivism. CBT programs are designed to address an offender's specific criminogenic needs and teach offenders positive behaviors to replace their old ways of getting through life.

Priority placement into CBT programs is provided to inmates who have a criminogenic need identified by a validated automated risk and needs assessment tool. In July 2017, SQ added the long-term offender program (LTOP) to provide CBT programming for eligible inmates who are serving long-term sentences.

CBT programs include SUDT, anger management, criminal thinking, and family relationships. In addition, the LTOP has two more programs to include victim impact and denial management.

SQ began the CBT programs on January 1, 2017 with 160 inmates and 16 counseling staff. In July 2017 SQ, expanded the programs to 420 inmates and 25 counseling staff. Each of the CBT classes is designed for a maximum of 12 inmates to allow for sufficient staff interaction and safety. To accommodate the large quantity of inmate participants at SQ, approximately 14 classrooms are required, with each class scheduled twice per day.

Due to a lack of available space, SQ is using approximately 10,000 sf of gym space to operate this program. However, the gym space is not functional on an ongoing permanent basis to provide classroom-style rehabilitative programming and individual counseling. The open gym lacks confidential spaces for one-on-one sessions as well as private space needed for intake, assessments, and individual treatment planning. SQ has set up modular wall dividers to partition the space to allow for several groups to function at once. However, this does not address confidentiality requirements for counseling sessions, which is contrary to Health Insurance Portability and Accountability Act (HIPAA) guidelines. The gym also has extended ceiling heights and wooden gym flooring allowing for increased noise levels which is disruptive to providing the inmates with meaningful therapy. Additionally, the gym lacks a fire suppression system required by current building code, and the ventilation system lacks cooling. With approximately 225 inmates and staff occupying the building simultaneously, the existing ventilation system cannot maintain indoor air temperatures to meet CDCR Design and Criteria Guidelines (DCG) standards of 68 to 78 degrees Fahrenheit for classroom space.

Due to the CBT programming in the gym, there is insufficient indoor recreational space to provide recreational programming opportunities for SQ's inmates, especially during inclement weather. There is only one gym at SQ and no other indoor recreational space available. Additionally, utilization of the gym for CBT and LTOP programming limits the usage of the gym for self-help programs and other programs that promote educational, social, cultural and recreational interests of participating inmates.

#### **5. AIR COOLING – CALIFORNIA INSTITUTION FOR MEN**

This proposal requests \$935,000 General Fund for the preliminary planning phase of a project to install evaporative cooling units with required fire/life/safety improvements in Facility A housing units at the California Institution for Men (CIM) to ensure that indoor temperatures will be maintained at or below 89° Fahrenheit (F) in accordance with the CDCR's Design Criteria Guidelines (DCG). Facility A housing units were built in 1952 when air cooling systems were not required by departmental standards.

The total estimated project cost is \$12,095,000.

**Background.** According to CDCR, of CIM's four facilities, Facility A is the most likely to experience indoor temperatures that are 90°F or above. Built in 1952, all eight of Facility A's housing units are equipped with roof mounted HV units without cooling equipment, have inadequate insulation, and are of wood construction. With internal heat loads (lighting and occupants), it is quite possible to have indoor temperatures as high as the outside, and without air cooling, there is no relief from summer temperatures that can reach as high as 114°F. Additionally, it is not uncommon for multiple housing units within Facility A to reach Stage 2 or 3 heat alerts simultaneously.

## 6. BOILER FACILITY – SAN QUENTIN

The budget proposes an increase of \$2.8 million General Fund for a project to construct a new central high-pressure steam boiler facility at San Quentin State Prison (SQ). Boiler replacement is required for compliance with Bay Area Air Quality Management District (BAAQMD) regulations for gas-fired boiler emissions standards.

Construction was funded in the 2015-16 Budget Act. It was subsequently determined by CDCR that boiler technology had changed, and a redesign of the boilers was required in order to eliminate the need for an additional control system, allowing for a shorter building height and lower maintenance/operating costs.

A new appropriation is being requested for the construction phase due to increased construction costs. The total estimated project cost is \$20,911,000. Of the current construction appropriation, \$17,641,000 approved in the 2015-16 Budget Act will be reverted and replaced. These two actions result in a net increase of \$2,840,000.

**Background.** According to CDCR, in 1996, the CDCR upgraded the existing boilers to meet air quality regulations at that time. When BAAQMD enacted new regulations in 2009, CDCR began evaluating the issues and studied several alternatives which included retrofitting the existing boilers or installing new boilers. Continued engineering design evaluation discovered unforeseen issues in the existing boiler plant facility. Section 3417.3.1 of the California Building Code requires a full code compliance upgrade for existing state-owned buildings if the cost of the renovation is greater than 25 percent of the cost of replacing the structure. Significant structural deficiencies, main electrical service deficiencies, and the lack of backup electrical power and a backup fuel supply system, rendered reuse of the existing boiler building expensive and impractical. Concurrent with the determination that a new building would be required, CDCR consulted with the Department of Finance on the appropriate funding source for this project. While the design has been funded with special repair (support) funding, the construction should be considered capital outlay.

## 7. PHASE II: KITCHEN/DINING REPLACEMENT – CALIFORNIA CORRECTIONAL CENTER

This proposal requests \$19.7 million General Fund to demolish and replace two existing kitchen/dining buildings, one each at Arnold Unit and Antelope Camp. The project scope includes the design and construction of new, pre-engineered metal kitchen/dining buildings, with exterior paving and fencing.

Preliminary plans were funded in the 2014 Budget Act and working drawings in the 2015 Budget Act. The 2016 Budget Act appropriated \$15,353,000 for the construction phase. Upon receipt of construction bids, it was determined the bids significantly exceeded authorized funding due to the remote location as well as increased costs in building materials that were understated in the original estimate. The Administration is requesting to revert the 2016-17 appropriation in the amount of \$15,353,000 and request a new appropriation for the construction phase in the amount of \$19,683,000. These two actions result in a net increase of \$4,329,000.

The current total estimated project cost is \$21,152,000.

**Background.** According to CDCR, the existing kitchen/dining building at Antelope Camp is approximately 3,600 square feet (sf) and is utilized to prepare meals for approximately 125 conservation camp and CCC firehouse inmates per day. This building is also used to prepare meals to be served by Mobile Kitchen Units at nearby fires, or to feed in-transit conservation camp fire crews. During fire seasons, the number of meals prepared daily can increase into the range of 500-1,000 meals. The existing kitchen/dining facility at Arnold Unit is approximately 2,900 sf and is used to prepare meals for approximately 350-400 minimum security inmates per day.

Both buildings were built in the 1980s using materials similar to mobile home construction materials with a normal life expectancy of five to ten years. Both structures are now approximately 30 years old, approximately 20 years past their maximum life expectancy. As a result, the structural integrity has degraded to the point where it is creating potential health and safety issues because of the poor condition of these buildings. For more than 20 years, rain, snow, and ice have penetrated the lower section of the walls, causing the metal studs and seal plates to rust and substantial dry rot to develop, compromising the structural integrity of the walls. This moisture buildup has also caused mold to form in the walls, ceilings, and floors.

#### **8. PHASE II: BRINE CONCENTRATOR SYSTEM REPLACEMENT – DEUEL VOCATIONAL INSTITUTION (DVI)**

This proposal requests \$2.1 million General Fund for the working drawings phase of this project. The project was approved in the 2017 Budget Act

The total estimated project is \$32,238,000.

**Background.** DVI's reverse osmosis water treatment plant (ROWTP) began full-time operation in June 2009 and was permitted to operate in February 2010. It has proved to be unreliable due to failures of the brine concentrator system and the lack of redundancy of this system's components. Between February 2010 and March 2015, the ROWTP was out of service approximately 60 percent of the time due to various component failures within the brine concentrator system.

This project is required for compliance with the State Water Resources Control Board (SWRCB) for violations of secondary drinking water standards.

**9. PHASE II: ADMINISTRATIVE SEGREGATION CELL DOOR RETROFIT – CORRECTIONAL TRAINING FACILITY**

This proposal requests \$9.8 million General Fund for the construction phase of a project to replace the existing 144 barred cell fronts with more secure cell fronts with vision panels in the O-Wing ASU.

The total estimated project cost is \$11,468,000.

**Background.** According to CDCR, the existing barred cell fronts provide inmates with the opportunity to physically assault staff or inmates, cause injuries from inmate manufactured weapons (spearing), expose persons to bodily waste thrown between the bars (gassing), and cause harm to staff and inmates from thrown burning objects or compressed canisters (i.e. medical inhalers) that are rigged to explode. In addition, the barred doors represent a potential suicide risk for inmates.

The proposed solid cell front and door system has a sliding food/cuff port cover and a tray delivery system that attaches to the door. The "safety feed" box greatly reduces the opportunity for staff assaults during feeding operations.

**10. PHASE II: FIRE SUPPRESSION UPGRADE – PELICAN BAY**

This proposal requests \$1.1 million General Fund for the working drawings phase of a project to correct fire suppression system deficiencies at Pelican Bay State Prison (PBSP) identified during an inspection by the State Fire Marshal (SFM). The scope of work includes the installation of an automatic fire suppression system (sprinklers) in the general population housing units. This project was approved in the 2017 Budget Act.

The total estimated project cost is \$17,697,000.

**Background.** During a recent inspection by the State Fire Marshall, it was identified that the housing units at PBSP were not constructed with an automatic fire suppression system as required by California Building Code (Code) Section 903.2.6.2. The code states, "Every building, or portion thereof, where inmates or persons are in custody or restrained shall be protected by an automatic sprinkler system conforming to National Fire Protection Association 13". Neither CDCR nor the SFM could locate an approved alternate means of protection for these buildings to explain why these housing units were built with no fire sprinklers, but both CDCR and the SFM agree there is a need to install fire suppression system upgrades.

**11. PHASE II: FACILITY D YARD – PELICAN BAY**

This proposal requests \$1.9 million General Fund for the construction phase of a project to construct a recreation yard for Facility D at PBSP. PBSP is repurposing Facility D's SHU to a Level II housing unit. This yard will provide inmates with the necessary space to participate in recreational and physical education programs, including a multipurpose field, handball courts, fitness areas, and a restroom. Construction also includes an observation post for custody staff monitoring the yard activities. This project was approved in the 2017 Budget Act.

The total estimated project cost is \$2,393,000.

## 12. PHASE II: 50-BED MENTAL HEALTH CRISIS FACILITIES – RJ DONOVAN AND CALIFORNIA INSTITUTION FOR MEN

The budget requests the second phase of funding for the creation of two 50-bed mental health crisis facilities. Specifically:

- \$3.6 million General Fund for the working drawings phase of a project to construct a licensed 50-bed Mental Health Crisis Facility at Richard J. Donovan Correctional Facility (RJD). The current waitlist plus the projected Mental Health Crisis Bed (MHCB) inmate-patient population, combined with the need to eventually cease operation of unlicensed beds, indicates an increased need for licensed MHCBs within the Southern California region. The building will be designed to allow for operation at the Intermediate Care Facility (ICF) level if treatment acuity needs fluctuate.

The total estimated project cost is \$56,065,000.

- \$3.4 million General Fund for the working drawings phase of a project to construct a licensed 50-bed Mental Health Crisis Facility at California Institution for Men (CIM). The current waitlist plus the projected Mental Health Crisis Bed (MHCB) inmate-patient population, combined with the need to eventually cease operation of unlicensed beds, indicates an increased need for licensed MHCBs within the Southern California region. The building will be designed to allow for operation at the Intermediate Care Facility (ICF) level of care if treatment acuity needs fluctuate.

The total estimated project cost is \$54,869,000.

Both projects were approved in the 2017 Budget Act.

**Background:** MHCB facilities provide acute short-term (approximately 10 days or less) inpatient psychiatric and mental health services for CDCR's seriously mentally disordered inmate-patients. The MHCBs provide care for seriously mentally disordered inmate-patients awaiting transfer to a long-term inpatient program or being stabilized prior to return to their previous outpatient level of care. Inmate-patients who have a serious mental disorder requiring long-term, non-acute mental health treatment and psychiatric programs are treated at ICFs.

In agreement with the Coleman Court in the 1990's, CDCR implemented the Mental Health Services Delivery System (MHSDDS) which established policies that specify that an inmate-patient suffering from an acute, serious mental disorder resulting in serious function disabilities, or who is dangerous to self or others, shall be referred to a MHCB within 24 hours. If the institution does not have a MHCB, or if there are no MHCBs available where the inmate-patient is currently housed, the inmate-patient is to be transferred to a MHCB institution within 24 hours of referral.

## 13. STATEWIDE MINOR CAPITAL OUTLAY PROGRAM

The Administration requests \$609,000 General Fund in order to fund one project for 2018-19 for the construction of minor capital outlay improvements at the CDCR's adult and juvenile facilities is included with this submission.

**Pelican Bay Central Kitchen Walk-in Freezer Addition.** The available freezer space in the main warehouse and central kitchen at PBSP is inadequate, leading to the inability to take advantage of bulk purchases at a lower cost per item, and ultimately resulting in higher daily food costs per inmate. PBSP has a total of 6,100 sf of freezer space to store all frozen food items. Purchasing in larger quantities would result in a cost savings on each item purchased. At least partially because of the smaller quantity purchases, PBSP has the highest food cost per inmate (\$3.94/day) of all California prisons. The average food cost per inmate at other facilities is \$3.39/day. PBSP estimates an annual cost savings of approximately \$88,000 as a result of being able to take advantage of larger bulk ordering of numerous products. At an estimated savings of \$88,000/year, PBSP anticipates a project return on investment within six years.

This proposal requests \$609,000 to construct a new walk-in freezer, measuring approximately 1,300 square feet (sf), adjacent to the central kitchen at Pelican Bay State Prison.

#### **14. BUDGET PACKAGES AND ADVANCE PLANNING – STATEWIDE**

The budget includes \$250,000 for CDCR to perform advance planning functions and prepare budget packages for capital outlay projects to enable CDCR to provide detailed information on scope and costs on requests for planned projects.

**Background.** CDCR currently operates 35 adult prisons and three juvenile facilities, along with 44 adult and juvenile conservation camps. The range of capital outlay needs across the facilities is broad and varied. The development of budget packages enables CDCR to develop well-documented and justified capital outlay requests for funding consideration in the annual budget act. Additionally, the need arises during the fiscal year to perform advance planning functions such as environmental reviews and site assessments to determine the feasibility of future capital outlay requests. To perform these functions, CDCR has often been provided with advanced planning funding through the annual budget act.

Provisional language is included with this appropriation limiting it to projects that meet both of the following two criteria:

- The project being studied has not previously received funding from the Legislature.
- The project is being prepared for funding consideration in future Governor's budgets or five-year infrastructure plans.

#### **Legislative Analyst's Office (LAO)**

**Medication Distribution Improvements.** The Governor's proposal includes funding to create additional medication rooms in various housing units at 14 prisons. In order for the Legislature to fully assess the Governor's proposed projects and determine the extent to which they are necessary, the LAO recommends it require CDCR to report at budget hearings on its medication room needs that takes into account the completion of the medication rooms previously approved by the Legislature. Pending receipt and review of this information, we recommend the Legislature withhold action on the Governor's proposed projects. However, they find that the proposed medication rooms specific to general population units that previously served SHU inmates appear necessary and recommend the

Legislature direct CDCR to submit a separate proposal specifically for these for this specific set of projects that it could consider prior to receipt of the above information.

***Mental Health Crisis Beds.*** Reject MHCB Facility Construction. Since the updated mental health projections no longer show a need for these beds by the time they would be completed in 2021, the LAO recommends the Legislature reject the funding proposed for working drawings. To the extent additional MHCBs are necessary in the future, they recommend that the Legislature direct the department to address this need with additional flex beds rather than costly construction projects.

**Staff Recommendation.** Approve the requests for all previously approved capital outlay projects and hold open all new projects.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, March 15, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

## Vote Outcomes

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<b>Vote-Only Items</b>		
<b>5225</b>	<b>Department of Corrections and Rehabilitation</b>	
Item 1	Reappropriations <b>Staff Recommendation: 3-0</b>	2
Item 2	AB 900 Reduction Lease Rev Bond Authority <b>Staff Recommendation: 3-0</b>	2

## Discussion Items

<b>5225</b>	<b>Correctional Health Care Services</b>	
Issue 1	Prison Health Care Update <b>Information Only</b>	3
Issue 2	Electronic Health Record System	6
	<b>Staff Recommendation with LAO Language: 3-0</b>	
Issue 3	Correctional Clinic Model – Pharmaceuticals <b>Staff Recommendation: 3-0</b>	8
Issue 4	Janitorial Services at the California Health Care Facility <b>Held Open</b>	9
<b>5225</b>	<b>Department of Corrections and Rehabilitation</b>	
Issue 5	Dental Equipment and Dental Oral Surgery	10
	<b>Staff Recommendation, includes LAO Recommendation: 3-0</b>	
Issue 6	Mental Health Bed Management <b>Held Open</b>	12
Issue 7	Health Care Access Vehicles <b>Held Open</b>	16
Issue 8	Video Surveillance for Mental Health Units at CSP- Sacramento <b>Held Open</b>	18
Issue 9	Radio Communications <b>Staff Recommendation: 3-0</b>	20
Issue 10	Corcoran Levee Assessment <b>Staff Recommendation: 3-0</b>	21
Issue 11	Roof Replacement and Mold Remediation <b>Held Open</b>	22
Issue 12	Capital Outlay Proposals	23
	<b>Approve Projects 6-11 as Budgeted: 3-0, Held Open Projects 1-5 and 12-14</b>	

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# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, March 22, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

## Items Proposed for Discussion

<u>Item</u>	<u>Department</u>	<u>Page</u>
5225	Department of Corrections and Rehabilitation: Division of Juvenile Justice	2
Issue 1	Current Trends in Juvenile Justice	2
Issue 2	Juvenile Justice Reform	8
Issue 3	Academy-Division of Juvenile Justice	19

## Public Comment

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## ITEMS TO BE HEARD

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

#### Issue 1: Current Trends in Juvenile Justice

**Governor's Budget.** The 2018-19 budget includes roughly \$200 million to support the operations of Division of Juvenile Justice (DJJ), mostly from the General Fund (including \$20 million in Proposition 98 funds). This reflects an average cost to the state of keeping a ward in the California Department of Correction's (CDCR), DJJ facilities of \$303,160 per year. This is an increase of over \$37,000 per ward over the 2017 Budget Act.

#### Panelists

- **Sue Burrell, Policy and Training Director, Pacific Juvenile Defender Center**
- **Elizabeth Calvin, Senior Advocate, Human Rights Watch**

#### Background

California's juvenile justice system is one that is largely handled locally by trial courts, county probation departments, and local law enforcement. Over the past 20 years, the Legislature has enacted various measures which realigned to counties increasing responsibility for managing juvenile offenders. Under current law, only youth adjudicated for a serious, violent, or sex offense can be sent to state facilities by the juvenile courts. As a result, over 98 percent of juvenile offenders are housed or supervised by counties. In 2016, while there were approximately 39,000 youth involved in the county probation system, with 29,000 being wards under the Welfare and Institutions Code 602 for felony and misdemeanor crimes, there were only 653 youth under the jurisdiction of the California Department of CDCR, Division of Juvenile Justice.

In addition to shifting responsibility for juvenile justice from the state to counties, the juvenile crime rate has declined significantly contributing to the 73 percent decline in the state's DJJ population from 2,516 youth in 2007 to 653 youth in 2016. At the same time, there has been a 60 percent reduction in the population housed in county juvenile camps and halls, down from 11,000 youth in 2007 to 4,200 youth in 2016.<sup>1</sup> This significant and continuing decline offers an opportunity for California to comprehensively assess its juvenile justice system and invest in the best treatments and interventions for rehabilitating youth and emerging adults and to explore additional interventions in order to continue to reduce the number of young people who end up in the criminal justice system.

**Juvenile Arrest Rates.** As noted above, juvenile crime rates have decreased dramatically in recent decades, declining from a peak of 408,131 juvenile arrests in 1974 down to 62,743 in 2016. More recently, juvenile felony arrests decreased 54.7 percent between 2011 and 2016. In addition, juvenile misdemeanor and status offenses<sup>2</sup> have decreased by 59.4 percent between 2011 and 2016.

<sup>1</sup> Data provided by the Chief Probationers of California.

<sup>2</sup> A "status offense" is an offense that would not be considered a crime if it were committed by an adult. Examples include: underage drinking, skipping school, violating a city or county curfew, or running away.

Of the 62,743 arrests made in 2016, 19,656 (31.3 percent) were for felonies, 35,756 (57 percent) were for misdemeanors, and 7,331 (11.7 percent) were for status offenses. Of the 2016 arrests, 44,980 were males and 17,763 were females. Of the felony arrests, 36.3 percent were for violent offenses (i.e. homicide, forcible rape, robbery, and assault), 29.8 percent were for property offenses (i.e. burglary, theft, and arson), 6.8 percent were for drug offenses, and 27.1 percent were for all other felony offenses (i.e. vehicular manslaughter, hit-and-run, lewd or lascivious acts, or weapons related offenses).<sup>3</sup>

**Court Adjudications.** In the juvenile justice system, cases are handled differently than the adult system. When a juvenile is arrested by a local law enforcement agency in California, there are various criminal justice outcomes that can occur depending on the circumstances of the offense and the criminal history of the offender. Many juveniles, who are arrested, particularly if their alleged offenses are more serious, are referred to county probation departments. (Probation departments also receive referrals from non-law enforcement entities and people—such as schools and parents.) The probation department then has the option to close the case, place the juvenile in a diversion program or on informal probation, or refer the case to the courts. Most such referrals are adjudicated in juvenile court, but depending on the nature of the alleged offense and the age of the accused, some cases may be prosecuted in adult criminal court. The courts place almost all juvenile offenders under the supervision of county probation departments, while a small number of juvenile offenders, are sent to state institutions, either a juvenile facility operated by DJJ or state prison.<sup>4</sup>

**Juvenile Court Petitions.** In 2016, there were 40,569 petitions filed in juvenile court. Each juvenile court petition can contain up to five different offenses, as a result within those petitions filed, there were 60,239 different offenses. Of those petitions, 24,453 (40.6 percent) were for felony offenses, 25,855 (42.9 percent) were for misdemeanors, and 9,931 (16.5 percent) were for status offenses. Of the felony petitions, 31.4 percent were for violent offenses, 31.7 percent were for property offenses, 30.7 percent are for “other” offenses, and 6.7 percent were for drug offenses.<sup>5</sup>

Of those 40,569 cases filed in 2016, the majority, 25,471 (62.8 percent) ended up under the care of the county probation departments in wardship probation. 17.2 percent (6,975) of the cases were dismissed. Of the remaining cases 2,899 (7.1 percent) resulted in informal probation, 2,529 (6.2 percent) resulted in non-ward probation, and 2,695 (6.6 percent) resulted in other dispositions including transfer to adult court, deportation, diversion, or deferred entry of judgement. Finally, 183 youth were sent to one of the state’s facilities under the jurisdiction of CDCR’s DJJ.<sup>6</sup>

For those youth receiving wardship probation, the majority (52.4 percent) were sentenced to serve that probation in their own or a relative’s home. The next largest wardship probation group, 30.8 percent were sentenced to a locked county facility. Of that group, two were under the age of 12, 855 were between the ages of 12 and 14, 5,705 were between 15 and 17 and 1,292 were between 18 and 24. Among those 25,471 sentenced to wardship probation, 20,906 were male and 4,595 were female.<sup>7</sup>

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<sup>3</sup> Department of Justice, *Juvenile Justice in California* (2016).

<sup>4</sup> Legislative Analyst’s Office, *California’s Criminal Justice System: A Primer*, January 2013.

<sup>5</sup> Department of Justice, *Juvenile Justice in California* (2016), p. 32.

<sup>6</sup> Department of Justice, *Juvenile Justice in California* (2016), Table 21, p. 81.

<sup>7</sup> Ibid.

**Direct Files to Adult Court.** Of those youth who were arrested and referred to county probation departments, less than one half of one percent (340 youth) was transferred directly to an adult court. Of those youth who were direct filed to an adult court, 317 were male and 23 were female. In addition, eight were 14 years old, 21 were 15, 100 were 16, 187 were 17, and 24 are listed as “other ages.” Finally, of those 340, 39 (11.5 percent) were white, 202 (59.4 percent) were Hispanic, 77 (22.6 percent) were black, and 22 (6.5 percent) were from other racial or ethnic groups.<sup>8</sup>

Of the 376 adult court dispositions for juveniles in 2016, 290 (77.1 percent) resulted in a conviction, 51 (13.6 percent) were dismissed, two (0.5 percent) were acquitted, and 33 (8.8 percent) were shifted to juvenile court.<sup>9</sup> Of the 290 convictions in 2016, 180 (62.3 percent) were sentenced to adult prison or the DJJ, 63 (21.7 percent) received probation and a jail term, nine (3.1 percent) received a jail term, and 20 (6.9 percent) received another sentence. Of the 290 convicted in adult court, 266 were male and 24 were female. In addition, 13 were 14 years of age, 32 were 15, 81 were 16, and 164 were 17. Seven of the 14 year olds and 15 of the 15 year olds were sentenced to DJJ or state prison.<sup>10</sup>

**Juvenile Justice Realignment.** As noted previously, over the last 20 years the state has realigned responsibility for most youth in the juvenile justice system to the counties. Specifically, the Legislature took the following steps:

- **Sliding Scale.** In 1996, the Legislature passed SB 681 (Hurt), Chapter 6, Statutes of 1996, which established a sliding scale fee to counties committing wards to the state. Under this arrangement, counties were required to pay a share of the state's costs to house each ward sent to DJJ (then called the Department of the Youth Authority), with a higher share of costs paid for lower-level offenders than for higher-level offenders. SB 681 was designed to incentivize counties to manage less serious offenders locally and decrease state costs. This sliding scale was ultimately replaced with a flat fee of \$24,000 per youthful offender in 2012.
- **Lower-Level Offenders.** Approximately a decade later, the state enacted, SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, which limited admission to DJJ only to juveniles who are violent, serious, or sex offenders. To help them manage these new responsibilities, SB 81 also established the Youthful Offender Block Grant (YOBG), which provided counties with \$117,000 for each ward estimated to have been realigned under the measure. In addition, SB 81 also provided counties with \$100 million in lease-revenue funding to construct or renovate juvenile facilities, an amount that was later increased to \$300 million.
- **Parolees.** Finally, in the 2010–11 budget, the Legislature realigned from the state to county probation departments full responsibility for supervising in the community all wards released from DJJ. As part of that measure, the Legislature also established the Juvenile Reentry Grant, which provides counties with ongoing funding for managing these parolees.

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<sup>8</sup> Department of Justice, *Juvenile Justice in California* (2016), pp. 26-27.

<sup>9</sup> According to DOJ, the reason for the increase in the number of youth redirected to juvenile court was due to the passage of Proposition 57 in November of 2016 which requires that juvenile have a fitness hearing in juvenile court prior to being sent to an adult court.

<sup>10</sup> Department of Justice, *Juvenile Justice in California* (2016), Table 30, p. 93.

As noted, along with the increased responsibility, the state has provided local governments with resources to house and treat juvenile offenders, including the following estimated amounts for 2018-19 that are all ongoing:

(dollars in millions)

Source	Amount
Enhancing Law Enforcement Activities Subaccount	\$435.22
Juvenile Justice Sub Account	\$175.10
Total	\$610.32

**County Juvenile Justice System.** Following the arrest of a juvenile, the law enforcement officer has the discretion to release the juvenile to his or her parents, or to take the suspect to juvenile hall and refer the case to the county probation department. Juvenile court judges generally take into account the recommendations of probation department staff in deciding whether to make the offender a ward of the court and, ultimately, determine the appropriate placement and treatment for the juvenile based on such factors as the juvenile's offense, prior record, criminal sophistication, and the county's capacity to provide treatment. Judges declare the juvenile a ward almost two-thirds of the time.

Most wards are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as juvenile hall or camp) or supervised at home. Other wards are placed in foster care or a group home. Finally, a small number of wards (under two percent annually), generally constituting the state's most serious and chronic juvenile offenders, are committed to DJJ and become a state responsibility.

**County Services and Programs.** Counties vary widely in the quality and types of programs they provide for the youth in their locked juvenile facilities and no data is collected by the state on the specific types of rehabilitative programs provided in each juvenile facility. However, appropriate schooling is provided to all of the youth, as is mental health treatment, substance use disorder treatment and cognitive behavioral therapy, for those youth who need it. Many probation offices also work closely with their community partners to provide a wide array of programs, including art programs, faith-based programs, restorative justice programs, and foster grandparent programs. For example, during a Legislative staff visit to Yolo County's juvenile facility, staff there noted that they work with over 100 outside community organizations to provide programs for the less than 100 youth in their facility.

**Innovative County Programs.** County probation departments and the juvenile justice system has made great progress over the last decade to ensure that only youth who are a threat to public safety or themselves and cannot otherwise be safely served in the community are detained. Improved screening to determine need for detainment, statewide application of risk-needs assessment, implementation of effective prevention and diversion programs, and declining arrest rates has led to a two-fold impact on juvenile probation departments: 1) decline in facility population and 2) rise in severity of risks and needs of the youth who remain in juvenile facilities.

According to the chief probation officers association, as a result, probation now currently has youth in county facilities that have more acute rehabilitation and therapeutic needs (mental health, substance use disorder, behavioral interventions, aggression, and sexually acting out/assaultive). The association notes that probation departments, which may have an empty unit or pod in a facility or an empty camp

or juvenile facility, are now adapting their facilities to meet the current and future needs of the youth they serve by operating within a youth-centric model versus a criminal justice approach upon which older facilities were built. According to the association, the primary hurdle that prohibits more counties from adopting a youth-centric model is the infrastructure costs and financial investments necessary to retrofit or renovate facilities in order to establish these types of programs.

Examples of such programs include:

**Coastal Valley Academy (San Luis Obispo County).** The Coastal Valley Academy (CVA) was established in San Luis Obispo County and is a custody commitment program in juvenile hall for 14-17 year old male and female youth who are moderate to high risk and in need of residential treatment. Youth are ordered to stay for 6-12 months and receive intensive case management, treatment and educational services through collaboration with local treatment providers and the County Office of Education. The physical features of the unit are more home-like and the programming, education, living unit and recreation yard are all separate, even though the program is located onsite with the juvenile hall. CVS serves as an alternative to group home care and provides a safe, structured, and locally controlled alternative to group homes for youth that need to be removed from their homes, but are not appropriate for a home-based foster care setting. It also provides for greater family involvement as youth remain local.

**Job Training Center (Los Angeles County).** The Los Angeles County Probation Department intends to repurpose a juvenile camp into a voluntary residential reentry and vocational training center. Those eligible for the program would include youth exiting the juvenile probation facilities or county jails, transition-age foster youth, and youth experiencing homelessness. The target population is young adults between 18 and 25. Youth in the program will be required to stay Monday through Friday and would be able to leave the campus on weekends, but participating in the program is voluntary. The camp conversion project is intended to equip these young adults with vocational skills and link youth to a pipeline of jobs in the county.

**Transitional Adult Youth Program (Alameda, Butte, Napa, Nevada, Santa Clara Counties).** SB 1004 (Hill), Chapter 865, Statutes of 2016, authorized the counties of Alameda, Butte, Napa, Nevada and Santa Clara to enact a pilot program that allows young adult offenders age 18-21 to be housed in a juvenile detention facility, as opposed to adult county jail. The program is voluntary for eligible young adults, and upon completion of the program, they will have their felony charges dismissed. Because these young adults will be housed in juvenile detention facilities they will have services available to them, such as mental health, vocational, and educational services they otherwise would not get in a county jail.

The program is based on research that shows that young adults are undergoing significant brain development and this age group may be better served by the juvenile justice system with corresponding age appropriate intensive services such as cognitive behavioral therapy, mental health treatment, vocational training, and education. The program includes a portion of time in the juvenile hall with a focus on reentry and community supports to assist the participants in their transition back into the community.

**Gateway Program (San Bernardino County).** The Gateway program is a secure treatment facility that houses up to 42 youth and utilizes evidence-based assessments, treatment and

evaluations aimed at reducing recidivism. The program is designed to house youth who have committed non-violent offenses and includes community access for those ready for reintegration services. Treatment includes mental health, family counseling, social learning activities, substance use counseling, anger management and employment services. The San Bernardino Probation Department works closely with the Department of Behavioral Health, County Schools, Workforce Development and private providers to provide services for the program.<sup>11</sup>

### Staff Comments

***Lack of Data on Juveniles Involved in the Criminal Justice System.*** One of the frustrations often noted by people who work in the juvenile justice field in California is that there is a significant lack of data from the counties that allows the state to measure the outcomes for youth involved in the criminal justice system. California—unlike many other large states— has no state-level capacity to produce information on the recidivism or other outcomes of juveniles who are processed through the justice system. While the state is moving rapidly to enact major juvenile justice system reforms, state and local data systems are outdated and unable to provide key information on youth outcomes, the impact of law changes, or the success of new programs.

In response to these frustrations, the Legislature created California Juvenile Justice Data Working Group (JJDWG) in the 2014 budget trailer bill. That group, overseen by the Board of State and Community Corrections, provided a comprehensive analysis and recommendations to the Administration and Legislature to upgrade the state’s juvenile justice data capacity in 2016. One task assigned by legislation to the JJDWG in 2014 was to compare California’s juvenile justice data capacity to the capacities of other states. The JJDWG report to the Legislature documented multiple ways in which California’s data capacity falls below that of other major states. Texas, for example, has completely upgraded its state juvenile justice data system in the wake of a realignment reform (moving state custody youth to local control) that resembles California’s own juvenile justice realignment—but nothing comparable has occurred here. Florida collects and publishes recidivism data for each facility in which juvenile offenders are confined. Georgia has developed a juvenile justice data clearing house for public access to key trends and outcome information. In addition, a number of states have participated in national data reform projects sponsored by the Pew Charitable Trust and other foundations that are providing technical assistance to help states upgrade data and outcome measures for juvenile justice populations. The Senate may wish to review the recommendations from the JJDWG with an eye toward implementing them and explore the costs associated with expanding and updating its data collection system for juveniles.

**Staff Recommendation: Informational Item. No action necessary.**

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<sup>11</sup> Information on innovative county programs provided by the Chief Probation Officers of California.

**Issue 2: Juvenile Justice Reform (BCP)**

**Governor's Proposal.** The California Department of Corrections and Rehabilitation requests \$3.8 million General Fund and 25.6 positions in 2018-19, \$7.3 million General Fund and 51.3 positions in 2019-20, and \$9.2 million General Fund and 67.8 positions in 2020-21 and ongoing to raise the age of jurisdiction to 25 for juvenile court commitments and increase the age of confinement to 25 for superior court commitments, and to begin implementation of a program that houses young adult offenders at a juvenile facility who would otherwise be housed in adult prison.

**Panelists**

- **Chuck Supple, Director, CDCR Division of Juvenile Justice**
- **Legislative Analyst's Office**
- **Department of Finance**

**Background**

**Division of Juvenile Justice.** DJJ, originally known as the California Youth Authority (CYA), was created by statute in 1941 and began operating in 1943, providing training and parole supervision for juvenile and young adult offenders. In a reorganization of the California corrections agencies in 2005, the CYA became the DJJ within the Department of Corrections and Rehabilitation. DJJ carries out its responsibilities through three divisions: the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole Operations. The Juvenile Parole Board, an administrative body separate from DJJ, determines a youth's parole readiness.

Youths committed directly to the DJJ do not receive determinate sentences. A youth's length of stay is determined by the severity of the committing offense and their progress toward parole readiness; however, DJJ is authorized to house youths until age 21 or 23, depending upon their commitment offense. DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 21, the DJJ may house him or her until released to parole.

The state has four juvenile detention facilities: N.A. Chaderjian Youth Correctional Facility (Chad) and O.H. Close Youth Correctional Facility (Close) in Stockton housing 217 and 166 males, respectively, as of December 2017; Pine Grove Youth Conservation Camp, housing 57 males as of December; and, Ventura Youth Correctional Facility, housing 145 males and 23 females. In addition, 23 males under DJJ's jurisdiction were being housed in an adult prison. In total, there were 631 juveniles in a state detention facility on December 31, 2017. With 1,175 beds in the four facilities, the facilities are currently filled to just over 50 percent of capacity.

**Characteristics of Current DJJ Wards.** Of the 631 youth housed in a DJJ facility as of December 31, 2017, about two-thirds (470) had an assault or robbery charge as their primary offense. 55 (8.7 percent) were convicted of a homicide and 72 (11.4 percent) were convicted of forcible rape or other eligible sex offense. Currently, about 96 percent of DJJ youth are male, and about 87 percent are either African-American or Latino and 10 percent are white. The average age of the youth being housed in DJJ is 19, with the one youth currently residing in DJJ who is 14 and 10 who are 15. At the opposite

end of the age spectrum, five are 22 years-old, two are 23 and three are 24 or older. For females specifically, the mean age is 18.7 and the youngest is 15 years-old and the oldest is 20. Currently, about 137 youth residing in DJJ facilities were tried in adult court (about 22 percent of the DJJ ward population). Of those, 70 were sentenced to DJJ and 67 were sentenced to a CDCR adult facility but are being housed in a DJJ facility until they reach the age of 18 and can be transferred to an adult prison.

**County of Origin.** As discussed previously, for a very small portion of the juvenile justice population, county probation departments determine that the crimes committed or the needs of the juvenile are so great that they cannot provide adequate care and treatment in their facilities. Those youth are then sent to the state's DJJ facilities. Based on data provided by CDCR, on November 30, 2017, there were 619 youth being housed in DJJ facilities. Not surprisingly, the majority of those youth (128) came from Los Angeles County. When comparing the proportion of youth from each county with their corresponding percentage of the state population, a handful of the state's counties appear to be sending a disproportionate number of youth to the state facilities. For example, while Sacramento County comprises 3.84 percent of the state's population, they are responsible for sending 7.94 percent of the DJJ population. Similarly, 2.87 percent of Californians reside in Contra Costa County. However, their youth make up 6.3 percent of the DJJ population. In addition, Fresno County accounts for 2.52 percent of the state's population, but is responsible for 5.82 percent of the DJJ population. Also, Kings County is home to only 0.38 percent of Californians, but 3.07 percent of DJJ wards were sent by Kings County. Finally, Merced County is responsible for 2.42 percent of DJJ's wards, but contains only 0.4 percent of the state's population.

In contrast, there are other counties who send fewer wards to DJJ than their population would suggest. In fact, 28 of the small counties in the state do not have any youth housed at DJJ or have only one youth. In addition, as noted above, Los Angeles is the county of residence for 128 of the DJJ wards, which is 20.68 percent of the DJJ population. However, almost 26 percent of Californians reside in Los Angeles County. In addition, Orange County only has four wards housed at DJJ (0.65 percent) but is home to 8.08 percent of the state's population.

**Farrell v. Kernan.** On January 16, 2003, Margaret Farrell, a taxpayer in the state of California, filed a lawsuit against the director of what was then called the California Youth Authority (CYA). The suit claimed CYA was expending funds on policies, procedures and practices that were illegal under state law. Farrell also claimed that CYA failed in its statutory duties to provide adequate treatment and rehabilitation for juvenile offenders in its care. The lawsuit also alleged that the youth offenders were denied adequate medical, dental and mental health care.

On November 19, 2004, the parties entered into a consent decree in which DJJ agreed to develop and implement six detailed remedial plans in the following areas: safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youth with disabilities.

After more than a decade of reforms in California's juvenile justice system – including limiting use of force, involving families in the rehabilitation of youth, and greatly reducing the juvenile offender population – on February 25, 2016, the Alameda County Superior Court terminated the *Farrell* lawsuit against the California Department of Corrections and Rehabilitation's DJJ.

**Cost per Ward.** The costs of DJJ have been rising dramatically in the last decade, largely because of staffing and service requirements imposed by the federal court while under the jurisdiction of a special

master as a result of the *Farrell v. Kernan* lawsuit related to educational, mental health, medical, and other deficiencies in DJJ facilities. In contrast to the proposed funding of \$303,160 in funding per youth, the budget proposes spending \$80,729 per year for each adult inmate.

Partially offsetting the state's cost, counties are assessed a reimbursement rate of \$24,000 per year for most wards sent to DJJ. The budget assumes approximately \$10 million in reimbursements from the counties for 2017-18, growing to \$10.5 million in 2018-19.

<b>Average Cost Per Offender in Division of Juvenile Justice Facilities</b>			
<b>Type of Expenditure</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>
Treatment	\$ 83,000	\$ 82,000	\$ 77,000
Security	55,000	64,000	61,000
Administration	39,000	42,000	39,000
Health Care	29,000	33,000	30,000
Education	26,000	34,000	32,000
Support (food, clothing, other)	20,000	28,000	27,000
<b>Total</b>	<b>\$ 252,000</b>	<b>\$ 284,000</b>	<b>\$ 266,000</b>

**Rehabilitation Programming.** According to CDCR's website, DJJ provides academic and vocational education, treatment programs that address violent and criminogenic behavior, sex offender behavior, substance use disorder and mental health problems, and medical care. This treatment and programming description is similar to what the CDCR provides for adult inmates. However, the actual rehabilitation programming is significantly different.

DJJ operates an accredited school district, providing youth with the same high school curriculum in each of its four institutions that they would receive in their local community. Youth attend school each day to achieve a high school diploma. Youth whose commitment period is too short to fulfill that requirement are guided through a general education development (GED) curriculum. DJJ considers a diploma or GED a minimum requirement for parole consideration. Certificates in a variety of vocations and college classes are offered to graduates as well.

According to CDCR, youth are also encouraged to build positive social and leadership skills through participation in groups and activities such as the student council, spiritual services, and events and fundraisers for victims' rights.

**Integrated Behavior Treatment Model (IBTM).** The framework for DJJ's programs is the Integrated Behavior Treatment Model (IBTM). It is designed to reduce institutional violence and future criminal behavior by teaching anti-criminal attitudes and providing personal skills for youth to better manage their environment. DJJ staff from every discipline work as a team to assess the needs of each youth and to develop an individualized treatment program to address them. Through collaboration with the youth, the team administers a case plan that takes advantage of each youth's personal strengths to maximize treatment in other areas of their life to reduce the risk of re-offending.

The IBTM guides all services provided to youth from arrival at DJJ to community reentry. Upon arrival, each youth is assessed to determine needs and strengths in the following areas:

- Education & Employment
- Attitudes & Thinking
- Mental & Physical Health
- Family & Community Support & Stability
- Peer Influences
- Violence & Aggression
- Substance Use

Using that information, staff works collaboratively with each other, the youth and the youth's family to develop and routinely update a treatment plan that helps the youth build skills for successful reentry into the community. Positive skill building is strengthened through a comprehensive behavior management system that discourages negative behavior and uses daily, weekly and monthly rewards to recognize and encourage positive change.

The impact of the IBTM treatment model on the recidivism rate for youth at DJJ is currently unknown. DJJ is currently working with the University of California at Irvine to conduct an updated outcomes evaluation, which will better measure the impact of the IBTM model. Unfortunately, the study will not be available until the second half of 2020, at the earliest.

**Volunteer Programs.** Based on information provided by DJJ last spring, unlike many of the adult institutions, DJJ facilities appear to have a fairly limited number of volunteer programs for the wards. Pine Grove Conservation Camp has the most programs, with 13, and Ventura has the least, with only five volunteer programs. The other two have ten (Chad) and seven programs (Close). In contrast, CDCR hopes to have over 3,000 volunteer programs in place in their 34 adult prisons in 2018-19.

The majority of the DJJ programs at all of the institutions appear to be faith-based. With the exception of Incarcerated Men Putting Away Childish Things (IMPACT), which operates at three of the facilities, none of the programs appear to be based on restorative justice or offender responsibility principles. In addition, despite being listed as volunteer programs, many on the list appear to be short-term or one-time in nature. For example, the Anti-Recidivism Coalition (ARC) is listed as providing volunteer programming at Chad and Pine Grove. However, according to ARC, they hold a monthly meeting with youth at Ventura who are scheduled to be going home and they meet with youth quarterly at the other three facilities. Similarly, Motorcycle Ministries visits Pine Grove monthly and the Lockwood Fire Department holds events twice a year at Pine Grove. Unlike volunteer programs in adult prisons, the presence of volunteer programs, and programming in general, outside of the educational programs, are lacking.

To increase the number of volunteer programs in the juvenile facilities, the 2017 Budget Act created two community resource manager positions and redirected \$500,000 for innovative programming grants to expand the number of available volunteer programs. Those grants are scheduled to be awarded this spring. In addition, the new leadership at DJJ is committed to significantly increasing community involvement in the facilities, including working with former prison inmates who can serve as mentors to the young men and women in the DJJ facilities.

**Arts in the State's Juvenile Justice Facilities.** Currently, the Arts in Corrections program is only available for adult inmates and the state does not provide an organized, formal arts program to the

juveniles confined to the four juvenile justice facilities. Through their schooling, students are required to take 10 hours of fine arts credit to meet California graduation requirements. In addition, the O. H. Close Youth Correctional Facility School has a band, recreational therapists are providing informal arts and crafts, and the Sexual Behavior Treatment Program has an arts component. This is in contrast to the adult institutions that have Arts in Corrections programs overseen by the California Arts Council (CAC). To rectify this problem, the 2017 Budget Act included \$750,000 in General Fund for CAC to expand their Jump StArts grant program to include all of the state's juvenile facilities. Those grants are scheduled to be awarded this spring.

**Juvenile Recidivism Rates.** According to CDCR's most recent report to the Legislature on their annual performance measures, juveniles have a similar rearrest and recidivism rate to adult offenders overall. For example, after three years, 51.3 percent of adults have been convicted of a new crime. For juveniles, the conviction rate after three years is 53.8 percent. While 75.1 percent of adults are arrested within three years of their release, 74.2 percent of juvenile wards have been arrested during the same time period. In addition, 30.5 percent of juvenile offenders are committed to an adult prison within three years of their release from a DJJ facility. Finally, 64 percent of youth who returned to state-level incarceration did so within 18 months of their release from DJJ.<sup>12</sup>

However, when looking specifically at their similar-aged cohorts housed in state prisons, it appears that youth in DJJ facilities have a lower recidivism rate than their counterparts. For example, of the 18 and 19 year olds released in 2011-12 (the same year as the DJJ population that is being tracked for recidivism data), 67.3 percent had a new conviction after three years, as opposed to 53.8 percent of DJJ youth. In addition, of the people between the ages of 20 and 24 who were released from prison in 2011-12, 62.8 percent had a new conviction within three years.<sup>13</sup> Therefore, while overall recidivism rates appear to be similar between adult and youth prisons, emerging adults in the juvenile system appear to fare better than their counterparts sent to adult prison.

### Key Legislation and Initiatives

- SB 625 (Atkins), Chapter 683, Statutes of 2017, authorized the Board of Juvenile Hearings (BJH) to make honorable discharge determinations and to grant an honorable discharge to a person discharged from a DJJ facility who has proven the ability to desist from criminal behavior and to initiate a successful transition into adulthood.
- SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, lowered the jurisdiction age for youth from 25 to 23 and replaced the previous sliding scale county reimbursement rates with an annual rate of \$24,000 per youth committed to DJJ via juvenile court. It also eliminated juvenile parole, disciplinary time additions, and new parole violator admissions after December 31, 2012. The legislation also restructured the methodology for discharge consideration hearings. It requires that all youth, on or before their initial projected board date, must be reviewed by the Juvenile Parole Board for release consideration regardless of behavior or program completion.

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<sup>12</sup> *Supplemental Report of the 2015-16 Budget Package Annual Performance Measures Report*. January 13, 2017.

<sup>13</sup> *2016 Outcome Evaluation Report: An Examination of Offenders Released in Fiscal Year 2011-12*. CDCR. October 2017. Page 21.

- AB 1628 (Blumenfield), Chapter 729, Statutes of 2010, transferred supervisory responsibility to the jurisdiction county's probation department for community supervision of youth released on or after implementation.
- SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007; and AB 191 (Committee on Budget), Chapter 257, Statutes of 2007, restricted juvenile court commitments to cases committed for specified (serious/violent) offenses listed in subdivision (b) of section 707 of the Welfare and Institution Code (WIC) or for specified non-WIC 707(b) sex offender registrants (Penal Code section 290.008). Non-WIC 707(b) (excluding sex offenders) cases that were on parole on September 1, 2007 and were discharged once they completed their parole time.
- SB 681 (Hurt), Chapter 6, Statutes of 1996, required counties to pay the state for each juvenile court commitment pursuant to a "sliding scale fee system" based on commitment offense as an incentive to the county when they do not commit a juvenile because of the associated costs. Commitment offenses are categorized according to Title 15 of the California Code of Regulations seriousness of the primary offense: Category I, most serious to Category VII, least serious. Counties paid 50 percent of the per capita facility cost for offense Category V juvenile court commitments, 75 percent for Category VI commitments, and 100 percent for Category VII commitments.
- AB 3369 (Bordonaro), Chapter 195, Statutes of 1996, reduced the age limit for authorizing a transfer of a person to CYA, now known as DJJ, by the Director of CDCR to under 18 years and requires the transfer to terminate in specified situations. This was only applicable to minors convicted as an adult but housed at the DJJ under WIC 1731.5(c).
- Proposition 57 – Public Safety and Rehabilitation Act of 2016 (November 8, 2016) provided juvenile court judges authority to decide whether juveniles aged 14 and older should be sentenced as adults for specified offenses.
- Proposition 21 – Gang Violence and Juvenile Crime Preventive Act (March 7, 2000) made changes to the prosecution, sentencing, and incarceration of juvenile offenders:
  - Increased punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation, and drive-by shootings; created crime of recruiting for gang activities; and authorized wiretapping for gang activities.
  - Allowed for the direct filing of a felony complaint to the adult criminal court for juveniles aged 14 years or older under a variety of circumstances.
  - Eliminated informal probation for juveniles committing felonies.
  - Required registration for gang related offenses.
  - Designated additional crimes as violent and serious felonies, thereby making offenders subject to adult prosecution.

1. **Age of Jurisdiction.** To allow offenders to benefit from rehabilitative programming designed for young offenders and be more successful upon release, the Administration proposes to raise the age of jurisdiction to 25. While the exact population effects are unknown, prior to reducing the age of jurisdiction in 2012-13 from 25 to 23, DJJ housed approximately 40 wards that were ages 23 or older.

The *Farrell v. Kernan* lawsuit resulted in a complete reform of the state juvenile system, including several legislative changes that were implemented to dramatically reduce the Division of Juvenile Justice population from around 3,000 in 2005 to approximately 1,100 in 2011. To continue population reductions and generate savings, the 2012 Budget Act changed the age of jurisdiction from 25 to 23 for youths sent to the DJJ.

New research on brain development and juvenile case law around diminished culpability of juvenile offenders has prompted the Administration to reevaluate this decision. Currently, juvenile court commitments are eligible to be housed at a juvenile facility until the age of 23, and superior court commitments are transferred to an adult prison at the age of 18 if they are not able to finish their sentence by the age of 21.

2. **Young Adult Offender Pilot Program.** The proposed budget includes \$3.8 million General Fund to establish two housing units to support a Young Adult Offender Pilot Program that would divert 76 young adult offenders from adult prison to a juvenile facility. Specifically, the pilot would be available for male offenders who were sentenced for committing specified crimes prior to their 18<sup>th</sup> birthday and who could complete their sentences prior to the age of 25. This would allow these offenders to benefit from specialized rehabilitative programming designed for young offenders with the goal of reducing recidivism. The Administration notes that, both of the proposed changes are intended to divert young offenders from adult prison to DJJ to avoid the adult prison environment, especially gang activity.

### LAO Assessment and Recommendation

**Approve Proposals With Sunset Date.** Given that research suggests that youths generally have better outcomes when they remain in juvenile court and/or are housed in juvenile facilities rather than prison, the Governor's proposed statutory changes have merit. However, given that the effectiveness of these proposals depends on how effective DJJs programs are—about which there is some question—the LAO recommends that the Legislature approve these policy changes (with some modification to the proposal to increase DJJs age of jurisdiction for juvenile court youths discussed below) for a fixed time period—such as seven years. This would allow sufficient time for the proposed changes to be implemented and for the Legislature to determine whether they should continue.

**Require Evaluations.** In order to ensure that the Legislature has sufficient information to assess whether the proposed young adult offender pilot program should continue to be funded after it sunsets, the LAO also recommends that the Legislature require DJJ to contract for an independent evaluation to assess the cost-effectiveness of the program. This evaluation shall be completed by January 10, 2025, with a final evaluation report provided to the Legislature. The LAO estimates that the evaluation would likely cost a couple hundred thousand dollars. The LAO also recommends DJJ provide the outcomes of its fidelity assessments as they become available, as well as the current evaluation that is expected to

be complete by the end of 2019-20. These reports would allow the Legislature to monitor DJJ's overall rehabilitation programs and provide some insight into the merit of the proposed age of jurisdiction changes.

***Modify Governor's Proposal Age of Jurisdiction Proposal.*** Given that returning DJJ's age of jurisdiction to 25 could potentially reduce recidivism and lower costs for youths who would otherwise be transferred to adult court, the LAO finds that this change merits legislative approval. However, because keeping some of these youths for a longer period of time may have little effect and could increase costs, the LAO recommends modifying the Governor's proposal. Specifically, the LAO recommends that the Legislature provide juvenile court judges who are conducting transfer hearings the discretion to allow a youth to remain in DJJ up to the age of 25 in cases where a judge determines that not doing so would necessitate that the youth be transferred to adult court. This would provide an alternative to sending such youth to adult court without resulting in other juvenile court youths remaining in DJJ beyond their 23rd birthday unnecessarily. The LAO notes that this would also likely reduce the cost of the administration's proposal somewhat, though the precise amount would depend on how judges used this proposed discretion.

#### **Staff Comments**

As discussed previously, the landscape of juvenile sentencing and rehabilitation policy is rapidly changing. In addition to juvenile brain development research, there is other research that indicates that emerging adult offenders released from adult prison recidivate at a higher rate than similarly aged offenders released from a juvenile facility (see previous recidivism rate discussion). There appears to be widespread interest in treating the emerging adult offender group similar to today's juvenile offender population. As noted previously, in recognition of the changing philosophy related to the emerging adult population, the Legislature enacted SB 1004 (Hill), Chapter 865, Statutes of 2016, which authorized a five county pilot program to house youth aged 18 to 21 in juvenile halls rather than county jails. The budget proposes creating a similar pilot at DJJ for emerging adults in prison. The Administration notes, all of these recent changes, including changes made to juvenile sentencing under Proposition 57, have led them to propose a similar pilot program at the state level.

***Drawbacks Related to Continuing to House Youth in the State's Three DJJ Facilities.*** The Governor's budget for 2012-13 included a plan to complete the realignment of juvenile justice to counties. Under the plan, DJJ would have stopped receiving new wards on January 1, 2013. However, DJJ would continue to house wards admitted to its facilities prior to this date until they were released. The Administration estimated that DJJ's population would reach zero by June 30, 2015, at which time all DJJ facilities would have been closed and the division would have been eliminated. However, in the May Revision that year, the Administration withdrew the proposal.

Since that time, some advocacy groups have continued to advocate for the closure of DJJ. In part, they argue, research shows that youth have better outcomes if they are housed in smaller settings and closer to their communities and families. On the other hand, counties have expressed serious concerns regarding their ability to effectively provide rehabilitative treatment and programming for those youth they currently send to the state.

Given both the concerns of the advocates and the concerns of counties and the research regarding juvenile justice, the Senate may wish to consider following the lead of states like Texas, New Jersey and New York that have implemented a regional approach to juvenile justice in recent years. Essentially, these states have moved away from larger centralized facilities for their youth and have created smaller, regional facilities that house approximately 30 youth each. For example, in 2014 the Texas Legislature passed SB 1630 which represented a fundamental shift in how young people would be served by the justice system by creating a regionalization plan for the Texas Juvenile Justice Department. The plan is designed to allow youth to be kept closer to their home communities in lieu of commitment to distant state-secure facilities.

Adopting an approach like Texas' would ideally address both the concerns of the juvenile justice advocates and of the county probation departments. Youth would be housed closer to their communities and in smaller settings. At the same time, those youth would continue to be under the jurisdiction of the state. Along with the concerns raised by advocates regarding the state's current system, one of the concerns raised by DJJ is the lack of collaboration between them and the counties that are supervising DJJ youth upon their release. Under a regionalized approach, youth would generally be housed either within or close to their county of commitment. Therefore, proximity may make it easier for staff at the regionalized facilities to collaborate and coordinate with the county probation departments that will be overseeing the youth once they leave the DJJ facilities.

***Emerging Adults.*** Under most laws, young people are recognized as adults at age 18. As a result, young adults convicted of crimes currently serve their sentences in county jails or state prisons. But emerging science about brain development suggests that most people do not reach full maturity until the age 25. Research shows that people do not develop adult-quality decision-making skills until their mid-20s. This can be referred to as the "maturity gap." Because of this, young adults are more likely to engage in risk-seeking behavior which may be cultivated in adult county jails and prisons where the young adults are surrounded by older, more experienced criminals and entrenched gangs. Therefore, young offenders age 18-24 are still undergoing significant brain development and it is becoming clear that this age group may be better served by the juvenile justice system with corresponding age appropriate intensive services.

As such, in order to address the unique criminogenic and behavioral needs of young adults, it is important that age appropriate services are provided, services that may not currently be available in the adult criminal justice system. With some modification and enhancements, DJJ facilities may be better equipped to meet the needs of emerging adults. Those services include, but are not limited to the state's IBTM treatment model, cognitive behavioral therapy, mental health treatment, vocational training, and education, among others.

The Governor's budget is currently proposing a pilot program shifting some young adults from prison to DJJ. The Administration hopes DJJ will be better equipped to meet the needs of the emerging adult population. In addition, the Governor proposes increasing the age of jurisdiction for their juvenile justice facilities from 23 to 25 thus allowing young people to remain in DJJ for a longer period of time.

While the Administration's proposal shows a great deal of merit, there is concern that an across the board increase of the age of jurisdiction from 23 to 25 could result in youth remaining in DJJ longer than they would otherwise be required to or need to under the current statute. In addition, the Governor proposes targeting young men in prison who are between the ages of 18 and 21 who committed their

crimes at the age of 17 and were sentenced to adult prison. After an initial review of the proposal, some juvenile justice experts have expressed concern that this proposal, which allows young men to be sentenced as adults but serve their sentences entirely in a juvenile justice facility, may result in an increase in the number of youth sentenced as adults. Primarily, the concern is that this program may allow judges who are facing considerable pressure to try a young person as an adult but do not want to sentence that youth to adult prison, to bow to that pressure with an adult conviction and a sentence to be served at DJJ. As a result, more young people could end up with adult convictions on their records.

Neither of the initial concerns raised appear to be insurmountable. The Senate may wish to consider modifying the language for the proposals to limit the expanded age of jurisdiction to only certain crimes or certain sentences. For example, jurisdiction to age 25 could be limited to those youth who would otherwise be facing sentences in adult prison of seven years or more. In addition, rather than limiting the pilot project to individuals who committed their crimes at the age of 17, the Senate may wish to explore refocusing the pilot to those young adults who committed their crimes at the age of 18 or 18 and 19. This shift would avoid any unintended consequences in the sentencing of 17 year olds.

***Housing Emerging Adults with Younger Boys.*** Under the pilot proposed by the Governor, 76 beds would be used to house emerging adults between the ages of 18 and 25 at Chad. Currently, among the 217 youth serving time in Chad, there is one who is 14, five who are 15 and 11 who are 16. While there are no 12 and 13 year-olds at Chad at the present time, children as young as 12 can be committed to a state juvenile justice facility.

As the state begins to consider significantly increasing the number of emerging adults in its DJJ facilities, it is important for the Senate to consider whether it is effective and appropriate for younger boys and girls to be housed in the same facilities and provided with the same rehabilitative programming as emerging adults. The Legislature may wish to take this opportunity to reconsider the minimum age for confinement in a DJJ facility. If confinement in DJJ is limited to youth and emerging adults between the ages of 16 or 17 and 25, it could provide the state with an opportunity to more effectively provide age-appropriate intensive rehabilitative treatment and programming geared toward emerging adults, rather than providing programming to both children and young adults who are at very different stages developmentally.

***California Leadership Academy.*** The 2014 Budget Act included \$865,000 from the Recidivism Reduction Fund for CDCR to develop a strategic plan for creating the California Leadership Academy (CLA), which would provide housing and specialized, intensive programming for young men in prison who were between the ages of 18 and 25. As a follow up to the development of a strategic plan, in the 2017-18 budget proposal summary, the Administration noted:

*The Department contracted with an external consultant to make recommendations for a California Leadership Academy—a program aimed at reducing recidivism among 18- to 25-year-old male inmates in the state’s adult prison system. The report recommended a college-like campus that would house approximately 250 offenders with small living units that focus on developing pro-social behavior, education, and job training. Diverting younger offenders from the adult prison setting is consistent with one of the goals of Proposition 57, and would give younger offenders a better chance of rehabilitation and reduce recidivism. As such, the Administration recommends that the program focus on youthful offenders who are sentenced by an adult court, but serve the beginning of their sentence in the Division of Juvenile Justice and*

*then transfer to an adult prison. Priority would be given to offenders sentenced by an adult court and eligible for release prior to their 26th birthday.*

*The report also recommended a combination of private and public funds. Given the current state of the General Fund, the Administration will work with external stakeholders to solicit interest from private investors to fund this project. While the state has surplus property that could potentially be used as a site for the Academy, depending on the interest of private investors, the state could also choose to dedicate a yard at an existing adult institution or housing unit at an existing juvenile facility to create a smaller Academy.*

CDCR notes that while they have attempted to find private funding to assist with the creation of a leadership academy, so far they have been unsuccessful. They see this year's pilot project proposal as a step toward implementing the goals outlined in their CLA strategic plan.

**Staff Recommendation: Hold open.**

**Issue 3: Academy-Division of Juvenile Justice (BCP)**

**Governor's Proposal.** The California Department of Corrections and Rehabilitation requests \$721,000 General Fund in 2018-19 and 2019-20 to conduct one Basic Correctional Juvenile Academy each year to support the Division of Juvenile Justice workforce.

**Panelists**

- **Stacy Lopez, Associate Director, CDCR Peace Officer Selection and Employee Development**
- **Legislative Analyst's Office**
- **Department of Finance**

**Background**

In 2011, Public Safety Realignment was implemented, which reduced the number of offenders housed in CDCR prisons and the staff necessary to run them. As a result, CDCR's academy resources were reduced, and academy graduations were put on hold with a large number of peace officers being laid off. Following the initial resizing of the peace officer workforce, promotions and separations began to drive CDCR's vacancy rate. In 2013, the Basic Correctional Officer Academy resumed and CDCR began hiring peace officers for adult prisons. In 2016-17, the Peace Officer Selection and Employee Development (POSED) were provided \$3.7 million GF for two years to send 160 cadets through the juvenile and parole academies.

In 2016-17, CDCR began the process of ramping up the juvenile academy due to the growing number of peace officer vacancies from retirements, promotions, and separations. CDCR received funding for two years to meet this need and continued to evaluate workforce trends. Based on current vacancies and an annual attrition rate, CDCR is anticipating the need for 80 cadets over the next two years.

The CDCR argues that the requested funding will provide CDCR the necessary resources to conduct one academy each year over the next two years, with a class of 40 students each. A total of 80 Youth Correctional Officers and Youth Correction Counselors will attend the juvenile academy, which is anticipated to stabilize and sustain the Division of Juvenile Justice's growing vacancy rate over the next two years.

**Staff Recommendation: Hold open.**

# **SUBCOMMITTEE NO. 5**

# **Agenda**

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**Senator Nancy Skinner, Chair**  
**Senator Joel Anderson**  
**Senator Jim Beall**



**Thursday, March 22, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Christopher Francis

## **Outcomes**

### **Items Proposed for Discussion**

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Issue 1	Current Trends in Juvenile Justice, <b>Informational Item</b>	2
Issue 2	Juvenile Justice Reform, <b>Held open</b>	8
Issue 3	Academy-Division of Juvenile Justice, <b>Held open</b>	19

### **Public Comment**

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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.*

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# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



**Thursday, April 5, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Christopher Francis

<u>Item</u>	<u>Department</u>	<u>Page</u>
<b>Discussion Items</b>		
<b>3540</b>	<b>Department of Forestry and Fire Protection</b>	
Issue 1	Ventura Training Center	2
<b>5225</b>	<b>Department of Corrections and Rehabilitation</b>	
Issue 2	Career Technical Education Expansion and Equipment Refresh	10
Issue 3	Innovative Programming Grants	14
Issue 4	Parole Non-Ratio Positions	17
Issue 5	Rehabilitative Achievement Credit Staffing	19

## **Public Comment**

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## ITEMS TO BE HEARD

### 3540 DEPARTMENT OF FORESTRY AND FIRE PREVENTION (CAL FIRE)

#### Issue 1: Ventura Training Center (BCP)

#### Issue 1 presented by CAL FIRE, Department of Corrections and Rehabilitation, and California Conservation Corps

**Governor's budget.** CAL FIRE, California Conservation Corps (CCC), and California Department of Corrections and Rehabilitation (CDCR) request a total of \$7.7 million General Fund in 2018-19, \$6.3 million General Fund ongoing, and 12.4 positions, to operate a Firefighter Training and Certification Program for ex-offenders at the Ventura Training Center located at the Ventura Conservation Camp in Ventura County. The Program will provide a static 80 apprenticed firefighters who would be available for wildland fire suppression, other emergency incident mitigation, and to perform fire prevention and resource management work. Additionally, CAL FIRE requests \$18.9 million General Fund for the preliminary plans, working drawings, and construction phases of a capital outlay project to make necessary improvements for the ongoing operation of the Ventura Training Center.

**Background.** Five consecutive years of severe drought, a dramatic rise in bark beetle infestations and 129 million dead trees have combined to create unprecedented fire conditions resulting in severe, year-round wildfires. Of California's most destructive wildfires, 11 have occurred in the last 10 years. Historically, CAL FIRE responds to over 5,600 wildfires annually. In recent years, wildfires have increased, reaching approximately 2,000 more than average in 2017.

2017 was the worst fire season in California's history. Between January 1 and December 31, 2017, over 1.7 million acres of land burned in California, over 47 people died as a result of the fires and over 12,000 buildings were damaged or destroyed. CAL FIRE estimates that the emergency fire suppression costs for the 2017-18 fiscal year could reach \$900 million. In addition, the California Insurance Commissioner reports that nearly 45,000 claims detailing almost \$12 billion in losses have been filed for the fires in October and December. Those claims are primarily related to the two most destructive fires this year. A cluster of fires in October in Napa, Sonoma, Mendocino, Lake and Solano counties burned almost 245,000 acres, killed 44 people, destroyed 8,920 structures and damaged another 736, and resulted in \$262,437,625 in total costs. Then in December, the largest wildfire in the state's history, the Thomas fire, erupted in Santa Barbara and Ventura counties. That fire ultimately burned over 308,380 acres, killed two people, destroyed over 1,375 structures and damaged another 440, and resulted in \$188,450,301 in costs. As a result of the damage from the Thomas fire, Santa Barbara County subsequently faced devastating mudslides in January that killed at least 21 people and destroyed dozens of homes.

To fight the state's wildfires and other natural disasters, CAL FIRE employs over 5,000 year-round professional firefighters and over 1,700 seasonal firefighters. In addition, they rely on 2,750 local volunteer firefighters and 3,500 inmate firefighters. Incarcerated people make up nearly a third of the state's firefighting force.

**State's Reliance on Incarcerated Firefighters.** As the state's need for people to fight an increasing number of wild fires grows, the number of inmates available to assist in those efforts continues to

decline. Due to new sentencing laws and Public Safety Realignment in 2011, which shifted most non-violent, non-sex-related, non-serious offenders back to county jails, there are fewer people in prison at the lower security levels who are eligible to work and live in the state's fire camps. The state currently has enough capacity to house approximately 4,600 adult and juvenile inmate firefighters. However, there are currently less than 3,600 inmate firefighters in those camps. At their peak in July of 2007, 4,508 firefighters were in the state's fire camps. As of January 31, 2018, there were 3,507 incarcerated men and women in the fire camps.

***Inmate Conservation (Fire) Camps.*** The Conservation Camp Program was initiated by the CDCR to provide able-bodied inmates the opportunity to work on meaningful projects throughout the state. CDCR road camps were established in 1915. During World War II much of the work force that was used by the Division of Forestry (now known as CAL FIRE), was depleted. CDCR filled that void by having inmates occupy "temporary camps" to augment the regular firefighting forces. There were 41 "interim camps" during WWII, which were the foundation for the network of camps in operation today. In 1946, the Rainbow Conservation Camp was opened as the first permanent male conservation camp. Rainbow made history again when it converted to a female camp in 1983. The Los Angeles County Fire Department, in contract with the CDCR, opened five camps in Los Angeles County in the 1980's.

There are 43 conservation camps for adult offenders and one camp for juvenile offenders. Three of the adult offender camps house female firefighters. Thirty-nine adult camps and the juvenile offender camp are jointly managed by CDCR and CAL FIRE. Five of the camps are jointly managed with the Los Angeles County Fire Department.

The conservation camps, which are located in 29 counties, can house up to 4,522 adult inmates and 80 juveniles, which make up approximately 219 fire-fighting crews. A typical camp houses five 17-member fire-fighting crews as well as inmates who provide support services. As of January 31, 2018, there were 3,507 adults and 58 youth living and working in the camps.

The state does not track exact numbers on the total budget for the fire camps across the departments involved. However, the CDCR/CAL FIRE annual operating budget is approximately \$2.35 million per camp. Therefore, one can assume the state spends roughly \$100 million General Fund per year on fire camps.

***Eligibility of inmate firefighters.*** All inmates must earn the right to work in a conservation camp by their non-violent behavior and conformance to rules while they are incarcerated. Only inmates who have earned minimum-custody status through good behavior can volunteer to work in fire camps. In addition, people in prison for arson, kidnapping, and violent sex offenses or who have attempted to escape within the previous 10 years or used force in an attempt to escape, are serving life sentences, or have a mental health diagnosis that requires treatment, are prohibited from working in the camps. In addition, an inmate must be within five years of their release date. Finally, inmates who volunteer for the camps must pass a medical exam and meet high physical fitness standards.

***Training.*** Training for inmate firefighters is significantly different from that of professional firefighters. One of the reasons for that noted by CDCR is that there are different expectations for inmate firefighting teams. Primarily, fire camp participants are tasked with containment functions requiring the use of hand tools such as chainsaws, axes, and rakes to contain fire by clearing out

vegetation. CAL FIRE firefighters have specialized responsibilities that require the use of heavy machinery and are tasked with search and rescue functions and structure-related firefighting duties.

Given the different expectations, incarcerated firefighters receive the following training:

- Training begins with two weeks of physical training where inmates must complete the following to the satisfaction of CDCR coaches: 35 push-ups; 25 sit-ups; 35 burpees; 5 pull-ups; 5 chin-ups; a one-mile run in nine minutes or less; 14 minutes of Harvard steps; and a four-mile power walk in less than 54 minutes.
- Following the passing of physical fitness training, offenders continue to fire-fighting training which includes 29 hours of classroom training.
- Each offender must maintain an 80 percent average on all written tests and achieve a minimum of 80 percent on the final exam.
- Following classroom instruction, there are 29 hours of field training. In this week, the offender will start every day ensuring their personal protective equipment fits properly and is in good condition. Field training consists of riding in the Emergency Crew Transports or other crew vehicles to learn proper seat assignments, seat belt use, public contact, receiving and returning tools, tool inspection, carrying and storage of tools, and the use and sharpening of tools. Instruction also includes the use of each tool, construction of different types of fire lines, participation in practical exercises on how and when to deploy a fire shelter, and participation in a mop-up exercise.
- To graduate from the training program offenders are evaluated during a four-mile hike while wearing all of their turn-out gear.

Unlike training for professional firefighters, the CDCR fire crews do not receive any of the certificates needed to become career firefighters. Among those requirements for professional firefighters are the Basic Firefighter 1, which requires 179 hours of training; the completion of a respiratory protection program (RPP); emergency medical services training; and completion of a fire service training and education program (FSTEP) (which includes: live-fire training, auto extrication (or any forcible entry) and wildland firefighting). The Administration notes that due to the different level of training, despite significant experience working on fire lines, inmate firefighters are generally not successful in gaining post-incarceration employment in the firefighting field due to the lack of entry-level training.

***Wages and benefits of inmate firefighters.*** Incarcerated people working in the fire camps are paid between \$1.45 and \$3.90 per day in the camps, based on skill level and position. In addition, the firefighters receive \$1 per hour for time spent on a fire line or other emergency. Generally, the firefighters work 24-hour shifts with 24-hours on duty on a fire line followed by 24-hours off duty. In addition to wages, people with non-violent convictions working in the camps earn two days of credit toward their time served for every day in the camp. People with violent convictions receive one day of credit off of their sentence for every day they are in a fire camp. The earning credit for violent offenders is a result of changes from the passage of Proposition 57 (the California Parole for Non-Violent Criminal and Juvenile Court Trial Requirements Initiative passed November 8, 2016).

CAL FIRE estimates that the use of inmate firefighters saves the state approximately \$100 million per year because without the inmates, the state would need to pay additional career and volunteer firefighters throughout the state. Local volunteer firefighters are paid minimum wage for every hour they are dispatched to a fire line or emergency.

**Ventura program overview.** The program creates a training center at the Ventura Conservation Camp to provide training and jobs skills for 80 ex-offenders. The California Conservation Corps will be the employer of record and provide the base wages and benefits consistent with other Corps members. CAL FIRE will be responsible for the administration of the facility, fire training, and certification.

CDCR and CAL FIRE will jointly select participants for the program, and CAL FIRE will recommend individuals that are housed at fire camps while incarcerated. CAL FIRE, CDCR, and CCC propose that ex-offenders who are former Conservation Camp Fire Crew members, along with potentially other former CDCR offenders, be provided an opportunity to participate in a Firefighter Training and Certification Program. Ex-offenders would gain work experience by being a fire crew member for wildland fire suppression, other emergency incident mitigation, and fire prevention and resource management work, as well as obtain comprehensive industry recognized firefighting training and certifications that are not available to fire crew members.

**Ventura program timeline: pre- and post- program.** According to the proposal, the 18-month program will begin on October 1<sup>st</sup>, 2018 and consist of three phases: phase one is a three-month orientation training that includes completion of life skills training, any required treatment programs, and basic forestry and firefighting courses; phase two will include three months of firefighter training to complete advanced, comprehensive industry firefighter courses and certification; and phase three is a Type I Fire Crew assignment for 12 months, during which participants will gain the necessary hands-on work experience component of the program. The Administration asserts that upon completion of the program, participants will be qualified through experience and certifications to apply for entry-level firefighting jobs with local, state, and federal firefighting agencies. In addition, the program will allow up to 20 CCC members to participate in training courses alongside the 80 ex-offenders at the facility.

The CCC will provide the Program with the "Firefighter Trainee" classification and be the ex-offender's employer of record, similar to how it currently performs this function for the Department of Transportation. The CCC will provide participant base wages and benefits and perform various employee related administrative services. The ex-offenders will receive a stipend of \$1905 per month and after gaining Type I classification, will receive an emergency excess of \$15.00 of overtime after exceeding eight hours of overtime. In addition, the CCC will provide the ex-offenders high school education courses through the John Muir Charter School, which already provides these services through contract at all the existing residential centers, except for the Butte Fire Center. Enrolling up to 80 students from the Ventura Training Center will not require additional funding. Participants who complete the program will have CCC certification and be eligible for 20 state jobs.

<b>The following is a sample of classifications that CCC program participants would qualify for upon completion of the program.</b>	
Agricultural Aide (Seasonal)	Office Assistant
Groundskeeper	Armory Custodian I
Fish and Wildlife Seasonal Aid	Maintenance Worker, CHP
Fish and Wildlife Technician	Seasonal Clerk
Park Aide (Seasonal)	Building Maintenance Worker
Maintenance Aide (Seasonal)	Caltrans Highway Maintenance Worker
Archeological Aid (Seasonal)	Caltrans Landscape Maintenance Worker
Forestry Aide	Park Maintenance Assistant
Firefighter I	Park Maintenance Worker I
Forestry Technician	Tree Maintenance Worker, Caltrans
Service Assistant (Maintenance), Caltrans	Maintenance and Service Occupational Trainee

CDCR requests funding for a non-profit entity's services to ensure that program graduates meet desirable qualifications to maximize their scoring capabilities in the normal hiring practices for competitive placement with fire agencies, as well as comparable classifications with other government firefighting agencies such as United States Forest Service crews, private contractor crews, and local government fire agency crews.

**Legislative Analyst's Office (LAO).** The LAO finds that the Governor's proposal raises several concerns whilst acknowledging that providing additional resources to reduce recidivism could be a worthwhile investment. Specifically, they find that the proposal **(1)** is not evidence based; **(2)** would not target high-risk, high-need individuals; **(3)** would be unlikely to lead to employment for participants; **(4)** would likely not be cost-effective; and **(5)** includes resources that are not fully justified. They also find that providing additional training to CCC members could be achieved in other ways.

- (1) Not Evidence Based.** Research shows that rehabilitation programs that are evidence based are most likely to be effective at reducing recidivism. To be evidence based, a program must be modeled after a program that has undergone rigorous evaluations showing that it reduces recidivism. However, the administration has not provided examples of any other firefighter training programs that have been found to reduce recidivism. Accordingly, it is unclear whether the proposed intervention model has ever been found to be effective elsewhere. Furthermore, the administration is not proposing a feasibility study, pilot, or sufficiently rigorous evaluation plan for the program. As a result, it is unclear how the administration would know if the proposed program were successful once it was implemented.
- (2) Not Targeted to High-Risk, High-Need Parolees.** As discussed above, research suggests that rehabilitation programs are most likely to be successful when targeted at high-risk, high-need individuals. However, the Administration plans to primarily recruit parolees who served as inmate firefighters in a conservation camp prior to their release from prison. These parolees tend to be of low-risk to the community and have demonstrated a willingness and ability to work hard. Although CDCR does not separately track recidivism rates for inmates released

from conservation camps, the LAO expects that these inmates would be among the least likely in CDCR to recidivate. Moreover, the Administration indicates that conservation camp inmates would be nominated by CAL FIRE and CDCR staff for the program based on their nonviolent behavior and conformance to rules while incarcerated. This further suggests that program participants would already have relatively low-risks of recidivism and low needs for rehabilitative programming. Accordingly, the LAO finds that the proposed target population is both inconsistent with best practices and with CDCR's own efforts to target rehabilitation programs to high-risk, high-need offenders.

- (3) ***Unlikely to Lead to Employment.*** The Administration indicates it has not performed any type of labor market analysis or survey to determine potential demand for graduates of the program. Seeking employment as a CAL FIRE firefighter is very competitive. The minimum qualifications for a Firefighter I require a candidate to be at least 18 years old and have a high school diploma or its equivalent. However, the department indicates that many applicants are returning Firefighter I's who have previous experience working as seasonal firefighters and many have an Emergency Medical Technician certification (which is extremely difficult for a convicted felon to obtain). Parolees would likely have difficulty competing with such applicants. Moreover, the California Department of Human Resources requires the firefighter hiring process to be competitive—meaning the department does not have the authority to directly hire those who complete the program. While it is possible that program participants could apply for firefighter positions with local and federal agencies, the availability of such positions statewide is unknown. However, the information on specific agencies that is available suggests that firefighter hiring at the local level is equally competitive, if not more so. For example, a RAND Corporation study found that the Los Angeles Fire Department had upwards of 13,000 applicants for fewer than 100 jobs in 2013.
- (4) ***Unlikely to Be Cost-Effective.*** The level of funding proposed to operate the program on an ongoing basis appears quite expensive relative to other rehabilitation programs. Specifically, the proposed program would cost \$6.3 million annually to operate, or about \$80,000 per parolee. However, research suggests that there are a variety of programs—such as substance use disorder treatment and academic education—that could reduce recidivism at a much lower cost. This concern is compounded by the fact that the Administration is proposing to make a large capital investment at the Ventura conservation camp to renovate and construct facilities to meet the specific needs of the proposed program. This is a substantial up-front cost, particularly for a program that appears unlikely to be effective and has not been tested through a pilot or feasibility study.
- (5) ***Various Resources Requested Have Not Been Fully Justified.*** At the time of this analysis, the Administration was not able to provide the LAO sufficient justification for some of the workload resources being requested. For example, the role of and need for the additional parole agents proposed are unclear. On the one hand, if these parole agents would provide specialized services or a higher level of supervision for the 80 parolees at the Ventura Training Center, then the department might need some additional staffing. On the other hand, if these parole agents would provide essentially the same supervision and services as the general parolee population receives, then it is unclear why the additional parole agents are needed. The Governor's budget includes funding for CDCR to supervise the entire projected parole population for 2018-19, which includes the 80 parolee participants. In addition, it is unclear

why CCC requires five additional staff if its main responsibility would be to provide pay and benefits to 80 program participants. Furthermore, the program is expected to accept its first participants on October 1, 2018, yet the proposed capital outlay project—which the Administration argues is necessary to operate the program—is not expected to be completed until May 2022.

**LAO Recommendation.** The LAO recommends, based on the above comments, that the Legislature reject the Governor’s proposal to convert the existing Ventura conservation camp for inmates into a new Ventura Training Center that would provide a firefighter training and certification program for parolees. They suggest that the Legislature could instead redirect some or all of the proposed funding to support evidence-based rehabilitative programming for offenders in prison and when they are released from prison. Moreover, they suggest that the Legislature explore other options that are available to provide CCC members training opportunities, to the extent it is interested in doing so.

**Staff Comments.** After discussions with CAL FIRE, CDCR, and CCC, staff raises similar concerns as the LAO. Additionally, other concerns exist:

1. *Will this program ensure employment for its participants and reduce recidivism?* As noted earlier, the training for firefighters who are incarcerated is very different than the training for professional firefighters. Currently, inmates receive none of the training or certificates necessary to work as a career firefighter once they are released from prison. Therefore, despite years of firefighting experience, people who worked as firefighters while in prison are unable to compete for firefighting jobs once they have completed their sentences. Ex-offenders selected from this pool would, in theory, receive training and certification commensurate with that of professional firefighters. However, there is no information that suggests that ex-offenders who complete the program will be as competitive as non-incarcerated people for professional firefighter job—let alone that they will be guaranteed employment. And, even if they’re eligible for 19 other employment opportunities as other CCC graduates (listed on page 6), a market analysis for these opportunities is needed. Therefore, at the moment, we cannot assess the demand for these classifications.
2. *Are the goals of this program and program’s details in alignment?* Moreover, there should be more clarity about the overall goals of the program. Is the goal to find additional hand crew members to augment the number of firefighters given the increase in number and severity of fires over the last decade? Is the goal to provide ex-offenders a defined route to employment with the intention of reducing recidivism? Is the goal a combination of these aforementioned factors in combination with others? By answering these questions, the Legislature and these departments can better shape this proposal or discuss other ways to meet the goals.

The program may not be the most cost-effective way to simultaneously reduce recidivism and address the need to fight fires. One way the state could expand the benefits for an inmate willing to work as a firefighter is to provide appropriate training and certification to become professional firefighters while they are serving their time in prison, rather than waiting until they finish their sentence to provide the training. Either in lieu of the Governor’s proposal, or in addition to it, the Legislature could consider dedicating the resources necessary to expand the existing firefighter training in some or all of the conservation camps. In addition to expanding training, the Legislature should consider requiring CDCR to establish a process that

assists people leaving prison with obtaining firefighting jobs, both at CAL FIRE and in the community. Finally, the Legislature may wish to consider establishing an evaluation component for the fire camps to determine whether or not formerly incarcerated people are able to successfully find and retain work as career firefighters.

3. *What is the involvement of a non-profit within this program?* As conversations evolve between the departments, LAO, and staff details on the involvement of the non-profit within this process needed to be more defined. Staff would like to hear additional details on what non-profit and the specific activities that this non-profit would perform over the course of the 18-month program.
4. *Ethical concerns still exist.* The American Civil Liberties Union and others have expressed concern about the use of inmate fire fighters who serve as hand crews that cut vegetation with chainsaws and axes ahead of the path of advancing fires. Even though program participants will be paid a monthly stipend and benefits through the CCC, they will be placed in fire suppression hand crew roles similar to inmate firefighters at Conservation Camps. By contrast, seasoned fire crew employees at CAL FIRE are predominantly engine crews who are only diverted to hand crew responsibilities once a need exists. Are there other roles, aside from fire suppression hand crews, that the majority of these participant could be placed in?

**Staff Recommendation.** Hold open.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION****Issue 2: Career Technical Education Expansion and Equipment Refresh (BCP)**

**Governor's budget.** The California Department of Corrections and Rehabilitation requests \$8.2 million General Fund and 21.5 positions in 2018-19 and \$4.5 million in 2019-20 and ongoing to expand Career Technical Education (CTE) programming to 13 additional sites and replace and refresh core equipment statewide.

**Background.** This proposal contains two components: (1) expanding the CTE programs and (2) equipment refresh.

**Proposition 57 and inmate credit system overhaul.** Due to the Three-Judge Court federal court mandate on June 30, 2011, CDCR is also required to reduce prison overcrowding to 137.5 percent of design capacity. The Three-Judge Court acknowledged the intent to comply with this order is in part a combination of efforts that include additional in-state capacity to house inmates and the implementation of measures to increase credits for non-violent second-strike offenders and minimum custody inmates.

Approved by voters in November 2016, Proposition 57 brings three major changes to sentencing. Of importance to this proposal is the change that allows CDCR to award additional sentence reduction credits for rehabilitation, good behavior, or educational achievements. Under this authority, CDCR revised the complex system of credits to simplify several existing forms of credit earning and adopted new ways in which inmates earn credit based on their participation in and completion of specific rehabilitative or educational programs. Such credits may advance an inmate's release date if the inmate was sentenced to a determinate term or advance an inmate's initial parole consideration hearing if the inmate was sentenced to an indeterminate term.

The proposed regulations establish a schedule of credits for good behavior and approved rehabilitative or educational achievements in five categories: Good Conduct Credit, Milestone Completion Credit (MCC), Rehabilitative Achievement Credit (RAC), Education Merit Credit, and Extraordinary Conduct Credit. Of importance to this proposal are Milestone Completion Credits.

**Milestone Completion Credits.** In March 2017, the Administration filed emergency regulations with the Office of Administrative Law. Those regulations provided the following parameters for implementing the proposition:

- The Prop 57 regulations extend eligibility for milestone credits to all inmates, with the exception of those who are condemned or serving life without the possibility of parole sentences.
- Expands the amount of milestone credits an inmate can earn from six weeks per year to 12 weeks.
- Programs eligible for milestone credits include academic programs, substance use disorder treatment, social life skills programs, career technical education, cognitive behavioral treatment, enhanced outpatient programs, or other approved programs with demonstrated

rehabilitative qualities.

- The milestone credits will not be applied retroactively.

**CTE overview.** Career Technical Education programs provide inmates the opportunity to earn Milestone Completion Credits which can reduce incarceration time through active participation and completion in evidence-based recidivism reduction programs. The industry sectors that fall under the CTE, which include construction trends, automotive, and technology sectors, are based on a 2012 market analysis. There are 220 core programs with computer literacy trainings to bring the total number of technical programs to 304. CTE participants are educated from curricula aligned with state boards or national organization certifications.

After AB 109 (Committee on Budget), Chapter 15, Statutes of 2011 was passed, the CDCR developed *The Future of California Corrections: A Blueprint to Save Billions of Dollars, End Federal Court Oversight, and Improve the Prison System (Blueprint)*. The Blueprint provided additional instructors and associated funding to increase the number of CTE Programs by 98. In 2016-17, CDCR received funding to expand CTE programming to 12 additional sites as part of the Rehabilitative Programs Expansion. This included position authority and associated ongoing funding for one Supervisor of Correctional Education Programs and 12 Vocational instructors, as well as \$1.4 million in one-time start-up funding. These expansions significantly increased inmate opportunities to receive training and certifications in trades that may provide viable employment with a livable wage upon their release from prison, in 2016-17, the Office of Correctional Education (OCE) awarded nearly 10,400 CTE component completions eligible for milestone credits.

**Demand for CTE program expansion.** In the recently released *Resourcing Excelling in Education* report by the University of California, Davis, researchers state: "Despite their value and potential benefits to society, CTE programs service only a small segment of California's inmate population and are still in the process of recovering from recent economic disruptions to the system." Table 1 below from the Report details that the CTE target population of offenders currently held in CDCR exceeds 57,900 as of June 2016.

Inmates participation in CTE programs involves a series of steps. Initially, an inmate volunteers or goes through an annual assessment program in which they express the desire to participate in CTE programs. They take the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) assessment tool, which identifies criminogenic and employment needs as well as risk to reoffend. From there, they are placed on a list based on employment need. The target population for CTE programs consists of offenders with a moderate to high employment need—with prioritization given to the highest risk offenders with highest need of employment. From there, they begin hands-on work and take work related assessments. Upon passing tests the inmates receive a milestone credit and upon completion, gain certification.

In July 2017, the Division of Rehabilitative Programming (DRP) completed an analysis of offender employment needs upon release by institution. The UC Davis analysis indicates approximately 20,106 inmates projected to be released in the next 0 to 48 months have a moderate to high employment need that have not completed a CTE program. There is currently sufficient programming to offer 19,050 inmates core employment programs within existing CTE program capacity based on a calculation of the current core career technical programs multiplied by the average time it takes to complete those

core programs. Without additional expansion sites, 1,056 offenders will not have the opportunity to train in a marketable trade prior to release. This proposal increases the number of participants served by 1,142, thereby meeting the need.

**Table 1:** Target population by projected release date, as of June 2016. Table adapted from: Resourcing Excelling in Education, UC Davis.

Projected Release Time Frame	Inmates	Percent	Cumulative Total	Cumulative Percent
0–6 Months	9,450	16.3%	9,450	16.3%
7–12 Months	7,102	12.3%	16,552	28.6%
13–24 Months	9,515	16.4%	26,067	45.0%
25–36 Months	5,692	9.8%	31,759	54.8%
37–48 Months	3,900	6.7%	35,659	61.5%
49–60 Months	2,860	4.9%	38,519	66.4%
61–120 Months	8,105	14.0%	46,624	80.4%
Over 120 Months	11,051	19.1%	57,675	99.5%
Unusable Data Regarding Release Date	239	0.4%	57,914	100%*
<b>Total Target Population</b>	<b>57,914</b>	<b>100%*</b>		

\* Total target population percentage may not total 100 due to rounding

Utilizing a 2016 space survey and programming needs, the OCE identified 10 sites for the 13 proposed new CTE programs necessary to ensure all eligible offenders released in the next 48 months will have access to appropriate programming to allow them to become gainfully employed and less likely to recidivate. The 13 proposed CTE programs require a total of 13 vocational instructors with associated funding of \$1.5 million, one-time start-up costs to purchase equipment of \$3.7 million, and ongoing funding for future CTE equipment refresh needs of \$284,000.

**Equipment refresh overview.** OCE conducts systematic reviews of existing CTE programs to ensure programs are consistent with the goals and priorities of CDCR and provide inmates with the ability to gain employment in a marketable or industry board-recognized certification, credential, or degree. These reviews have identified several deficiencies:

- A majority of CTE program equipment requires replacement and alignment with industry standards. Several programs are using original equipment purchased at the time of their prison's

activation over 25 years ago. A considerable amount of CTE equipment no longer meets industry standards and a portion of equipment required for the curriculum is missing.

- In certain cases, equipment is not meeting the higher standards of certain regulatory agencies such as the Occupational Safety and Health Administration or Air Quality Boards within the counties.
- Equipment used in a particular trade is not necessarily standardized. For example, inmates may not be using the same equipment if they transfer from one Machine Shop program to another Machine Shop program. Lack of equipment standardization can be a detriment if the inmate is unable to complete all certification available in the trade.

The department says that ongoing funding will ensure alignment with industry equipment and standards. According to a 2016-17 analysis, OCE will need approximately \$4.4 million per year to refresh CTE core equipment for the current programs over the next 20 years.

***Previous funding for CTE expansion and equipment refresh.*** In 2016-17, CDCR received authority and funding to expand CTE programming to 12 additional sites. Along with the positions and start-up funding for the 12 additional sites, CDCR received \$2.9 million in ongoing funding beginning in 2017-18 for equipment refresh. Additionally, the 2017 Budget Act included a one-time augmentation of \$5 million to aid OCE in CTE equipment refresh costs.

Historically, OCE has utilized academic and vocational salary savings to fund CTE equipment with a critical replacement need. The average annual amount spent has been approximately \$6 million and has not allowed for appropriate replacement of equipment that has extended beyond its useful life. Because OCE was given ongoing funding of \$2.9 million as a part of the Rehabilitative Program Expansion beginning in 2017-18 to refresh CTE equipment, an additional \$1.5 million in ongoing funding is being requested to upgrade and standardize equipment to align with industry standards and regulatory requirements.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Comments.** Staff recognizes the demand for increased CTE programs and how this proposal allocates resources to meet this demand. CDCR expressed that the usage of salary savings is unsustainable since OCE expects to fill its vacancies as the result of substantial statewide recruitment. Staff raises no issues about this proposal but would like to see data linking CTE programs to recidivism and employment rates.

**Staff Recommendation.** Hold Open.

**Issue 3: Innovative Programming Grants (BCP)**

**Governor's budget.** The California Department of Corrections and Rehabilitation requests \$4 million Inmate Welfare Fund in 2018-19 and ongoing for Innovative Programming Grants to non-profit agencies to provide rehabilitative services to offenders within institutions.

**Background.** Innovative Programming grants provide not-for-profit organizations the opportunity to apply for funding to expand programs they are currently providing in other California state prisons that have demonstrated success and focus on offender responsibility and restorative justice principles. Many institutions are underserved by volunteer and not-for-profit organizations offering innovative programming. Innovative Programming grants have historically been one-time in nature and have been awarded to expand programs that have demonstrated that they would become self-sufficient or would be funded in the long-term by donations or other ongoing funding.

**Previous application criteria and original goals of program.** Applications submitted in the first three rounds of grants were evaluated using criteria that addressed budgetary as well as operational issues. The main focus of the original grants was to increase volunteerism in California prisons. Eligibility was limited to individuals and not-for-profit organizations who currently offered programs in California institutions where grant recipients were required to sustain their programs after the end of the grant period with no additional state funding. The evaluation ratings reflected these requirements, and scores were given based on how closely the applicants met those criteria in their submissions of plans. These ratings included the following sections:

1. Need and Benefits of Program
2. Volunteer Resources and Sustainability
3. Program Evaluation and Outcomes
4. Implementation Plan
5. Project Management Capability, Qualifications, and Readiness to Proceed
6. Cost/Value Effectiveness and Budget Review

**Funding history.** The 2014 Budget Act included \$2.5 million in one-time funding for Innovative Programming grants, of which \$2.0 million was from the Inmate Welfare Fund, and \$500,000 was from the Recidivism Reduction Fund. The funding was intended to increase offenders' access to innovative rehabilitative programs and expand volunteerism within adult institutions. A total of 38 programs were established from these grants, which are estimated to have served over 7,900 offenders during the grant period and beyond due to the requirement of prior sustainability.

The 2015 Budget Act authorized an additional \$3.0 million in one-time funding from the Recidivism Reduction Fund for additional Innovative Programming grants. These grants established an additional 44 new programs, which served over 7,300 offenders during the grant period and beyond.

The 2016 Budget Act included an additional \$8.5 million General Fund for Innovate Programming grants, of which \$5.5 million was one-time to be used exclusively for long-term offender programming. The remaining \$3.0 million was to be awarded for a three-year term, for a total of \$9.0 million across three fiscal years. This term differed from the first two rounds of grants, which were awarded on a 16-month term. The grant agreement period was expanded to allow grant recipients to focus their efforts on offender responsibility and restorative justice principles, rather than on applying

for additional grant funding and outside funds to meet the sustainability requirements of the grant program. Importantly, the longer-term grant awards provided stability in programming for a three-year period.

For the current year, the budget included \$8.5 million General Fund in limited-term funding—with \$5.5 million that expires at the end of the 2017-18 budget year and \$3 million that will expire at the end of the 2018-19 budget year.

**Proposed Program.** With the proposed funds, the Division of Rehabilitative Programming (DRP) anticipates modifying its application and evaluation processes. The criteria for application and evaluation will also be similar to earlier rounds but will now incorporate known factors of effective programming. The DRP requests to establish two levels of grant awards:

1. Promising Practice Grants (tentatively 65 percent of authorized funding/grant awards)
2. Practice-Based Grants (tentatively 35 percent of authorized funding/grant awards)

The additional grants funded through this proposal may also be eligible for Rehabilitative Achievement Credits in accordance with Proposition 57, which may further reduce time served. The DRP argues that this two-level system allows the DRP to prioritize grants for programs with promising practices, while providing DRP flexibility to fund programs that appear to have a positive impact on the offender population at the operational level but may not have the necessary focus or experience with incorporating promising practices into their programs (for example yoga or art programs). Overall, they justify that this new application process will yield a mix of programs that meet the overall goals of innovation and rehabilitation.

CDCR proposes to utilize the University of Cincinnati Corrections Institute's Correctional Program Checklist (CPC) as the basis for developing improved and expanded application and evaluation criteria. With the assistance of Dr. Edward Latessa, Professor and Director of the School of Criminal Justice at the University of Cincinnati, DRP will use the CPC to revise application evaluation criteria to focus on those displaying promising practices. DRP will use existing resources to obtain Dr. Latessa's consultation and guidance.

**Legislative Analyst's Office (LAO).** The LAO finds that the Governor's approach of primarily focusing the program on the goal of reducing recidivism is a step in the right direction in having a specific goal for the program. Moreover, if programs are successful at reducing recidivism, they not only can reduce crime but also can result in various fiscal benefits to the state, such as reduced incarceration costs. However, the LAO believes that the proposal is not fully structured to reduce recidivism. 35 percent of the Inmate Welfare Fund funding proposed by the Governor would be allocated to programs that may or may not include elements associated with recidivism reduction. As such, it is possible that programs receiving these funds would have no effect on the recidivism rate of the inmates they serve. In addition, while 65 percent of the proposed funds are intended to reduce recidivism, until the department finalizes its methodology for scoring grant applicants, the extent to which recidivism reduction will be prioritized in the selection process remains uncertain.

**LAO Recommendation.** The LAO recommends that the Legislature modify the Governor's proposal in two ways:

1. ***Allocate All Funds to Programs Likely to Reduce Recidivism.*** Rather than only allocating 65 percent of the funds to programs that are most likely to reduce recidivism, the LAO recommends allocating all of the proposed funding this way. This would ensure that all the proposed funding is targeted to reducing recidivism.
2. ***Require Scoring Methodology to Focus on Recidivism Reduction.*** In order to ensure that the department's scoring methodology for awarding funds adequately focuses on programs' potential to reduce recidivism, the LAO recommends the Legislature to direct the department to focus the methodology on recidivism reduction. In other words, a program's ability—based on the specific activities that would be funded—to reduce the recidivism rates of participating inmates should be the primary factor of consideration. Similarly, the LAO recommends the Legislature to direct the department to award subsequent grants based on the extent to which programs actually reduced recidivism with their previous grant funding.

**Staff Comment.** In discussions with staff, the department articulated its priorities to be innovation and rehabilitation. The department expressed to staff that the 65 percent-35 percent split is subject to adjustment. A discussion between the Legislature and the department about the priorities of the program is necessary to decide on the most appropriate, and cost-effective, split. If, for example, the priorities are to reduce recidivism, then utilizing 35 percent of the resources given on non-evidence based innovate practices may not be most appropriate. Rather, the LAO's recommendations should be considered for adoption. Staff has no issues with the use of the CPC in its evaluation criteria but would like more detail that describes how it will adopt the check list for the program.

**Staff Recommendation.** Hold open.

**Issue 4: Parole Non-Ratio Positions (BCP)**

**Governor's budget.** The California Department of Corrections and Rehabilitation requests \$2.3 million General Fund and 23 positions in 2018-19 and ongoing to provide the Division of Adult Parole Operations the staff necessary to support field operations and ratio-driven staff.

**Background.** For most types of direct-supervision positions, such as parole agents and their supervisors, the department annually requests the level of funding and positions required to ensure that each classification of parolees receives appropriate levels of supervision, rehabilitation programs, and mental health treatment.<sup>1</sup> The level requested is based on a budgeting methodology that utilizes specific staffing ratios and takes into account the size and composition of the parolee population.<sup>2</sup> After AB 109 was passed, the CDCR developed *The Future of California Corrections: A Blueprint to Save Billions of Dollars, End Federal Court Oversight, and Improve the Prison System* (Blueprint). The Blueprint projected the parolee population would decline to 36,316 in 2015-16 and then remain near that level in future years. As a result, the Division of Adult Parole Operations (DAPO) abolished non-ratio positions. These non-ratio positions perform vital support services and functions for the agents and staff working in the field. Non-ratio staff support the activities of the ratio-driven supervision positions through development and maintenance of service contracts, procurement of necessary equipment and supplies, and all human resource activities including management of workers' compensation claims and coordination of return-to-work tasks.

**Parole units and parolee population.** Divided by Northern and Southern Regions, and Headquarters, DAPO has 112 parole units located throughout California. The Northern and Southern Regions are responsible for the majority of adult parolee supervision while DAPO Headquarters provides statewide oversight of specialized caseloads. As of July 1, 2017, the total parolee population was 49,290. The Office of Research projects parolee population to be 52,893 for 2017-18, approximately 46 percent higher than initially projected in the Blueprint. With the passage of Proposition 57, the parolee population is anticipated to increase to 54,146 by 2019-20.

**Staffing imbalance and effects.** According to the CDCR, because non-ratio positions are not adjusted in CDCR's population adjustments, there has been an imbalance in staffing. This imbalance has led to delays in the following areas: Hiring and the execution of time sensitive personnel documents, processing of payments, executing contracts reconciling billing, tracking leases, workers' compensation claims, and other documents, meeting Americans with Disabilities Act requirements for sign language interpreters, processing budgetary documents, and site visits for auditing.

Lack of administrative support staff, analysts, and adequate oversight has led to operational delays in various units including, but not limited to: training, business services, contracts and procurement, budgets, sex offender unit/electronic monitoring, parole outpatient clinic, re-entry, personnel, and return-to-work/workers compensation. Since 2015-16, the workload has almost doubled due to increased parolee population and planning/conducting parole agent academies, in 2013-14, CDCR did

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<sup>1</sup> Legislative Analyst's Office, [The 2018-19 Budget: Criminal Justice Proposals](http://www.lao.ca.gov/Publications/Report/3762#California_Department_of_Corrections_and_Rehabilitation), [http://www.lao.ca.gov/Publications/Report/3762#California\\_Department\\_of\\_Corrections\\_and\\_Rehabilitation](http://www.lao.ca.gov/Publications/Report/3762#California_Department_of_Corrections_and_Rehabilitation), Feb. 27, 2018.

<sup>2</sup> Ibid.

not run Basic Parole Agent Academies. Because of an increase in the parolee population and the need to train parole agents, CDCR ran seven Basic Parole Agent Academies in 2017-18 and had 8,443 total applications for the academies, which required processing by non-ratio staff. The additional workload in support units has been taken on by supervisory positions, resulting in untrackable overtime.

**Legislative Analyst's Office (LAO).** The LAO finds that the requested direct-supervision and support positions are appropriate based on the estimated parolee population for 2018-19 at this time. However, this estimate could change in May based on updated projections of the parolee population.

While the budgeting methodology for the proposed support positions takes into account the projected size of the parolee population in 2018-19, it would not be annually adjusted as would be the case for the requested direct-supervision positions. If these positions were adjusted on an annual basis, similar to the direct-supervision positions, it would lead to a more complete accounting of the need for them.

**LAO Recommendation.** The LAO recommends that the department utilize a budgeting methodology that is based on specific staffing ratios and takes into account the size and composition of the parolee population, to annually adjust the total number and type of positions needed each year—not just for direct-supervision positions. They recommend the Legislature to require the department to report at budget hearings on a timeline for incorporating support staff into the annual parole staffing adjustment. Pending such a report from the department and the availability of updated parolee projections that could change the level of positions needed, the LAO withholds recommendation on the proposed staffing requests until the May Revision.

**Staff Comments.** Staff withholds any recommendation until May population totals are released but would like to know what issues, if any, there are with incorporating support staff into the annual parole staffing adjustment.

**Staff Recommendation.** Hold open.

**Issue 5: Rehabilitative Achievement Credit Staffing (BCP)**

**Governor's budget.** The California Department of Corrections and Rehabilitation requests \$2.5 million General Fund and 13 positions in 2018-19 and ongoing to implement a Rehabilitative Achievement Credit earning program associated with the passage of Proposition 57.

**Background.** Proposition 57 amended the California Constitution to authorize CDCR to promulgate regulations to award credit earned for good behavior and approved rehabilitative or educational achievements. Such credits may advance an inmate's release date if the inmate was sentenced to a determinate term or advance an inmate's initial parole consideration hearing if the inmate was sentenced to an indeterminate term.

The proposed regulations establish a schedule of credits for good behavior and approved rehabilitative or educational achievements in five categories: Good Conduct Credit, Milestone Completion Credit (MCC), Rehabilitative Achievement Credit (RAC), Education Merit Credit, and Extraordinary Conduct Credit. Of importance to this proposal are Milestone Completion Credits. These were previously mentioned on page 10.

**RAC description.** RAC is a new opportunity available to all inmates, except condemned or life without the possibility of parole, who participate in approved Inmate Activity Groups (IAGs), self-help individual or group programs, or other activities designed to promote rehabilitation or positive behavior change. Some examples include alcohol and substance abuse prevention, anger management, anti-gang life skills, victim awareness, and best parenting practices. The department utilizes Self-Help Sponsor (SHS) temporary help positions to oversee self-help groups and provide the framework and structure for groups to engage in positive self-help activities. The SHS position is a dual appointment position in addition to an employee's primary role within the institution. Sponsors are scheduled to work on an hourly, intermittent basis. SHSs can only work nine months or 194 days in any 12-consecutive month period, and any day in which the employee physically worked counts as one day, regardless of the length of time worked on that day.

**RAC allotment.** Effective August 1, 2017, an eligible inmate who participates successfully in one or more approved RAC programs earns one week of credit (seven days) for every 52 hours of participation, up to a maximum of four weeks of credit per year (28 days), for up to 208 hours of participation. Approved programs must be organized to achieve rehabilitative goals, sponsored by department staff or volunteers, and approved by the Division of Adult Institutions. A staff member must track and verify that credit has been awarded within 10 business days of an inmate's completion of 52 hours of qualifying programs.

**Workload justification for staff.** The number of participants in programs and on waitlists has grown since the inmate population was informed that participation may result in time deducted from their sentences. In response, CDCR intends to expand IAG programs from 1,100 programs in 2016-17 to over 3,000 programs by 2018-19. As of July 2017, there were over 2,000 programs.

Each individual or group activity, regardless of RAC eligibility, must be entered as an inmate assignment within a tracking system. Some inmates participate in more than one of these activities. To facilitate and track inmate participation and properly award RACs, the department requests 13 Management Service Technician (MST) positions. Institutions with 30 hours or more of RAC

programming during third watch and weekend hours per week were identified as requiring a MST, as well as an MST for the Contract Beds Unit. The institution MSTs will serve as roving sponsors with oversight of RAC programs during third watch and weekend hours.

Additional SHS funds will ensure that the institutions can expand IAGs to meet inmate demand for RAC-eligible programs. SHSs will sponsor IAGs throughout the institutions and rove between various volunteer support groups to ensure attendance is tracked and input into Strategic Offender Management Systems. The \$1.5 million in SHS funds will allow the department to obtain an additional 84,602 hours of programming.

**Legislative Analyst's Office (LAO).** The LAO did not raise any concerns with this proposal.

**Staff Comments.** No comments at this time.

**Staff Recommendation.** Hold open.

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# **SUBCOMMITTEE NO. 5**

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# **Agenda**

**Senator Nancy Skinner, Chair**  
**Senator Joel Anderson**  
**Senator Jim Beall**



**Thursday, April 5, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Christopher Francis

**ALL ITEMS HELD OPEN**

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# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, April 19, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

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***PROPOSED FOR VOTE ONLY*****0250 JUDICIAL BRANCH**

1. **Advancing the implementation of the Strategic Plan for Language Access in the California Courts.** The Judicial Council requests a one-time augmentation of \$4.0 million General Fund in 2018-19 to further advance the implementation of the Strategic Plan for Language Access in the California Courts adopted in January 2015. This funding is one-time pending the results of the Video Remote Interpreting Spoken Language Pilot designed to advance language access expansion. Funding has historically been used solely to provide interpreter services in criminal and juvenile matters (referred to as "mandatory cases"), but changes in state law and policy now also require the provision of interpreters in civil case types.
2. **Court Appointed Special Advocate grants program.** The Judicial Council requests an ongoing augmentation of \$500,000 General Fund beginning in 2018-19 to support the Court Appointed Special Advocate (CASA) grants program. The CASA programs are nonprofit organizations that provide trained volunteers assigned by a juvenile court judge to a child in foster care. The annual budget act currently provides \$2.2 million to support CASA programs. This request will provide funding to increase the number of children served by 20 percent, or 2,200 children, and will reduce the backlogs of children in local courts waiting for a volunteer assignment.
3. **Collective Bargaining: Judicial Council (AB 83).** The Judicial Council requests an augmentation of \$610,000 General Fund (\$56,000 one-time) and three positions in 2018-19, \$554,000 and three positions in 2019-20, and \$369,000 and two positions in 2020-21 and ongoing to support costs associated with increased workload for the Judicial Council as a result of the enactment of AB 83 (Santiago), Chapter 835, Statutes of 2017, the Judicial Council Employer-Employee Relations Act. AB 83 creates the Judicial Council Employer-Employee Relations Act to provide Judicial Council employees, as defined, the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, except for excluded employees.
4. **Court Fee Sunset Extension Trailer Bill Language.** The Governor's proposal includes, via trailer bill language, an extension of the \$40 supplemental fee for filing any first paper subject to the uniform fee in certain civil proceedings until July 1, 2023. Moreover, the bill would extend the operation of the \$1,000 complex case fee and the \$18,000 total fee limitation to July 1, 2023, thereby extending that higher fee rate and limitation until that date. This bill will extend operation of the \$60 filing fee to July 1, 2023. This would also extend the filing fee for a request for special notice to January 1, 2024. These fees have sunset on January 1, 2018 or will sunset on July 1, 2018 without approval of this extension language.
5. **Lease Revenue Budget Bill Language.** The Administration has submitted a Spring Letter proposing that provisional language be added to Item 0250-301-0660 to clarify that any fund source from the Judicial Council's operating budget can be used to pay the rental obligations on the lease revenue bonds appropriated in this item.

The proposal is to specifically add the following provision to Item 0250-301-0660:

“3. Notwithstanding any other provision of law, rental obligations for the lease revenue bonds authorized in this appropriation may be paid from any lawfully available fund source within the Judicial Council's operating budget.”

6. **Amendment to Riverside County: New Mid-County Civil Courthouse Spring Letter.** It is requested that Item 0250-301-3138 be amended to correct a technical error that resulted in the incorrect project identification number and title being used for the working drawings phase of this project.

## 0850 DEPARTMENT OF JUSTICE

7. **Registry of Charitable Trusts - Delinquency Compliance.** The Department of Justice (DOJ), Public Rights Division (PRD), Registry of Charitable Trusts, requests an increase in the Registry of Charitable Trusts Fund of \$525,000 in FY 2018-19 and \$462,000 in FY 2019-20 and ongoing. Additionally, the DOJ requests authority for five positions beginning in FY 2018-19. The requested spending and position authority will allow the DOJ to sustain continued improved result and enforcement of charity compliance and associated activities.
8. **Bureau of Children’s Justice.** The DOJ, Public Rights Division (PRD) requests a permanent augmentation of fourteen positions and Public Rights Law Enforcement Fund spending authority of \$3,567,000 in FY 2018-19 and ongoing to support the Attorney General's Bureau of Children's Justice (BCJ). The BCJ is a specialized unit in the Attorney General's Office that primarily conducts independent civil systemic investigations of local governmental agencies regarding compliance with state laws pertaining to protecting children from physical and sexual abuse, providing children their constitutionally-mandated educational rights, and assessing the manner in which law enforcement resources are used against children. BCJ also investigates private entities.
9. **Immigration Data Governance (SB 54).** The DOJ, Criminal Justice Information Services Division and the Division of Public Rights, Civil Rights Enforcement Section request an increase in General Fund spending authority of \$2,406,000 and 13.0 positions in FY 2018-19; \$1,807,000 and 10.0 positions in FY 2019-20; and \$1,185,000 and 10.0 positions ongoing to address the mandates outlined in Senate Bill 54 (de León), Chapter 495, Statutes of 2017. SB 54 limits state and local law enforcement agencies involvement in immigration enforcement and to ensure that eligible individuals are able to seek services from and engage with state agencies without regard to their immigration status.
10. **Nonprofit Health Facilities: Sale of Assets (AB 651).** The DOJ, Public Rights Division, Charitable Trust Section, requests a permanent augmentation of two positions and General Fund spending authority of \$369,000 for FY 2018-19 and \$356,000 for FY 2019-20 and ongoing to support the implementation of and thereafter to address the mandates associated with Assembly Bill 651 (Muratsuchi), Chapter 782, Statutes of 2017. AB 651 extends the time that the Attorney General (AG) has to approve or reject the proposed sale of a nonprofit health facility from 60 to 90 days; requires public notice of a hearing regarding the proposed sale to be provided in additional languages; and requires the AG to consider whether the sale would have an adverse impact on the significant cultural interests in the affected community.

11. **Firearm Violence Research Center: Gun Violence Restraining Orders (SB 536).** The DOJ, California Justice Information Services Division requests a permanent General Fund spending authority increase of \$138,000 in FY 2018-19 and \$130,000 ongoing to support one position. The requested spending authority will allow the DOJ to meet the mandates associated with Senate Bill 536 (Pan), Chapter 810, Statutes of 2017. SB 536 gives researchers at the Firearm Violence Research Center, and, at DOJ's discretion, any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, access to information relating to gun violence restraining orders, as specified.

**Staff Recommendation:** Approve all vote-only items as proposed

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**ITEMS TO BE HEARD****0820 DEPARTMENT OF JUSTICE****Issue 12: Update by Attorney General Xavier Becerra**

**Attorney General.** The constitutional office of the Attorney General, as chief law officer of the state, has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice (DOJ). The Attorney General's responsibilities include safeguarding the public from violent criminals, preserving California's spectacular natural resources, enforcing civil rights laws, and helping victims of identity theft, mortgage-related fraud, illegal business practices, and other consumer crimes.

Under the state Constitution, the Attorney General is elected to a four-year term in the same statewide election as the Governor, Lieutenant Governor, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, and Insurance Commissioner. In 1990, California voters imposed a two-term limit on these statewide offices.

On January 24, 2017, Xavier Becerra was sworn in as the 33rd Attorney General of the State of California, and is the first Latino to hold the office in the history of the state. He was appointed by the Governor as a replacement for former Attorney General Kamala Harris, who was elected to the United States Senate.

Attorney General Becerra previously served 12 terms in Congress as a member of the U.S. House of Representatives. While in Congress, Attorney General Becerra was the first Latino to serve as a member of the Committee on Ways and Means, served as Chairman of the House Democratic Caucus, and was Ranking Member of the Ways and Means Subcommittee on Social Security.

Prior to serving in Congress, Attorney General Becerra served one-term in the California Legislature as the representative of the 59th Assembly District in Los Angeles County. He is a former deputy attorney general with the California Department of Justice. The Attorney General began his legal career in 1984 working in a legal services office representing persons with mental illness.

**Department of Justice.** The Attorney General oversees more than 4,500 lawyers, investigators, sworn peace officers, and other employees at DOJ. DOJ is responsible for providing legal services on behalf of the people of California. The Attorney General represents the people in all matters before the appellate and supreme courts of California and the United States; serves as legal counsel to state officers, boards, commissioners and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil laws; and assists district attorneys in the administration of justice. The DOJ also provides oversight, enforcement, education and regulation of California's firearms/dangerous weapons laws; provides evaluation and analysis of physical evidence; regulates legal gambling activities in California; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

**Budget Overview.** The Governor's 2018-19 budget proposes a total of \$926 million to support DOJ—roughly the same amount as the revised 2017-18 spending level. Of the total amount proposed, \$245 million is from the General Fund.

**Staff Recommendation.** This is an informational item. No action is necessary at this time.

<b>Issue 13: Armed Prohibited Persons System (APPS)</b>
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**Background.** Under California law, in order to purchase a firearm, an individual must provide a licensed gun dealer with proof of age (21 years for handguns and 18 years for long guns), pass a background check, pay a \$25 fee, and wait for 10 days. In addition, all firearms must be sold with a locking device. Finally, a person purchasing a gun must provide proof that they passed the gun safety exam. Under certain circumstances, individuals are prohibited from owning or possessing firearms. Generally, a person is prohibited from owning guns if any of the following apply:

- Has been convicted of a felony.
- Has been convicted of certain misdemeanors.
- Has been proven to be a danger to himself/herself or others due to a mental illness.
- Has been restrained under a protective order or restraining order.
- Is on probation or parole.
- Has been convicted of certain crimes as a juvenile and is adjudged a ward of the state.

Between calendar year 2012 and calendar year 2013, total gun purchases rose by over 15 percent in California. In 2014, the number of sales dropped for the first time since 2007. The table that follows illustrates the annual number of overall purchases of firearms in the state. Despite the decrease, gun sales in California have almost tripled over the last decade.

**Firearms in California  
Purchases and Denials**

Year	Hand Guns Purchased	Hand Gun Denials	Long Guns Purchased	Long Gun Denials	Total Guns Purchased	Total Denials
2004	145,335	1,497	169,730	1,828	315,065	3,325
2005	160,990	1,592	183,857	1,878	344,847	3,470
2006	169,629	2,045	205,944	1,689	375,573	3,734
2007	180,190	2,373	190,438	1,926	370,628	4,299
2008	208,312	2,737	216,932	2,201	425,244	4,938
2009	228,368	2,916	255,504	2,221	483,872	5,137
2010	236,086	2,740	262,859	2,286	498,945	5,026
2011	293,429	3,094	307,814	2,764	601,243	5,805
2012	388,006	3,842	429,732	3,682	817,738	7,524
2013	422,030	3,813	538,419	3,680	960,179	7,493
2014	512,174	4,272	418,863	4,297	931,037	8,569
2015	483,372	5,417	397,231	4,252	880,603	9,669
2016	572,644	6,172	758,678	6,149	1,331,322	12,321
2017	522,984	4,264	359,601	2,570	882,585	6,834

**Firearms regulation funding.** Every individual purchasing a firearm in California is required to pay a \$25 fee. That fee is the total of three separate state fees. A \$19 background check fee is payable to the Dealer Record of Sale Special Account (DROS), which currently funds the APPS program, \$5 is payable to the Firearms Safety and Enforcement Special Fund (FS&E) and a \$1 firearm safety device fee is paid to the Firearms Safety Account (FSA). All of these funds go primarily toward supporting firearm safety and regulation within the Department of Justice.

**Statistics on gun violence.** The Centers for Disease Control reports that in 2013, 33,636 people died in firearms-related deaths in the United States. That equates to 10.6 people out of every 100,000. Of those deaths, 11,208 were homicides. According to statistics gathered by the Brady Campaign to Prevent Gun Violence, over 100,000 people a year in the United States are shot. According to the latest United States Department of Justice data, in 2011, about 70 percent of all homicides and eight percent of all nonfatal violent victimizations (rape, sexual assault, robbery and aggravated assault) were committed with a firearm, mainly a handgun. A handgun was used in about seven in ten firearm homicides and about nine in ten nonfatal firearm violent crimes in 2011. In the same year, about 26 percent of robberies and 31 percent of aggravated assaults involved a firearm, such as handguns, shotguns or rifles.

Beginning in 1999, DOJ—Bureau of Firearms began to study some of California’s high-profile shootings in an effort to determine if there were remedial measures that could be enacted to curtail instances of gang violence and other similar violent events. The study found that many of the offending individuals were law-abiding citizens when they purchased the firearms, and were subsequently prohibited from gun ownership due to the reasons listed above. At the time of the study, DOJ lacked the capacity to determine whether or not an individual who had legally purchased a firearm, and subsequently became prohibited from such ownership, was still in possession of a firearm. In addition, even if such a determination could have been made, the DOJ lacked the authority to retrieve that weapon from the prohibited person.

**Previous legislation.** In 2001, the Legislature created the Prohibited Armed Persons File to ensure otherwise prohibited persons do not continue to possess firearms (SB 950 (Brulte), Chapter 944, Statutes of 2001). SB 950 provided DOJ with the authority to cross-reference their database of individuals who own handguns with their database listing of prohibited individuals. SB 950 also mandated that DOJ provide investigative assistance to local law enforcement agencies to better insure the investigation of individuals who continue to possess firearms despite being prohibited from doing so. (Penal Code § 30010.) The 2002 Budget Act included General Fund support of \$1.0 million for DOJ to develop the Armed Prohibited Persons System (APPS). The database was complete in November 2006, with continued funding to support the program provided from the General Fund. Further legislation, SB 819 (Leno), Chapter 743, Statutes of 2011, allowed the department to utilize funds within the Dealers Record of Sale Account (DROS) for firearm enforcement and regulatory activities related to the Armed Prohibited Persons System.

DOJ previously stated that its special agents have trained approximately 500 sworn local law enforcement officials in 196 police departments and 35 sheriff’s departments on how to use the database during firearms investigations. The department stated it also conducted 50 training sessions on how to use the vehicle-mounted California Law Enforcement Telecommunications System terminals to access the database.

Local law enforcement agencies are provided monthly information regarding the armed and prohibited persons in the agency’s jurisdiction. Given this access, once the armed and prohibited person is identified, DOJ and local agencies could coordinate to confiscate the weapons. However, at the present time, many agencies are relying on assistance from DOJ’s criminal intelligence specialists and special agents to work APPS cases. When local agencies do confiscate weapons, they are required to send DOJ a notice so that the individual can be removed from the list.

In 2013, the Legislature, in coordination with DOJ, determined that there was a significant workload resource gap. At that time, it was estimated that approximately 2,600 offenders were added to the APPS list annually, creating a significant backlog in the number of investigations. According to DOJ,

each special agent is capable of conducting 100 APPS investigations over a one -year period. During fiscal year 2012-13, the Bureau of Firearms had authority for 21 agents. Therefore, the bureau was capable of conducting roughly 2,100 investigations on an annual basis with that special agent authority, which would add 500 possible armed and prohibited persons to the backlog each year.

**SB 140.** To address the workload resources required to both reduce the growing backlog, and actively investigate incoming cases in a timely fashion, the Legislature passed SB 140 (Leno), Chapter 2, Statutes of 2013. SB 140 provided DOJ with \$24 million from the Dealer's Record of Sale (DROS) account in order to increase regulatory and enforcement capacity within DOJ's Bureau of Firearms. The resources financed in SB 140 were provided on a three-year limited-term basis, which, according to the DOJ, was adequate time to significantly reduce or eliminate the overall number of armed and prohibited persons in the backlog. Ongoing cases could be managed with resources within DOJ's Bureau of Firearms. Additionally, the measure included reporting requirements due annually to the Joint Legislative Budget Committee. This regulatory and enforcement capacity was granted prior to a January 1, 2014 law that significantly increased the number of APPS persons added per year.

**Addition of APPS persons identified in 2014.** The up-to-date DOJ's Bureau of Firearms workload history is provided below. According to their fourth APPS legislative report, released in March 2018, department agents have been able to reduce the number of prohibited subjects to 10,226, the lowest amount since January 2008. It should be noted that until recently, the APPS database was based exclusively on handgun transaction records, not long-gun transaction records. According to the DOJ, "approximately half" of all California firearm sales involve long guns. Effective January 1, 2014, a new California law mandated the DOJ collect and retain firearm transaction information for all types of guns, including long-guns. The impact of this change is that the number of APPS subjects added to APPS changed from approximately 3,000 to 10,000 subjects annually. The workload history is shown below.

**Armed Prohibited Persons  
Workload History**

<b>Fiscal Year</b>	<b>Armed and Prohibited Persons Identified</b>	<b>APPS Investigations Conducted</b>
2007-08	8,044	1,620
2008-09	11,997	1,590
2009-10	15,812	1,763
2010-11	17,606	1,700
2011-12	18,668	1,716
2012-13	21,252	2,772
2013-14	21,429	4,156
2014-15*	17,460	7,573
2015-16	12,691	8,574
2016-17	10,634	9,183
2017-18	10,226	8,559

*\*As of 1/1/2014, long-gun transaction purchases were collected and retained. Long-gun purchases account for approximately fifty percent of gun purchases according to the DOJ.*

**APPS in Budget.** During the 2015 budget hearing process, the Legislature expressed concern that half-way through the three years, the department had spent 40 percent of the \$24 million, and the backlog had only been reduced by approximately 3,770. In addition, the Bureau of Firearms had hired 45 agents, as of the date of their update, but had only retained 18 agents. Of the agents that left the bureau, the vast majority went to other agent positions in DOJ. It is unclear what caused this staff retention issue, whether it was due to the fact that the new positions were limited-term or that more senior agents were permitted to transfer. As a result, some SB 140 funding that was intended to directly address the APPS backlog was instead used to conduct background checks, provide training and to equip newly hired agents subsequently left the bureau.

The 2015 Budget Act provided DOJ's Bureau of Firearms with 22 additional permanent positions dedicated to APPS investigations and required that they be funded utilizing existing resources. In addition, supplemental reporting language required DOJ to provide the Legislature, no later than January 10, 2016, an update on the department's progress on addressing the backlog in the APPS program and hiring and retaining investigators in the firearms bureau.

As part of the 2016-17 budget, the Legislature approved an on-going increase of \$4.7 million in Firearms Safety and Enforcement Special Fund (FS & E) to provide permanent funding for 22 positions for APPS investigations.

**Future additions to APPS due to 2016 ammunition regulations.** California had enacted legislation designed to keep guns out of the hands of criminals, but until 2016, it had done little to prevent criminals, gang members, and other prohibited people from procuring the ammunition that fuels gun violence. Several cities require vendors to keep records of ammunition sales, leading to the arrest of thousands of armed and dangerous criminals. Similarly, California enacted statewide legislation requiring vendors to record handgun ammunition sales, but this law has been tied up in litigation involving the statutory definition of handgun ammunition. Consequently, as the result of a court injunction preventing enforcement of the law, any criminal can purchase ammunition, no questions

asked. SB 1235 (de León), Chapter 55, Statutes of 2016, replaced the language in Proposition 63 and required vendors to obtain a state license to sell ammunition, log information about ammunition transactions, and screen the ammunition purchaser for any prohibitions at the point of sale. There are three main components to the legislation: vendor licensing, purchase authorization, and purchase information collection.

**Questions for the Department of Justice.** DOJ should be prepared to address the following questions:

1. In 2013, the Legislature appropriated \$24 million to the Department of Justice to reduce the backlog in the Armed Prohibited Persons System (APPS). In 2016-17, the Legislature provided an ongoing increase of \$4.7 million to provide permanent funding for 22 positions. Please describe how these funds were spent.
2. Can you describe some of the previous and future complexities associated with getting the backlog down to zero?
3. How do you currently prioritize the cases during the APPS enforcement process?
4. Are there other ongoing programs in California that assist with reducing the APPS backlog?
5. Will the 2016 ammunition regulations increase the number of APPS subjects added per year? If so, by how much?
6. Is there a specific number that you have as a goal and timeline for reaching that goal?

**Staff Recommendation.** This is an oversight item. No action is necessary at this time.

**Issue 14: Antitrust Workload (BCP)**

**Governor’s budget.** The Department of Justice (DOJ) Antitrust Law Section (Section) requests a permanent augmentation of 23.0 positions and Attorney General Antitrust Account spending authority of \$1,780,000 in FY 2018-19, \$3,488,000 in FY 2019-20, \$4,527,000 in FY 2020-21, \$4,419,000 in FY 2021-22 and ongoing to support the Section's increase in workload.

**Background.** DOJ’s Section is responsible for maintaining a competitive business environment in California by ensuring businesses complies with federal and state antitrust laws. The section’s major activities include investigations and litigation around business mergers and acquisitions as well as anticompetitive behavior (such as price-fixing).

The state and local governments are often the victims of price-fixing conspiracies for which it may be possible to recover damages through antitrust litigation. Consumers in California ultimately bear the brunt of higher prices and inefficient marketplaces brought about by unfair competition. High prices resulting from monopolistic practices in areas ranging from consumer goods to pharmaceuticals shrink the spending power of individual Californians, and make California's economy less productive.

In 2017-18, the Section received \$8.4 million in funding—\$4.7 million (56 percent) from the General Fund, \$2.6 million (31 percent) from the Attorney General Antitrust Account (AGAA), and \$1.1 million (13 percent) from the Unfair Competition Law Fund. The latter two special funds generally receive revenues from litigation settlements or awards.

The Section's DAG staffing level has remained at this level for the past five years, while the Section's workload has continued to grow. The Section reports that workload has increased to the point that its deputy attorney generals are each working, on average, approximately 20 percent more hours than normal. They also note that DOJ is not taking cases that the Section believes should have been pursued because of lack of staffing or due to priority given to litigation already on file and active. However, the exact number of cases that the Section would have otherwise pursued is unknown. Federal criminal prosecutions of international price-fixing cartels, vacancies at the federal antitrust agencies and a reported increase in merger activity could result in cases to pursue.

According to DOJ, the requested spending and position authority will allow them to handle the burgeoning caseload demands resulting from an increase in mergers and acquisitions nationwide over the last decade as well as increasing concerns over competitive abuses in high tech, health care, and energy markets. Moreover, they note that improved staffing levels would also result in increased monetary recoveries for the state as a pursuer of bid-rigging and price-fixing litigation.

**Legislative Analyst’s Office (LAO).** In their assessment, the LAO states that additional resources are needed to meet the increased workload. However (1) the total level of additional workload is unclear and (2) whether sufficient resources will be available to support requested positions.

- (1) *The total level of additional workload is unclear.* While some additional resources appear reasonable, the total level of additional workload facing the Section is unclear. For example, it is unclear how many new cases—beyond those which the Section currently lacks resources to take—should be pursued. It is also unclear how many additional cases will actually be pursued due to factors such as the inaction by the federal antitrust agencies or an increase in merger activity. In addition, the total number positions needed to process the workload are unclear as the type and complexity of the cases DOJ would pursue is not known.

- (2) *It is unclear whether sufficient resources will be available to support requested positions.* It is also unclear whether all of the requested positions will generate enough revenue for the Attorney General Antitrust Account to support themselves. According to DOJ, only 20 percent to 25 percent of investigated cases currently turn into litigation with the potential to generate revenue for the Attorney General Antitrust Account. First, it is unclear how this percentage could change with the requested resources. This percentage could either decrease or increase depending on the specific cases DOJ chooses to pursue. For example, this percentage could go down if DOJ decides to pursue cases it would otherwise have decided not to pursue based on its estimates of potential success. On the other hand, this percentage could go up to the extent DOJ pursues cases that it believes has merit, but are not pursued currently only due to a lack of resources. Second, other factors—such as the types of cases pursued and the remedies sought in such actions—can also impact the amount of revenue generated. For example, cases that seek injunctive relief can benefit California consumers and businesses but may not generate monetary recoveries that can support the section’s positions. Additionally, the impacts of the additional positions may not be quickly realized. This is because some of the section’s cases can take years to resolve, which could delay the receipt of any monetary awards or settlements. To the extent the positions cannot support themselves, the state may either need to identify alternative sources of funding (such as the General Fund) or eliminate the positions in the future.

**LAO Recommendation.** The LAO recommends the Legislature to only provide DOJ with the first year of resources requested by the Governor’s budget—specifically the nine positions and \$1.8 million to support increased Antitrust Law Section activities in 2018-19. These additional resources could generate state benefit, particularly since the section is currently not pursuing some cases which it believes have merit. Additionally, to ensure that sufficient resources are available on an ongoing basis to support these positions, the LAO recommends the Legislature direct DOJ to submit a report by December 1, 2020 on certain fiscal and performance measures (such as number of cases pursued and litigated as well as the amount of monetary recoveries generated) to monitor the impact of these provided positions.

The uncertainty in the total level of additional workload and whether the requested positions will be able to support themselves makes it difficult to justify the positions proposed by the Governor beyond those proposed for 2018-19. To the extent that DOJ is able to (1) demonstrate the impact of the nine additional positions requested for 2018-19 and (2) provide more definitive estimates of additional workload, the Legislature could consider a request for additional positions and funding in the future.

**Staff Recommendation.** Hold open.

**Issue 15: Bureau of Gambling Control-Third-Party Providers Workload (BCP)**

**Governor's budget.** The Department of Justice's Bureau of Gambling Control requests \$1,564,000 in permanent funding from the Gambling Control Fund to retain 12.0 positions granted in fiscal year 2015-16 with three-year limited-term funding.

**Background.** The Bureau of Gambling Control (BGC), within the DOJ, is the state law enforcement authority with special jurisdiction over gambling activities within the state of California and is the entity that conducts background investigations for the California Gambling Control Commission (Commission) on gaming license and work permit applications. The BGC regulates legal gambling activities in California to ensure that gambling is conducted honestly, competitively, and free from criminal and corrupt elements. The Division of Gambling Control (now the BGC) was created on January 1, 1998, with the enactment of the Gambling Control Act (Act). The Act established a comprehensive plan for the statewide regulation of legal gambling. It provides a bifurcated regulatory system whereby the BGC serves in an investigative role and the Commission serves in an adjudicatory role.

There are four categories of applicants associated with gambling establishments:

1. All persons and/or business entities that have control or ownership interest in a gambling establishment, or third-party providers of proposition player services (TPPPPS).
2. A cardroom key employee license for all persons employed in a supervisory capacity or empowered to make discretionary decisions over the establishment's gambling operations.
3. A work permit is required of all persons employed in a gambling establishment for certain positions such as dealer, waitress/waiter, surveillance, etc.
4. TPPPPS Supervisors and Players.

The scope of each background investigation varies depending on the license type, applicant, and the complexity of the applicants' history, but normally includes in-depth research and analysis of each applicant's background through inquiries of various personal, public, and law enforcement sources. Also, the financial aspects of business owners and entitles are closely examined to verify that all persons with ownership/control interest in the gambling operation are identified and properly licensed.

**Previous funding for BGC work.** When the BGC was created in 1998, based on a 2000-01 Budget Change Proposal (BCP), the BGC had 20.0 analyst positions to process a projected workload of 1,000 applications (800 owner/key employees and 200 work permits) for the Cardroom industry.

In 2004-05, the BGC was provided five analyst positions, in addition to other classifications, to handle the TPPPPS workload. At that time, it was estimated there would be approximately 1,184 applications (25 TPPPPS companies, 135 owners, 200 supervisors and 824 proposition players) associated with the TPPPPS industry. Of the 25.0 analyst positions, the Bureau has assigned four analysts to conduct the mandated workload associated with game and gaming activity review.

In budget year 2015-16, the BGC was granted 12.0 permanent positions with three-year limited-term funding, which is expiring on June 30, 2018. Since July 1, 2015, these 12.0 analysts have completed a

total of 544 cases. As staff complete their onboarding and training program and become proficient with their investigations the average number of cases completed increases over time. As such, the BGC anticipates that these 12.0 seasoned analysts will complete an additional 1,104 cases by the end of fiscal year 2017-18.

The 2016 Budget Act included \$3,000,000 from the Gambling Control Fund and 20.0 positions due to a legislative augmentation. This augmentation was also provided to address the current backlog related to initial and renewal license suitability background investigations for the California Cardroom and TPPPS license applicants. As a result, the BGC received permanent position authority with three-year limited term funding for these 20.0 positions effective July 1, 2016.

**Case backlog issues.** According to the DOJ, the scope of the background investigations increased due to requests of the Commission, changes in the industry, and/or increased scrutiny due to identified violations within the industry. The DOJ believes that the positions are necessary to continue to reduce the backlog and maintain the ongoing workload associated with California cardroom and TPPPS license applicants. Below is a workload history that includes the current backlog.

#### Workload History

Fiscal Year	2012-13	2013-14	2014-15	2015-17	2016-17
Beginning	1,339	2,001	2,588	2,696	2,153
Incoming Cases	2,211	4,594	5,117	5,379	5,566
Closed Cases	1,031	3,259	3,639	4,926	5,561
Abandoned/Other	518	749	1,370	996	167
<i>Cases at Year's end (Backlog)</i>	<i>2,001</i>	<i>2,588</i>	<i>2,696</i>	<i>2,153</i>	<i>1,991</i>

**Legislative Analyst's Office (LAO).** The LAO acknowledges that the backlog has decreased since 2014-15 but that it also is likely to remain through 2018-19. They raise two additional points:

1. **Impact of previously granted resources remains unclear.** However, the full impact of limited-term resources remains unclear. This is because 2017-18 is the first year in which nearly all 32 analytical positions provided on a limited-term basis were filled. Moreover, given the complexity of some of the background investigations, it generally takes analysts months before they become fully proficient at processing background investigations. As such, workload metrics collected at the end of 2017-18 will be a much more accurate representation of the full impact of all of the limited-term positions.

#### Number of filled limited-term positions per year

Fiscal Year	2015-16	2016-17	2017-18
Approved positions	12	32	32
Filled positions	8	15	30
Percent of positions filled (%)	67	47	94

2. ***Difficult to Determine Appropriate Level of Ongoing Resources.*** Given the uncertainty of the full-impact of the recently-provided limited-term positions, it is difficult to determine the appropriate level of ongoing resources needed to (1) eliminate the backlog and (2) prevent the creation of an extensive backlog.

**LAO Recommendation.** The LAO recommends that the Legislature provide \$1.6 million from the Gambling Control Fund to support the 12 positions provided in 2015-16 for one additional year, rather than on an ongoing basis as proposed by the Governor. This would allow DOJ to continue to reduce the backlog and collect additional workload data. Under our recommendation, all of the Cardroom Gaming Unit's limited-term positions will expire at the end of 2018-19. During budget deliberations for the 2019-20 budget, the additional workload data will allow the Legislature to determine the appropriate level of ongoing resources needed.

**Staff Recommendation.** Hold open.

**Issue 16: Tax Recovery and Criminal Enforcement (TRaCE) Task Force Augmentation**

**Proposal.** This proposal requests an allocation of \$11.86 million in 2018-19, \$17.32 million in 2019-20, and \$16.62 million in 2020-21 to support the augmentation of the Tax Recovery and Criminal Enforcement (TRaCE) task force program. Specifically, this funding will be used towards full-time dedicated staffing, an increase in DOJ agents, and expansion of the force to major metropolitan areas.

**Background.** The TRaCE task force established by AB 576 (Perez) Chapter 614, Statutes of 2013, is a multi-agency effort that focuses on investigating and prosecuting individuals involved in the underground economy. The underground economy entails individuals and businesses using various schemes to deliberately evade tax liabilities. Evasion practices include avoiding regulatory, labor, tax agencies, and licensing. One practice for example, involves paying workers a lower wage than stated on payroll reports and evading employee taxes and fees by designating employees as independent contractors.<sup>1</sup> According to a 2013 University of California, Los Angeles Labor Center report, the state's underground economy generates between \$60-180 billion in revenue annually and an estimated \$8.5 billion in uncollected corporate, personal, sales, and use taxes.<sup>2</sup>

Participating agencies include the Department of Justice, the Department of Tax and Fee Administration, the Franchise Tax Board, and the Employment Development Department. Currently, the task force, which originated as a pilot program, only consists of two teams that operate in Sacramento and Los Angeles. According to the DOJ, the two teams identified \$210 million in unreported or underreported gross sales or gross receipts estimated by the investigator during the investigation phase and an associated \$46 million in unreported tax loss to the state. To date, they report approximately \$10.3 million in actual dollar amounts received in court ordered restitution and investigative costs and \$1.34 million in money and/or assets seized as evidence during search warrants. Moreover, \$29.9 million in potential recovery from anticipated billings and restitution tax loss associated with ongoing cases exist.

In 2015, the Little Hoover Commission published a report on the underground economy that recognized the success of the TRaCE task force, recommending the program's expansion to every metropolitan region.

**SB 1272 (*Galgiani and Atkins*).** In the current legislative session, SB 1272 was introduced to expand the program into other major metropolitan regions in the state by codifying the existing TRaCE teams in San Diego, the San Francisco Bay Area, and Fresno. This bill was passed in Senate Public Safety on April 17, 2018 but has been re-referred to Senate Appropriations.

**Staff Recommendation.** Hold open.

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<sup>1</sup> "California and the Underground Economy," A report prepared for the Board of Equalization by the UCLA Labor Center, April 19, 2013.

<sup>2</sup>Ibid.

**Issue 17: Rape Kit Testing**

**Proposal.** This proposal requests one-time augmentation of \$6.5 million to ensure the timely testing of rape kits throughout California communities.

**Background.** Following a sexual assault, survivors in California may elect to undergo a forensic medical examination to collect evidence in a rape kit. If the survivor also chooses to report the crime, the law enforcement agency with jurisdiction over the offense will take the kit into custody and submit it to a forensic laboratory for DNA analysis. To maximize evidentiary value and standardize investigation of sexual crimes, federal best practices issued by the United States Department of Justice-Bureau of Justice Assistance recommend that all rape kits connected to reported crimes be swiftly submitted to laboratories and tested for DNA. Testing DNA evidence in rape kits can identify an unknown assailant, link crimes together, identify serial perpetrators, and exonerate the wrongfully convicted.

As amended by Chapter 874, Statutes of 2014, California law states that law enforcement agencies “should” transfer rape kit evidence to the appropriate forensic laboratory within 20 days and that laboratories “should” process such evidence as soon as possible, but no later than 120 days, following receipt. Due to the current language of the law, this guidance is not currently being followed by a number of law enforcement agencies in the state. As a result, newly collected rape kit evidence in many jurisdictions in California is still not tested in timely fashion. Depending on the jurisdiction in which the crime occurred, the timeframe for submission and analysis of their rape kits may vary widely, slowing the criminal justice process. A significant barrier to rape kit testing is the lack of funding.

An augmentation of \$6.5 million is proposed to ensure the timely testing of rape kits throughout California communities and aid in justice to victims.

**SB 1449 (Leyva).** SB 1449, introduced in 2018 would strengthen the language of existing law, which states that law enforcement agencies and forensic laboratories “should” follow listed timeframes for submission and analysis of rape kit evidence, by stating that such entities “shall” follow specified timeframes. This bill is currently on suspense in Senate Appropriations.

**Staff Recommendation.** Hold open.

## 0250 JUDICIAL BRANCH

The judicial branch is responsible for the interpretation of law, the protection of individual 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.

**Budget Overview:** The Governor's budget proposes about \$3.9 billion from all state funds (General Fund and state special funds) to support the judicial branch in 2018-19, an increase of \$188 million, or 5.1 percent, above the revised amount for 2017-18. (These totals do not include expenditures from local revenues or trial court reserves.) Of the total amount proposed for the judicial branch in 2018-19, \$1.9 billion is from the General Fund—47 percent of the total judicial branch budget. This is a net increase of \$158 million, or 9.1 percent, from the 2017-18 amount. This increase reflects various proposals to increase General Fund support for trial courts by a total of \$210 million—nearly all of which is ongoing.

**Table: Judicial Branch Budget Summary—All State Funds**

(Dollars in millions)

<b>Program</b>	<b>2016-17 Actual</b>	<b>2017-18 Estimated</b>	<b>2018-19 Proposed</b>
Supreme Court	\$45	\$50	\$51
Courts of Appeal	223	242	243
Judicial Council	127	146	149
Judicial Branch Facilities Program	386	478	462
State Trial Court Funding	2,727	2,742	2,943
Habeas Corpus Resource Center	15	17	17
<b>Total</b>	<b>\$3,522</b>	<b>\$3,675</b>	<b>\$3,864</b>

**Issue 18: Chief Justice's Priorities**

**Governor's budget.** The total funding for the judicial branch has steadily increased and is proposed to reach \$4 billion in 2018-19, an increase of \$188 million or 5.1 percent above the revised amount for 2017-18. Each year, after reviewing the Governor's proposed budget, California's Chief Justice develops a list of funding priorities for the judicial branch. The increase in funding will support various proposals, nearly all of which is ongoing, including:

- \$75 million discretionary funding for allocation to trial courts by the Judicial Council.
- \$47.9 million for allocation to certain trial courts that are comparatively underfunded relative to other trial courts.
- \$34.1 million to backfill a further decline in fine and fee revenue to the Trial Court Trust Fund, increasing the total backfill in \$89.1 million in 2018-19. This backfill has been provided since 2014-15.
- \$25.9 million for increased trial court health benefit and retirement costs.

**Background.** The Governor's 2018-19 budget proposes a \$123 million General Fund augmentation to general purpose funding for trial court operations—the Judicial Council's priorities and equalization of trial court funding levels.

**Judicial Council's priorities.** The Administration proposes \$75 million for the trial courts that would be allocated by the Judicial Council based on its priorities. The Administration states that it anticipates that the Judicial Council will rely on recommendations made by the Commission on the Future of California's Court System to improve the accessibility and efficiency of court operations. The Administration also states that it expects the Judicial Council to report on any anticipated outcomes.

**WAFM and equalization of trial court funding levels.** The Judicial Council utilizes the Workload Allocation Funding Methodology (WAFM) to allocate funds for trial court operations. WAFM was intended to distribute funding based on workload instead of the historic "pro rata" approach because the pro rata approach generally maintained funding inequities among trial courts. WAFM uses the Resource Allocation Study, which estimates the number of personnel needed for each court primarily based on the number of filings for various case types and the amount of time it takes staff to process such a filing. Each court's estimated staffing need is then converted to a cost estimate using various assumptions and is combined with various other cost factors to determine the total estimated workload-driven costs for each trial court. The resulting total is the amount the judicial branch believes is needed to fully operate each trial. In addition, the Judicial Council may allocate any augmentations in the state budget for trial court operations and not designated for a specific purpose through WAFM.

In 2018, Judicial Council approved significant changes related to WAFM. First, in years where increased funding is provided by the state, the funding would be first allocated to the fifteen smallest trial courts to ensure they received 100 percent of their WAFM-identified costs. Up to fifty percent of the remaining augmentation would be allocated to courts below the statewide average funding ratio. The remaining amount would be allocated to all trial courts according to WAFM. Second, in the first year in which there are no general-purpose funding augmentations provided for trial court operations, allocations would remain the same. In the second year in which no increased funding is provided, up to one percent of funding allocated to trial courts that are more than two percent above the statewide average funding ratio could be reallocated to those courts that are more than two percent below the

statewide average funding ratio. Trial courts receiving this funding would have complete flexibility in how to use these funds.

**Legislative Analyst's Office (LAO).** At the time of the LAO's analysis, it was unclear how \$75 million of the proposed augmentation would be allocated to trial courts. This is because the Governor's proposal would give the Judicial Council complete discretion and maximum flexibility in allocating these funds. For example, it could decide to allocate the funds under the newly revised WAFM allocation methodology. Allocation through WAFM would mean that individual trial courts have flexibility in how they use their funding—likely resulting in different impacts across trial courts. Some trial courts could use a portion of these funds to address increased cost pressures—such as increased salary costs for existing employees or contractors—in order to maintain existing levels of service.

***Different Ways to Equalize Funding for Individual Trial Courts.*** There are different ways to equalize funding among trial courts depending on the intended goal and how quickly that goal is to be reached, which in turn dictates how much funding is needed. The Governor's proposal reflects one example of how this could be done by setting an equalization goal of the WAFM statewide average ratio of 76.9 percent and providing a \$47.8 million augmentation in general purpose funding solely for the thirty courts currently below this target.

***Unclear Whether WAFM Accurately Identifies Trial Court Funding Needs.*** While the development of WAFM was an important first step by the judicial branch to ensure that funding is allocated equitably based on workload, it is unclear whether WAFM accurately identifies trial court funding needs. This is because it is uncertain whether WAFM's underlying assumptions and adjustments appropriately measure and calculate individual trial court need. For example, although WAFM includes adjustments to address salary differentials across trial courts, it is unclear whether such adjustments should be made or how they should be made. Similarly, it is unclear whether WAFM appropriately differentiates between costs that are unaffected by changes in filings (fixed costs) and costs that change based on changes in filings (or marginal costs). This differentiation is important since WAFM is based on the number of filings each court receives.

**LAO Recommendation.** The LAO has two recommendations for this proposal:

- 1. Provide 2018-19 funding based on Legislative priorities.*** In evaluating the Governor's proposals for \$123 million in increased general purpose funding for trial courts, the LAO recommends the Legislature to first consider the level of funding it wants to provide trial courts relative to its other General Fund priorities—which could be higher or lower than the Governor's proposed level. Second, the LAO recommends the Legislature to allocate any additional funds provided based on its priorities. This would generally be consistent with how the Legislature has allocated funds to trial courts in recent years. As discussed above, under the Governor's proposal, \$75 million of the proposed increase would be allocated at the discretion of the Judicial Council, which may or may not be aligned to the Legislature's priorities.

Moreover, the LAO identifies a number of potential priorities for increased trial court funding that the Legislature could consider. For example, the Legislature could consider providing funding that is based on a cost-of-living or inflationary adjustment in recognition that the costs for maintaining service levels will naturally increase from year to year. They estimate that this could range from the low to mid-tens of millions of dollars, depending on how the Legislature chose to calculate the adjustment. Similar to the Governor, the Legislature could consider

providing funding to equalize funding among trial courts based on a goal it deems appropriate. The Legislature could also allocate funds to support specific programs or services.

2. ***Establish a Working Group to Evaluate WAFM as Budgeting and Allocation Methodology.*** Given the uncertainty around whether WAFM accurately estimates trial court needs raised above, the LAO believes further study is necessary. One way to assess the various issues raised above is for the Legislature to direct the LAO to jointly work with the Department of Finance (DOF) to evaluate WAFM—with technical assistance from the judicial branch as necessary—and offer potential recommendations for change by November 1, 2019. The intended outcome would be a workload-based model that can be used for both estimating trial court needs and allocating trial court operations funding in the future. Ideally, the model could be adjusted over time to account for new workload, changed processes, or increased efficiency. An accurate formula would provide a clear understanding of how much funding is needed to meet specific workload or service levels. This would also help the Legislature determine the appropriate level of total funding for trial courts each year and how such funding should be allocated (or reallocated) to ensure that all trial courts meet legislatively desired service levels.

**Staff Recommendation.** Hold open.

**Issue 19: Pilot Project for Online Adjudication of Traffic Violations (BCP)**

**Governor's budget.** The Judicial Council requests \$3.4 million and seven positions in FY 2018-19 and an ongoing amount of \$1.365 million and seven positions to design, deploy and maintain software to adjudicate traffic violations online in designated pilot courts.

**Background.** Individuals charged with traffic infractions can resolve their case in a number of ways, including submitting a payment, contesting the charge in court, or contesting the charge in writing, known as trial by written declaration. Under trial by written declaration, if the individual is dissatisfied with the decision, he or she can contest the charges in court, with the court deciding the case as if the trial by written declaration never took place. Currently, courts offer only limited options for handling traffic matters online. As traffic cases are the highest volume case type, providing more options online would benefit thousands of Californians each year. The largest potential for impact is with low-income Californians who may be unable to pay all of the fines and fees assessed with their infraction.

**Criminal fine and fees assessments.** Upon conviction of a criminal offense (including traffic cases), trial courts typically levy fines and fees upon the individual. Individuals may request the court to consider their ability to pay. Judges can reduce or waive certain fines and fees or provide an alternative sentence (such as community service in lieu of payment). Individuals who plead guilty or are convicted and required to pay fines and fees must either provide full payment immediately or set up installment payment plans with the court or county collection program. If the individual does not pay on time, the amount owed becomes delinquent. State law then authorizes collection programs to use a variety of tools or sanctions (such as wage garnishments) to motivate individuals to pay the debt. Collected revenues support various state and local programs.

**Commission on the Future of California's Court System.** The Chief Justice's Commission on the Future of California's Court System identified strategies to effectively adjudicate cases, achieve greater fiscal stability for the branch, and use technology to enhance the public's access to the courts.

**Pilot details.** With funding from this proposal, California will pilot a process for offering people an option other than coming to court or suffering significant financial hardship if they are unable to pay. The online adjudication system would build and expand on the Judicial Council's Price of Justice projects, which includes developing processes for determining ability to pay and adding intelligent chat technology to provide information to traffic violators. This proposal would also build and expand upon existing Judicial Council efforts to adjudicate ability-to-pay determinations for traffic infraction proceedings online in five pilot courts (the Superior Courts of San Francisco, Santa Clara, Ventura, Shasta, and Tulare Counties).

Court users will log on to a website, enter their citation number and be guided through a process of providing financial information a judge will review to consider an adjusted fine or fee. The judicial determination will be emailed back to the court user and a payment or community service plan established and tracked through to completion.

The one-time funding would be used for the development of online interfaces and integration with trial court case management and other systems, while the ongoing funding and requested positions would provide ongoing support and oversight of the program.

***Details of associated trailer bill language.*** Some of the activities that would be tested, according to the Governor’s proposed trailer bill language, include allowing individuals charged with certain traffic infractions to request a continuance, conduct a trial to contest charges rather than appear in court or through a trial by written declaration, and request the court consider their ability to pay fines and fees. To the extent a court offers all of the activities seeking to be tested and a particular individual utilizes all of them, a traffic violation would be adjudicated completely online. Under budget trailer legislation, participating courts would not be required to offer more than one of these activities and would be prohibited from requiring defendants to engage in any of the online activities offered.

Under the proposed budget trailer legislation, the pilot courts may authorize court staff to make the ability-to-pay determinations with the consent of the defendant. However, defendants can request judicial review of any decision made by court staff within ten days of the decision. Pilot courts that offer the trials online would still be required to make trials by written declaration available to defendants. In either case, the defendant would not be permitted to contest the charges in court if dissatisfied with the decision made in the original trial—a departure from existing law for trials by written declaration. Finally, the Judicial Council is required to report to the Legislature no later than December 31, 2021, on the implementation of the pilot.

**LAO Recommendations.** The LAO has three recommendations for this proposal:

1. ***Approve Requested Funding, but on Limited-Term Basis.*** The LAO recommends that the Legislature approve the request, but only provide the \$1.4 million on a four-year limited term basis through 2021-22. This would provide sufficient time for the pilot to operate for a meaningful period and allow the state to assess the pilot. It would also ensure sufficient time to collect the necessary information, as individuals making use of online adjudication may take months to pay the amount they owe or to default on what they owe.
2. ***Require Each Activity Be Tested at Multiple Courts.*** To ensure that the Legislature has sufficient data to assess the impact of each activity that is proposed to be available online, the LAO recommends the Legislature to modify the proposed budget trailer legislation to require that each activity be tested at a minimum of three courts. This would help ensure that each activity is tested on courts with different processes, systems, and court users—which could impact the costs and benefits of each activity. Additionally, the Legislature could consider requiring all activities be implemented at a minimum of two courts in order to measure the overall impact of all of the activities, which would mean that the entire traffic violation was resolved online. This would help determine whether there are any unexpected implementation challenges as well as the benefit of fully adjudicating traffic infractions online.
3. ***Require Judicial Council Submit an Evaluation Report.*** The LAO recommends the Legislature to modify the proposed budget trailer legislation to require the Judicial Council to evaluate the proposed pilot and submit a report to the Legislature by December 31, 2021 on its findings. Specifically, this evaluation should clearly compare and contrast the pilot program with the existing system. This should include an assessment of the costs and benefits of the program to court users by their income levels, as well as each of the individual courts. The evaluation should also include an assessment of how the pilot impacts the total amount of criminal fines and fees assessed, the rate at which individuals complete or stop making payments, and the overall impact on the amount of revenue collected for distribution to state and local governments. Finally, the evaluation report should identify any unexpected obstacles or challenges as well as suggestions for improvement. This proposed evaluation would allow

the Legislature to determine whether to expand the pilot program statewide, as well as whether it should be modified before such an expansion.

**Staff comments:** Staff believes that a pilot program targeted to low-income Californians who may be unable to pay all of the fines and fees assessed with their infraction via an online tool is a worthwhile endeavor. While there are two aspects of this proposal only one, the online adjudication software, has been adequately discussed. Concerns over the variability of this tool's use amongst the pilot courts, variability in the methods that ability to pay is assessed between the five trial courts, and the number of courts participating exist—all of which center on ability-to-pay—remain. More discussions need to be held between stakeholders and the Legislature to decide upon how to address these concerns in trailer bill language.

**Staff Recommendation.** Hold open.

**Issue 20: Self-Help Centers in Trial Courts (BCP)**

**Governor's budget.** The Judicial Council requests an ongoing augmentation of \$19.1 million General Fund beginning in 2018-19 to implement recommendations of the Chief Justice's Commission on the Future of the California Courts regarding self-represented litigants.

**Background.** The California court system is the largest in the nation, with more than 19,000 court employees. It serves a population of about 39 million people - 12.5 percent of the nation. During 2014-15, over 6.8 million cases were filed statewide in the Superior Courts alone. The Courts of Appeal had approximately 23,000 filings and the Supreme Court had 7,868 filings over the same time. Each day, hundreds of Californians form lines outside their county trial courts in order to research or seek information that will enable them to resolve a legal issue on their own, without the cost of an attorney. The majority of these people are seeking a divorce, separation, or resolution of a child-related dispute, such as custody or child support.

Given their lack of familiarity with statutory requirements and court procedures (such as what forms must be filled out or their legal obligations in the potential case), self-represented individuals can be at a legal disadvantage. In addition, trial court staff tend to spend significantly more time processing a self-represented filing than one with legal representation. For example, incomplete or inaccurate paperwork can lead to having to file paperwork repeatedly, to continue or delay cases, or to generate additional hearings. To help self-represented individuals access the court system, the judicial branch offers or partners with other legal stakeholders (such as county law libraries or the State Bar) to provide various programs or services, including self-help centers.

Each of California's trial courts operates a self-help center which serves as a central location for self-represented individuals to educate themselves and seek assistance with navigating court procedures. Attorneys and other trained personnel who staff the centers provide services in a variety of ways (such as through one-on-one discussions, courtroom assistance, workshops, and referrals to other legal resources) for a wide range of issue areas.

In 2004, the Judicial Council approved the Statewide Action Plan for Serving Self-Represented Litigants (plan). Based upon the growth in the number of self-represented litigants coming to California's courts, the plan recommended that court-based, staffed, self-help centers should be developed throughout the state. This was based on evaluations of the family law facilitator program and individual projects as well as a legislatively mandated evaluation of three Family Law Information Centers.

In 2005, an independent report evaluated the five pilot self-help centers that were designed to develop and test best practices in five specific areas of concern. These included coordinating self-help services in small rural courts, services to a Spanish-speaking population, services to a population speaking a range of languages, use of technology to assist self-represented litigants, and coordination and support for services in a large urban community. The evaluation concluded that self-help centers are a valuable method for providing services to people who need access to legal education and information and for improving the quality of justice for litigants.

**Previous Budget actions.** The 2001 Budget Act included \$832,000 annually to support pilot projects in five courts that were designed to develop and test best practices in providing comprehensive self-help services in small rural courts, services to a Spanish-speaking population, services to a population

speaking a range of languages, use of technology to assist self-represented litigants, and coordination and support for services in a large urban community.

As a result of the 2005 evaluation of self-help pilots, the 2005 Budget Act included \$5 million from the State Trial Court Improvement and Modernization Fund (IMF) for self-help assistance. As a first step, the Judicial Council allocated over \$2.5 million in 2005-06 funds for self-help programs. The next year, it allocated an additional \$8.7 million from the judicial branch budget for ongoing funding for courts to start or expand self-help services.

The 2007 Budget Act included \$11.2 million in funding to support self-help services (\$5 million IMF and \$6.2 million Trial Court Trust Fund). All 58 courts are provided a baseline of \$34,000 per year and the remainder is distributed based on population in the county." The baseline was established in response to the research conducted by the California Commission on Access to Justice for their report on Improving Civil Justice in Rural California. The research demonstrated that there is a great disparity in funding per capita for legal services for low-income persons in rural communities throughout California, creating significant inequities in the state.

***Use of 18-19 proposed funding.*** According to the Judicial Branch, the funds would be used to expand the availability of attorneys and paralegal staff at self-help centers in trial courts. This would allow courts to address critical unmet needs in family, domestic violence, as well as civil cases such as landlord/tenant, consumer debt, employment law and small claims where there is often no assistance available. Based on the currently available funding of \$11.2 million and the number of people served annually (over 425,000 people per year), they estimate that if this proposal is approved, the total allotment of funding will provide approximately 1,150,000 people each year with necessary assistance, allowing many of them to settle their cases and resolve their legal problem without having to appear before a judge.

**Legislative Analyst's Office (LAO).** Given that the Governor's proposal would more than double the current funding provided to self-help centers, the proposal could significantly increase self-represented individuals' access to court services, particularly given that trial courts report not being able to provide services to all individuals who visit self-help centers. However, the exact magnitude of the impact would depend primarily on how individual trial courts use the additional funding. As discussed previously, trial courts have flexibility over how they use self-help center funds. This means that trial courts will generally differ in where and how they would use any additional funding.

***Potential State Fiscal Benefit Uncertain.*** This increased service level to self-represented individuals could potentially generate state fiscal benefit according to a limited-scope cost benefit analysis carried out in 2009 by a private contractor using data from six trial courts. This analysis estimated that self-help services generally resulted in net state savings from avoiding at least one hearing and reducing court staff time needed to review and process filings for each case in which self-help services were provided. However, the analysis acknowledged that it was not a comprehensive cost-benefit analysis of the self-help programs at the six trial courts and that it was limited in various ways. Thus, while it is possible that self-help services could result in net state benefit, it is uncertain whether such benefit will *actually* be realized and to what extent.

***Proposed Language Would Increase Legislative Oversight.*** The Governor's proposed budget bill language would increase legislative oversight over the use of self-help funding as it would require that

a certain level of funding is spent annually on self-help services from both the Trial Court Trust Fund and Improvement and Monetization Fund.

**LAO Recommendations.** The LAO has three recommendations:

1. ***Direct the Judicial Council to conduct a cost-benefit analysis.*** The LAO recommends the Legislature to adopt budget trailer legislation directing the Judicial Council to conduct an independent comprehensive cost-benefit analysis of self-help services and provide a report on its findings by November 2020. The Legislature could also authorize the Judicial Council to deduct the costs of such an analysis from the total amount provided for self-help centers. Such costs should not exceed a few hundred thousand dollars annually. A comprehensive analysis is necessary to objectively assess all costs and benefits of self-help services as well as determine which methods of delivering self-help (such as one-on-one services or workshops) are most cost-effective and in which issue areas. This information would then allow the Legislature to determine what level of funding is merited, where the funding should be targeted to maximize state benefit, and whether funding allocations need to be adjusted elsewhere to account for savings created by self-help services.
2. ***Provide Funding Based on Legislative Priorities.*** Until a recommended comprehensive cost-benefit analysis is completed, it is difficult to determine what level of additional funding is warranted and what specific self-help services should be funded (both in terms of additional and existing funding). Given that such an analysis would not be available until November 2020, it seems reasonable to provide some level of additional funding to self-help centers in the interim since they are reportedly turning away individuals seeking assistance. However, the LAO recommends that any additional funding provided be on a limited-term basis through 2020-21—the year in which we recommend that Legislature direct the Judicial Council submit a completed cost-benefit analysis report. As part of this process, the LAO recommends the Legislature to consider questions such as:
  - a. Should Funding Be Targeted to Particular Issue Areas?
  - b. How Can Funding Be Used to Maximize Impact?
  - c. Should Innovation and Efficiency Be Incentivized?
3. ***Approve the LAO's proposed Budget Bill Language.*** The LAO also recommends that the Legislature approve the proposed budget bill language (adjusted for the actual amount provided) as it would ensure that any funding the Legislature decided to provide for self-help services could only be used for that purpose. This increases the Legislature's ability to ensure that such funding is used accountably.

**Staff Recommendation.** Hold open.

**Issue 21: Self-Represented Litigants e-Services Web Portal Spring Letter**

**Governor’s budget.** The Judicial Council proposes a General Fund augmentation of \$3.236 million in 2018-19, \$1.9 million in 2019-20, and \$709,000 ongoing beginning in 2020-21, to design, build, and maintain a statewide Self-Represented Litigants e-Services Web Portal to enable those without legal representation to research, e-file, and track noncriminal cases via an online portal. This proposal also requests four positions at the Judicial Council of California to provide support in administering and maintaining the statewide e-Services Web Portal.

**Background.** Like many other state and federal government agencies, the Judicial Branch is undertaking a digital transformation to bring greater convenience to Californians, greater cost savings and operational efficiencies to the courts, and greater access to the justice system.

This request, attempts to address the needs of the growing number of Californians trying to resolve or litigate cases in court without the cost of hiring an attorney for reasons outlined in Issue 10. In California today, more than four million people each year come to our trial courts without representation. The primary driver behind this number is the inability of many to afford the costs of an attorney.

**Web portal details.** The proposed statewide Self-Represented Litigants e-Services Web Portal will provide Californians with a central, one-stop shop for legal and procedural information to better prepare and educate court users about preparing for court. The portal will integrate with trial courts across the state and provide seamless connectivity to trial court sites, to enable site visitors to conduct document assembly and e-filing, wherever available. Californians will be able to establish online user accounts to save and retrieve documents at any time. Moreover, when unsure about a next step, a real-time chat engine would attempt to answer questions and prompt next steps. Funding will also support integration with existing document assembly programs, identity management solutions, and e-filing systems at local trial courts throughout the state.

**Legislative Analyst’s Office (LAO).** At this moment, there are no published assessments from the LAO

**Staff comments.** At the moment, LAO assessment is not available but further discussion on this proposal and the other self-help service proposal is needed. Both proposals seek to address the same issue-- the inability of many to afford the costs of an attorney—and thus seem to be related; If this web portal is successful, then the number of people who access self-help centers could reduce. The opposite could also be true. More discussions are needed on the proper funding that could be dedicated to both given the potential for both being interconnected.

**Staff Recommendation.** Hold open.

**Issue 22: County Law Libraries**

**Proposal.** This proposal requests a one-time allocation of \$16.5 million for County Law Libraries to account for the difference between civil filing fee revenue in 2009 and currently.

**Background.** The California Judicial Council has reported that 75 percent of civil cases nationally, and more than 80 percent of family law matters in California, involve at least one self-represented litigant. Many self-represented litigants in California cannot afford representation. The cost of hiring a private attorney is simply prohibitive for the majority of Californians. Legal aid, pro bono organizations and court-based self-help centers assist but can only address a very small portion of the need (and only a small portion of those in need are even eligible, because of income and subject matter limitations). The County Law Library system- the libraries provide needed and necessary access to legal information for Californians who are without the means to hire a lawyer and would be without help but for their local public law library.

In 1891 the State of California, recognizing the need for free public access to legal information, authorized the formation of county law libraries in all 58 counties and provided for their funding via civil filing fees. Up until 2005, the Legislature provided for local control over library revenue by periodically authorizing County boards of supervisors to increase filing fees to enable law libraries to fulfill their defined mission. From 1994 to 2005, 75 percent of all counties used this authority to raise the local law library portion of the civil filing fee to maintain an adequate level of funding and public access to legal resources. However, the Uniform Civil Fee and Standard Fees Schedule Act of 2005 (UCF) established a schedule for trial courts across the state and provided a sunset to the authority of counties to adjust filing fees.

Over 90 percent of County Law Library funding comes from a small portion of civil filing fees (ranging from \$2 to \$50 per case, depending on the county and type of case). Funding from the State needed since the civil filing fee revenue that County Law Libraries depend on has dropped precipitously since 2009-a drop of nearly 40 percent. A one-time allocation would assure that County Law Libraries can remain open, and therefore continue and expand the vital services they provide to Californians, while simultaneously providing time to determine an ongoing, future, stable funding source for County Law Libraries. Despite the reduced funding from revenue, the County Law Libraries respond to 500,000 in-person visits, 150,00 public computer sessions, and 2.3 million website visits per year.

The additional funds requested would be used by County Law Libraries to serve vulnerable populations and rural communities, address disaster preparedness and response and provide service for non-English speakers, especially in areas of immigration, workforce-reentry and housing.

**Staff Recommendation.** Hold open.

**Issue 23: Update on Collaborative Courts**

**Background.** Collaborative justice courts-also known as problem-solving courts- combine judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery to reduce recidivism and improve offender outcomes.<sup>3</sup>

Examples of collaborative justice courts are community courts, domestic violence courts, drug courts, DUI courts, elder abuse courts, homeless courts, mental health courts, reentry courts, veterans' courts, and courts where the defendant may be a minor or where the child's welfare is at issue. These include dating/youth domestic violence courts, drug courts, DUI court in schools' program, mental health courts, and peer/youth courts.

**History.** In January 2000, then Chief Justice Ronald M. George appointed the Collaborative Justice Courts Advisory Committee to explore the effectiveness of such courts and advise the Judicial Council about the role of these courts in addressing complex social issues and problems that make their way to the trial courts. Formation of the committee expanded the scope of the Oversight Committee for the California Drug Court Project, which was appointed by Chief Justice George as of July 1, 1996, and continued until December 31, 1999. On August 3, 2000, the Conference of Chief Justices and the Conference of State Court Administrators passed a resolution to support collaborative justice courts.

**Staff Recommendation.** This is an informational item. No action is to be taken.

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<sup>3</sup> Citation: <http://www.courts.ca.gov/programs-collabjustice.htm>

**Issue 24: Deferral of Sentencing Trailer Bill Language**

**Proposal.** This proposal makes the deferral of sentencing program that was piloted in L.A., through AB 2124 (Lowenthal) Chapter 732, Statutes of 2014, but sunset in January 1, 2018, permanent and applicable statewide through trailer bill language.

**Background.** Deferred entry of judgment (DEJ) allows a judge to accept a defendant's guilty plea, hold that plea in abeyance, and then set-aside the plea and dismiss the case upon completion of certain conditions (i.e., community service, counseling, etc). In California, a conviction does not occur until judgment gets entered. Because judgment does not get entered in DEJ cases, a participant does not end up with a conviction. The benefits of resolving cases this way are:

- **Reduced recidivism.** When first-time, low-level offenders are offered the opportunity to leave their encounter with the justice system without a criminal conviction, they have heightened incentive to maintain their clean record prospectively and avoid reoffending.
- **Avoidance of collateral consequences.** When a defendant is convicted, even if the conviction is subsequently expunged, he/she faces a lifetime of debilitating collateral consequences (i.e., state licensing, employment, housing, deportation, etc). With DEJ, a judge has the discretion to spare a first-time offender, who has made a low-level mistake, from such consequences.
- **Cost savings.** The court system saves money with DEJ through avoided court appearances and jury trials. Currently, many low-level, first-time offenders invoke their right to have a jury trial because it is not the sentence after trial that they fear, it is the fact of the conviction itself that they seek to avoid.

Currently, there are various diversion programs that a person arrested for and charged with a crime is diverted from the prosecution system and into a rehabilitation or restorative justice program.

**Previous legislation.** AB 2124 allowed a judge to order a defendant who has submitted a plea of guilty or nolo contendere to misdemeanor diversion over the objection of the prosecuting attorney. Prior to the enactment of AB 2124 judges did not have the discretion to offer diversion over a prosecutor's objection to a defendant. AB 2124 passed the legislature and was signed into law by the Governor, going into effect on January 1, 2015. However, the legislation sunset on December 31, 2017.

**Staff Recommendation.** Hold Open

<b>Issue 25: Capital Outlay January BCPs</b>
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**Governor's budget.** The budget proposes using approximately \$1.3 billion in General Fund-backed lease revenue bonds to complete construction on the next ten courthouse projects that are ready to proceed. Namely, the budget proposes the following schedule: Imperial, Riverside/Indio, Shasta, Siskiyou, and Tuolumne will begin in 2018-19 and Glenn, Riverside/Mid-County, Sacramento, Sonoma and Stanislaus will begin in 2019-20. Specifically, the 2018-19 budget requests the following:

Proposal	Project	2018-19 Amount	Total Project Costs
	Lease Revenue Bond Funding:		
1	Imperial - El Centro Courthouse	\$ 41,944,000.00	\$ 49,944,000.00
2	Riverside - Indio Juvenile and Family Courthouse	\$ 45,327,000.00	\$ 54,118,000.00
3	Shasta - Redding Courthouse	\$ 138,763,000.00	\$ 160,357,000.00
4	Siskiyou - Yreka Courthouse	\$ 59,203,000.00	\$ 68,950,000.00
5	Tuolumne - Sonora Courthouse	\$ 57,722,000.00	\$ 66,434,000.00
Immediate and Critical Needs Account:			
6	Riverside - Mid County Civil Courthouse	\$ 5,666,000.00	\$ 91,280,000.00
7	Sonoma - Santa Rosa Criminal Courthouse	\$ 11,252,000.00	\$ 186,354,000.00
8	Stanislaus - Modesto Courthouse	\$ 15,252,000.00	\$ 279,353,000.00

**Background.** The judicial branch's two primary court construction funds, State Court Facilities Construction Fund (SCFCF), established in 2002, and the Immediate and Critical Needs Account (ICNA), established in 2008, receive funding from fees and penalty assessments. The Governor's budget projects a SCFCF fund balance of \$365 million for 2018-19. The budget also assumes \$161 million in expenditures from that fund in 2018-19. For ICNA, the proposed budget projects a \$431 million fund balance in 2018-19 and proposes expending \$263 million in ICNA funds. Both funds are discussed in more detail below.

**Recession-Era Funding Solutions.** During the recent recession, the judicial branch, like most areas of state and local government, received a series of significant 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. Among the solutions were a series of transfers from funds used for court construction totaling approximately \$903 million to date. For example, in 2011-12, the Legislature approved the transfer of \$143 million from ICNA and \$70 million from SCFCF to the Trial Court Trust Fund (TCTF). In addition, in 2012-13 \$240 million in ICNA funds and \$59.5 million in SCFCF funds were transferred to the TCTF and in 2013-14 an additional \$50 million from ICNA was transferred to both the TCTF. Additionally, these funds also provided \$550.3 million in transfers to the General Fund to help address reductions in its availability during the recession. Also, both funds also loaned \$440 million to the General Fund (\$350 million SCFCF and \$90 million ICNA). The SCFCF loan has been repaid and the ICNA loan is scheduled to be repaid in 2021-22. Finally, despite the end of the recession, the state continues to transfer \$50 million in ICNA funds and \$5.5 million in SCFCF to the TCTF for trial court operations each year. The long-term impact of these recession-era funding decisions and the funds' continued support of trial court operations is that absent some sort of action, both funds will become insolvent in the near future.

**State Trial Court Facilities Construction Fund.** 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. In addition, this legislation increased criminal fines and civil filing fees to finance \$1.5 billion in lease–revenue bonds to support 14 court facility construction projects.

**Immediate and Critical Needs Account (ICNA).** SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into ICNA to support the construction, renovation and operation of court facilities. Specifically, the legislation increased criminal and civil fines and fees to finance up to \$5 billion in trial court construction projects and other facility-related expenses such as modifications of existing courthouses. The measure also specified that the Judicial Council was prohibited from approving projects that could not be fully financed with the revenue from fines and fees.

In accordance with the legislation, the Judicial Council selected 41 construction projects to be funded from ICNA that were deemed to be of “immediate” or “critical” need for replacement, generally due to the structural, safety, or capacity shortcomings of the existing facilities.

Due to significant reductions in the total amount of revenue available in ICNA as a result of declining court fine and fee revenue and the recession-era transfers discussed previously, between 2011 and 2013 the Judicial Council subsequently chose to cancel four projects (replacing two with renovation projects) and indefinitely delayed another 10. Even with that, the Judicial Council estimated that if all 17 remaining projects that were not canceled or indefinitely delayed completed construction as planned, the ICNA operating deficit would have increased further, reaching nearly \$100 million by 2037–38. As a result, in August 2016, the Judicial Council suspended all 17 remaining construction projects.

ICNA is estimated to receive roughly \$195 million in revenue in 2018-19. The fund currently supports about \$230 million in various commitments on an annual basis. These include: (1) roughly \$100 million in debt–service costs on previously approved projects, (2) \$25 million for facility modification projects, (3) \$50 million for trial court operations to mitigate the impact of prior–year budget reductions, and (4) roughly \$55 million for service payments for the Long Beach courthouse, which grow annually and result from financing the courthouse through a public–private partnership.

**ICNA Projects.** The following table provides the status of the original 41 courthouses selected through the SB 1407 process.

<b>SB 1407 Program - Project Status</b>		
	<b>County</b>	<b>Courthouse</b>
<b>COMPLETED COURTHOUSES</b>		
1	Alameda	New East County Courthouse
2	Butte	New North Butte County Courthouse
3	Kings	New Hanford Courthouse
4	Merced	New Los Banos Courthouse
5	San Diego	New Central San Diego Courthouse
6	San Joaquin	Renovate Juvenile Justice Center Courthouse

7	Santa Clara	New San Jose Family Resources Courthouse
8	Solano	Renovation to Fairfield Old Solano Courthouse
9	Sutter	New Yuba City Courthouse
10	Tehama	New Red Bluff Courthouse
11	Yolo	New Woodland Courthouse
<b>CANCELLED PROJECTS</b>		
12	Alpine	New Markleeville Courthouse
13	Los Angeles	Renovate Lancaster Courthouse
14	Sierra	New Downieville Courthouse
<b>INDEFINITELY DELAYED PROJECTS</b>		
15	Fresno	Renovate Fresno County Courthouse
16	Kern	New Delano Courthouse
17	Kern	New Mojave Courthouse
18	Los Angeles	New Southeast Los Angeles Courthouse
19	Los Angeles	New Glendale Courthouse
20	Los Angeles	New Santa Clarita Courthouse
21	Monterey	New South Monterey County Courthouse
22	Nevada	New Nevada City Courthouse
23	Placer	New Tahoe Area Courthouse
24	Plumas	New Quincy Courthouse
<b>PROPOSED TO BE FUNDED IN THE 2018-19 AND 2019-20 BUDGETS</b>		
25	Glenn	Renovation and Addition to Willows Historic Courthouse, 2019-20
26	Imperial	New El Centro Family Courthouse
27	Riverside	New Indio Juvenile and Family Courthouse
28	Riverside	Addition to Hemet Courthouse
29	Sacramento	New Sacramento Criminal Courthouse, 2019-20
30	Shasta	New Redding Courthouse
31	Siskiyou	New Yreka Courthouse
32	Sonoma	New Santa Rosa Criminal Courthouse
33	Stanislaus	New Modesto Courthouse
34	Tuolumne	New Sonora Courthouse
<b>UNDETERMINED STATUS</b>		
35	El Dorado	New Placerville Courthouse
36	Inyo	New Independence Courthouse (Now Bishop)
37	Lake	New Lakeport Courthouse
38	Los Angeles	New Eastlake Juvenile Courthouse
39	Los Angeles	New Los Angeles Mental Health Courthouse
40	Mendocino	New Ukiah Courthouse
41	Santa Barbara	New Santa Barbara Courthouse

**LAO Recommendation.** While the Governor’s proposal would allow ten specific projects to proceed to construction by effectively backfilling the transfers from SCFCF and ICNA, it does not address key

underlying problems with the state's current trial court construction system. There are two approaches the LAO recommends—one with an alternative system with long-term benefits and another that modifies the Governor's proposal to modify some key issues.

**a) *Recommend Alternative System for Court Construction.*** In order to effectively address these issues, the LAO recommends that the Legislature consider an alternative approach to trial court construction. Their recommendation would generally overhaul the existing system by eliminating the two construction accounts, shifting full responsibility for funding trial construction projects to the General Fund, and increasing legislative input on funded projects. The key features of the LAO's proposed approach include:

- ***Shift Funding Responsibility for Trial Court Construction to the General Fund.*** Given the instability of the civil and criminal fine and fee revenue deposited into SCFCF and ICNA, the LAO recommends that all current and any future trial court construction projects be funded from the General Fund. This would help ensure that the number of projects approved and completed is determined by the Legislature rather than the amount of revenue available in SCFCF and ICNA. It also would help ensure that the Legislature is fully informed of the potential impact on the General Fund before approving any projects. Additionally, this shift would help ensure that existing debt obligations are addressed. However, this would now require trial court projects to compete with other General Fund priorities—which could mean that no projects move forward in certain years.
- ***Shift SCFCF and ICNA Revenues to General Fund.*** To partially offset the costs of the debt service shifted to the General Fund, the LAO recommends the Legislature to change state law to deposit criminal and civil fines and fees, as well as any other revenue, that would otherwise have been deposited into the SCFCF and ICNA, into the General Fund. They note that, due to legal limitations on the way the revenues can be used, the civil fee revenue may need to be deposited into the TCTF for the support of trial court operations with a corresponding reduction in the total amount of General Fund support transferred to the TCTF.
- ***Shift Non-construction Related ICNA and SCFCF Expenditures to General Fund.*** In view of their recommendation to shift all SCFCF and ICNA revenues into the General Fund, the LAO also recommends the Legislature to appropriate \$159 million annually from the General Fund to maintain funding levels for the non-construction related purposes which currently receive support from SCFCF and/or ICNA. Specifically, the LAO recommends appropriating: (1) \$65 million for facility modification projects, (2) \$55.5 million for the support of trial court operations, and (3) \$38.6 million to support judicial branch facility-related personnel costs and operating expenses.
- ***Appropriate Funding for Construction Projects Based on Legislative Priorities.*** Under the LAO's alternative approach, the Legislature would determine which specific projects to fund based on its priorities, which may or may not include any of the projects proposed by the Governor. To help the Legislature in its deliberations, the LAO recommends that the Judicial Council be required to reassess trial court facility needs, as project needs may have changed since its last assessment more than a decade ago. This could potentially result in a different list of projects than currently proposed by the judicial branch. The Legislature could also direct the judicial branch to include certain factors it believes should be considered, such as how much longer the building could potentially last without violating health standards.

- b) **Modify Governor's Proposal to Address Some Key Issues if Existing System Is Maintained.** To the extent the Legislature would like to maintain the existing court construction system, we recommend modifying the Governor's proposal to address some of the concerns the LAO raised about the proposal.
- **Consolidate SCFCF and ICNA.** The LAO finds that there is no rationale for needing to maintain two separate trial court construction accounts. With both accounts currently projected to become insolvent in the next few years, monitoring a single account makes it easier to track how much total revenue is available to meet existing obligations and how much General Fund would likely be needed to backfill the decline in revenue.
  - **Appropriate Funding for Trial Court Operations From General Fund Rather Than Construction Accounts.** The LAO recommends the Legislature to terminate the current court construction transfers to support trial court operations—\$5.5 million from SCFCF and \$50 million from ICNA—and instead appropriate \$55.5 million from the General Fund for trial court operations.
  - **Provide New Construction Account With \$102 Million General Fund Annually for 25 Years.** The Governor's proposal effectively backfills funds that were transferred from the construction accounts that could have been used to construct new projects. As such, the LAO recommends transferring from the General Fund to a consolidated construction account an amount equal to the amount included in the Governor's proposal—\$102 million annually for 25 years—but require the Judicial Council to ensure that all existing debt service obligations (and other non-construction facility-related obligations) are addressed before using the revenue to finance any new projects. At minimum, this action—combined with the other recommendations—would likely ensure that the construction account remains solvent to the extent that fine and fee revenue does not continue to decline significantly.
  - **Direct Judicial Branch to Submit Long-Term Fund Condition Statement With Each Construction Funding Request.** In order to ensure that the Legislature has sufficient information to determine whether a proposed project should begin or continue to move forward, the LAO recommends the Legislature to direct the judicial branch to submit a long-term fund condition statement for the construction account with each construction funding request.
  - **Direct Judicial Council to Reassess Trial Court Facility Needs.** A reassessment of trial court facility needs would help the Judicial Council determine whether the proposed projects have the greatest needs under the judicial branch's existing system for assessing needs. This updated assessment could also be considered by the Legislature when determining whether to approve subsequent construction budget requests.

**Staff Recommendation.** Approve as budgeted.

**Issue 26: Capital Outlay Spring Letters**

**Spring Letters.** The Administration has submitted an Spring Letters requesting the following capital outlay augmentations for the Judicial Branch:

1. **San Joaquin County: New Stockton Courthouse.** The Judicial Council requests a re-appropriation from the Public Building Construction Fund to extend the liquidation period of the construction phase of the San Joaquin County—New Stockton Courthouse to June 30, 2019. This extension will allow the Judicial Branch to make the final payments for this project totaling approximately \$1,570,000. Construction of this project is complete; however, there is a possibility of a delay in payments for design modifications made during construction. The extension of liquidation is necessary so the Judicial Council can continue to make payments for this project.
2. **Alameda County: East Hall of Justice Data Center.** The Judicial Council requests a re-appropriation of \$1,576,000 from the Immediate and Critical Needs Account (ICNA, Fund 3138) for the Preliminary Plans (\$1,000), Working Drawings (\$52,000), and Construction (\$1,523,000) phases of the Alameda County - East County Hall of Justice Courthouse Data Center due to delays in executing the necessary contract with the county to provide the funds for this effort. The County constructed the Alameda Courthouse project and will fund this data center out of savings from that project. The Courthouse was completed in May 2017, but a few outstanding bills need to be processed before the Courthouse project accounts can be closed and the savings can be transferred to the Judicial Council for this project.

**Legislative Analyst’s Office (LAO).** The LAO raised no concerns with these proposals

**Staff Recommendation.** Approve both Spring Letters as proposed.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, April 19, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

## OUTCOMES

<u>Item</u>	<u>Department</u>	<u>Page</u>
	<b>Vote-Only Items</b>	
<b>0250</b>	<b>Judicial Branch</b>	
Issue 1	Advancing the implementation of the Strategic Plan for Language access in the California Courts <b>Approve as budgeted: 3-0</b>	3
Issue 2	Court Appointed Special Advocate grants program <b>Approve as budgeted: 3-0</b>	3
Issue 3	Collective Bargaining: Judicial Council (AB 83) <b>Approve as budgeted: 2-1</b>	3
Issue 4	Court Fee Sunset Extension Trailer Bill Language <b>Approve as budgeted: 2-1</b>	3
Issue 5	Lease Revenue Budget Bill Language <b>Approve as budgeted: 3-0</b>	3
Issue 6	Amendment to Riverside County: New Mid-County Civil Courthouse Spring Letter <b>Approve as budgeted: 3-0</b>	4
<b>0820</b>	<b>Department of Justice</b>	
Issue 7	Registry of Charitable Trusts - Delinquency Compliance <b>Approve as budgeted: 3-0</b>	4
Issue 8	Bureau of Children's Justice <b>Approve as budgeted: 3-0</b>	4
Issue 9	Immigration Data Governance (SB 54) <b>Approve as budgeted: 2-1</b>	4
Issue 10	Nonprofit Health Facilities: Sale of Assets (AB 651) <b>Approve as budgeted: 3-0</b>	4

Issue 11	Firearm Violence Research Center: Gun Violence Restraining Orders (SB 536) <b>Approve as budgeted: 2-1</b>	5
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### Discussion Items

<b>0820</b>	<b>Department of Justice</b>	
Issue 12	Update by Attorney General Xavier Becerra <b>Informational</b>	6
Issue 13	Armed Prohibited Persons System (APPS) <b>Oversight Item</b>	8
Issue 14	Antitrust Workload <b>Held Open</b>	13
Issue 15	Bureau of Gambling Control-Third-Party Providers Workload <b>Held Open</b>	15
Issue 16	Tax Recovery and Criminal Enforcement (TRaCE) Task Force Augmentation <b>Held Open</b>	18
Issue 17	Rape Kit Testing <b>Held Open</b>	19
<b>0250</b>	<b>Judicial Branch</b>	
Issue 18	Chief Justice’s Budget Priorities <b>Held Open</b>	21
Issue 19	Pilot Project for Online Adjudication of Traffic Violations <b>Held Open</b>	24
Issue 20	Self-Help Centers in Trial Courts <b>Held Open</b>	27
Issue 21	Self-Represented Litigants e-Services Web Portal Spring Letter <b>Held Open</b>	30
Issue 22	County Law Libraries <b>Held Open</b>	31
Issue 23	Update on Collaborative Courts <b>Informational</b>	32
Issue 24	Deferral of Sentencing Trailer Bill Language <b>Held Open</b>	33
Issue 25	Capital Outlay January BCPs <b>Held Open</b>	34
Issue 26	Capital Outlay Spring Letters <b>Approve as proposed: 2-0 (Anderson absent)</b>	39

### Public Comment

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# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



**Thursday, April 26, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**  
Consultant: Anita Lee

**Items Proposed for Vote Only**

<b><u>Item</u></b>	<b><u>Department</u></b>	<b><u>Page</u></b>
<b>7100</b>	<b>Employment Development Department</b>	
Issue 1	Implementation of Legislation	3
Issue 2	Benefit Systems Modernization	4
<b>7350</b>	<b>Department of Industrial Relations</b>	
Issue 3	Implementation of Legislation	6
Issue 4	Schools' Occupational Injury and Illness Prevention Programs	7
Issue 5	Division of Labor Standards Enforcement Recruitment and Administrative Services	8
Issue 6	Apprenticeship Program for Nontraditional Industries	9
<b>7501</b>	<b>Department of Human Resources</b>	
Issue 7	Trailer Bill Language for State Retiree Census Data	12
Issue 8	Statewide Human Resources Workload	13
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Issue 10	Enterprise Data Strategy	18
<b>7503</b>	<b>State Personnel Board</b>	
Issue 11	Administrative Services Workload	20
<b>7920</b>	<b>California State Teachers' Retirement System</b>	
Issue 12	Internal Investment Management	21

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**Items Proposed for Discussion**

<b>0511</b>	<b>Government Operations Agency</b>	
<b>7501</b>	<b>Department of Human Resources</b>	
Issue 13	Civil Service Improvement Trailer Bill Language	23
<b>7120</b>	<b>California Workforce Development Board</b>	
Issue 14	Prison to Employment Initiative	27
<b>7320</b>	<b>Public Employment Relations Board</b>	
Issue 15	Workload Oversight Item (Informational)	33
<b>7350</b>	<b>Department of Industrial Relations</b>	
Issue 16	Victims of Wage Theft - Restitution Funds	35

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**ITEMS PROPOSED FOR VOTE- ONLY****7100 EMPLOYMENT DEVELOPMENT DEPARTMENT****Issue 1: Implementation of Legislation**

**Summary.** The Employment Development Department (EDD) requests \$280,000 from the EDD Contingent Fund in 2018-19 to implement the requirements of Assembly Bill 677 (Chiu), Chapter 744, Statutes of 2017, and Senate Bill 396 (Lara), Chapter 858, Statutes of 2017, which relate to employment and gender identity and data collection.

**Background**

- Assembly Bill 677 (Chiu), Chapter 744, Statutes of 2017. This bill expanded the list of state entities currently required to collect voluntary self- identification information on sexual orientation and gender identity to include various education and employment-related state agencies. Funds will be used to implement changes to the CalJOBS system to collect and report sexual orientation and gender identity data. Additionally, this will help staffing costs for two full-time positions to revise policies and procedures, update forms, and conduct Equal Employment Opportunity training on data collection activities.
- Senate Bill 396 (Lara), Chapter 858, Statutes of 2017. This bill required employers with 50 more employees to include, as a part of the existing sexual harassment training, training on harassment based on gender identity and adds transgender and gender nonconforming to the list of individuals facing employment barriers for the purposes of workforce investment training.

**Staff Recommendation.** Approve as proposed.

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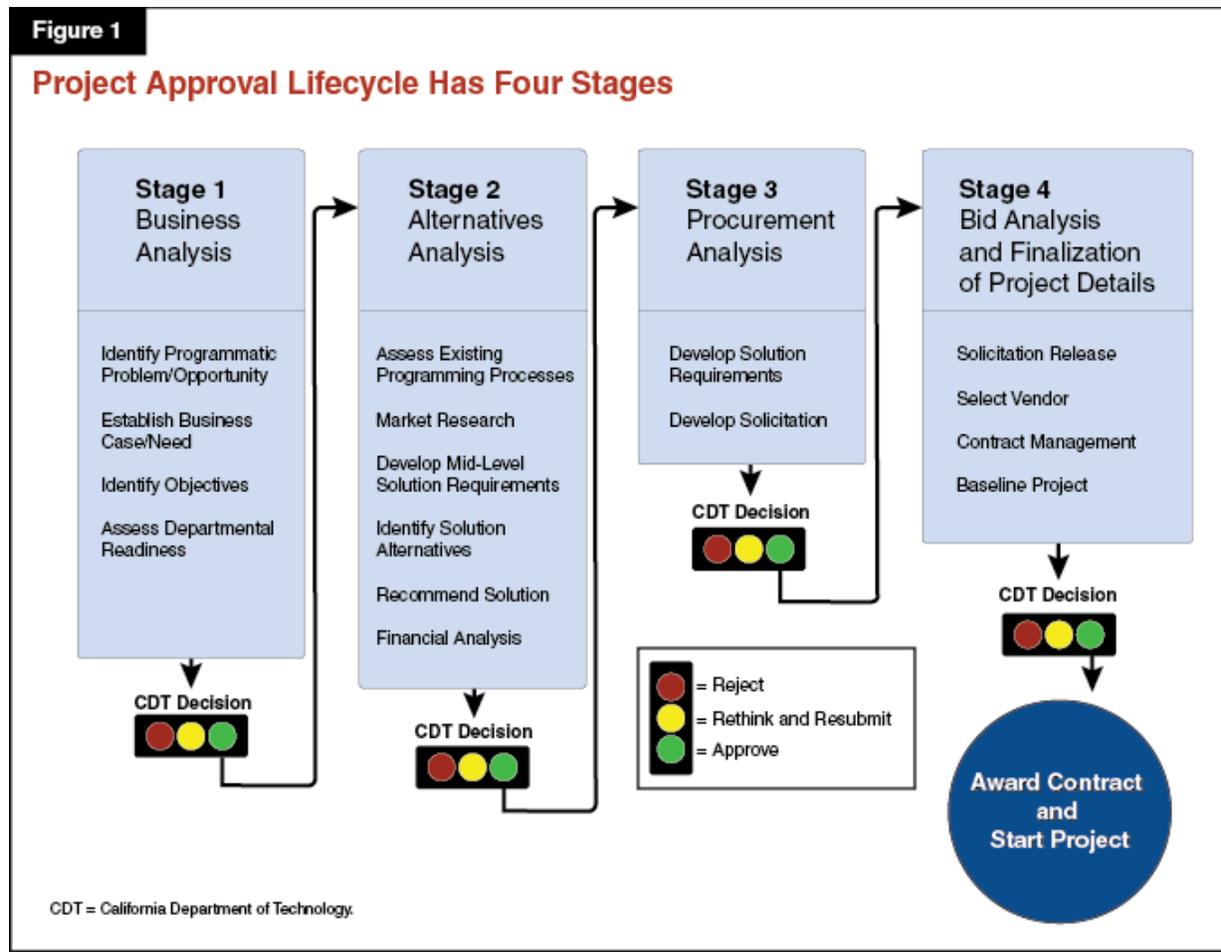
**Issue 2: Benefit Systems Modernization**

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**Summary.** The Employment Development Department (EDD) requests a one-time augmentation of \$4 million from the Unemployment Compensation Disability Fund and the EDD Contingent Fund, and 15 Personnel Equivalents (PEs) and a redirection of \$4.5 million and 19 PEs in 2018-19 for continuing the Project Approval Lifecycle (PAL) tasks and pre-implementation readiness initiatives for the Benefit Systems Modernization (BSM) project. The resources will primarily be for: state staff, requirements vendor, California Department of Technology (CDT) services, Independent Verification and Validation services, contract and procurement development services, and data conversion readiness to continue activities towards implementing an integrated, secure and sustainable Benefits System to service California claimants seeking unemployment, disability or paid family leave benefits.

**Background.** The EDD administers several multi-billion dollar benefit programs, including the Unemployment Insurance (UI), Disability Insurance (DI), and Paid Family Leave (PFL) programs that provide financial stability to workers and communities. These three independent, non-integrated benefit systems all rely to varying degrees on an aging mainframe, Common Business Oriented Language (COBOL)-based system, as well as legacy external sub-systems and components. These disparate benefit system databases reside on different technological platforms making it very complex, expensive, and difficult to maintain. In addition to the many technology challenges, recruitment and retention of staff with the COBOL skillset is increasing difficult as there is a diminishing base of staff with COBOL system knowledge. Additionally, the EDD's customers experience a lack of consistency when utilizing the various benefit systems, certain customer groups cannot utilize online services and must submit information manually or through contacting an EDD representative. This could lead to delays in processing claims or confusion with various systems.

Most state IT projects are required to go through the Project Approval Lifecycle (PAL), a four-stage planning process overseen by the California Department of Technology (CDT). The process begins with an agency identifying a programmatic problem or opportunity and ends with bidding the project and finalizing IT project details. Once a project has completed the fourth stage, the agency may execute the project. The CDT continues to provide project oversight during and after project execution.



The BSM project seeks to create one benefit system to automate many UI, DI and PFL claim filing processes that are done manually, as well as eliminate need for IT staff to support multiple applications. The goal is to create a user friendly experience with online self-service options for EDD’s benefit customers. The Administration anticipates substantial ongoing savings after full systems replacement.

These savings would derive from automating many Unemployment Insurance (UI), Disability Insurance (DI) and Paid Family Leave (PFL) claim filing processes that are currently done manually as well as eliminating the need for Information Technology (IT) staff to support existing legacy mainframe applications and some vendor costs.

The 2017 budget provided one-time \$4 million in special funds, and 15 positions, and a redirection of \$3.16 million in special funds and 15 positions in 2017-18 to complete stage two of the project approval lifecycle for its BSM. The Administration proposes to continue this effort for stage three of the PAL process for procurement and development and to begin the system integrator procurement. The Administration estimates that stage three will be completed by December 2018, and stage four will be completed by July 2021.

**Staff Recommendation. Approve as proposed.**

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**7350 DEPARTMENT OF INDUSTRIAL RELATIONS****Issue 3: Implementation of Legislation**

**Summary:** The Governor's budget proposes to fund the implementation of various chaptered legislation with special funds.

**Background**

- Assembly Bill 581 (McCarty), Chapter 533, Statutes of 2017 – Apprenticeship Training Funds: The Department of Industrial Relations (DIR) requests \$143,000 Apprenticeship Training Contribution Fund and one position in 2018-19 and \$130,000 ongoing to implement and meet the ongoing requirements AB 581. AB 581 requires an apprenticeship program to keep adequate records that document the expenditure of grant funds from the California Apprenticeship Council to be eligible to receive such funds. The bill also requires those apprenticeship programs to make all records available to the DIR.
- Senate Bill 306 (Hertzberg), Chapter 460, Statutes of 2017 – Retaliation Enforcement: DIR requests \$623,000 Labor Enforcement and Compliance Fund and three positions in 2018-19 and \$585,000 ongoing to implement and meet the ongoing requirements of SB 306. This bill grants the Labor Commissioner authority to seek an immediate and temporary injunction when workers face retaliation for reporting violations of the law. SB 306 gives the Labor Commissioner authority to issue citations and penalties directly to enforce retaliation claims, rather than exclusively through the courts. This bill authorizes an employee who is bringing a civil action for a retaliation claim to seek injunctive relief from the court.
- Assembly Bill 450 (Chiu), Chapter 492, Statutes of 2017 – Immigration Worksite Enforcement Acts: DIR requests \$1.6 million Labor Enforcement and Compliance Fund and eight positions in 2018-19 and \$1.5 million ongoing to meet the ongoing requirements AB 450. This bill prohibits an employer from providing access to a federal government immigration enforcement agent to any non-public areas of a place of labor if the agent does not have a warrant. This bill authorizes the Attorney General and Labor Commission the ability to enforce the bill, and to create a template for these notice requirements, among others.

**Staff Recommendation:** Approve as proposed.

<b>Issue 4: Schools' Occupational Injury and Illness Prevention Program</b>
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**Summary:** The Department of Industrial Relations (DIR) requests \$250,000 Workers' Compensation Administration Revolving Fund in 2018-19, 2019-20 and 2020-21 to allow the Commission on Health and Safety and Workers' Compensation to assist schools in establishing effective occupational Injury and Illness Prevention Programs (IIPP) by expending monies that can only be utilized for this purpose.

**Background.** Pursuant to existing law, the Division of Occupational Safety and Health (Cal/OSHA) related civil or administrative penalties assessed to school districts, state universities, or other specified educational facilities are deposited into the Revolving Fund. Educational facilities may apply for a refund of their penalties within two years and six months from the date of the violation if certain conditions are met. The remaining funds are to be used by the Commission to assist schools in establishing effective occupational injury and illness prevention programs. The Revolving Fund has accumulated approximately \$1 million and can now be utilized to provide training and/or other assistance to more school districts.

The Governor's budget proposal would allow the Commission to both offer grants to high-risk school districts and/or do an interagency contract to expand the School Action for Safety and Health Program (SASH). The SASH program provides free trainings to help school districts reduce the high rate of work-related injuries and illnesses among school employees. Once trainees complete the training, they are certified by the University of California and the Commission as SASH coordinators, allowing them to develop, implement, and evaluate injury and illness prevention activities. The SASH program provides educational materials, planning templates, and other tools to help efficiently develop their IIPPs. The SASH program conducts about seven trainings each year, and has reached 700 staff members from 268 school districts.

The budget proposal would allow for additional trainings, webinars, delivering a training of trainers program to the Joint Powers Authorities (JPAs) that insure school districts in California in order to prepare their risk managers/trainers to deliver the SASH training to the employees in their districts. The Administration estimates the following outcomes:

Workload Measure	2017/18	2018/19	2019/20	2020/21
Grants Awarded	0	7	7	7
IIPPs Reviewed	6	12	12	12
Number of participants reached through IIPP trainings	100	200	200	200
Webinars on health and safety topics for school district employees	0	3	3	3
Factsheets on Cal/OSHA standards and other health and safety issues for school employees	1	2	2	2
Training of trainers for JPAs	0	0	3	3
Evaluation Report/Summary of Accomplishments	1	1	1	1

**Staff Recommendation.** Approve as proposed.

**Issue 5: Division of Labor Standards Enforcement Recruitment and Administrative Services**

**Summary.** The Department of Industrial Relations requests \$465,000 Labor Enforcement and Compliance Fund in 2018-19 and \$415,000 ongoing and four positions for the Division of Labor Standards of Enforcement (DLSE) to support staff recruitment and retention, and to satisfy growing administrative needs.

**Background.** The DLSE is responsible for enforcing labor standards, including the adjudication of wage claims, and investigation of retaliation and public works complaints. In recent years, the Division increased its targeted enforcement efforts, and the state provided 51 positions in 2016-17 and an additional 47 positions in 2017-18. However, the administration unit, which performs all support functions for the DLSE, has not grown to meet the increased workload, including adequately supporting the DLSE's program staff.

The administration unit acts as a liaison with DIR's Human Resources unit to oversee the hiring process. The unit also works closely with district offices to monitor performance management, which includes tracking probationary reports, and annual performance appraisal deadlines and prompt completion of staff assessments by program management staff. The unit also manages the office space for the divisions 19 offices located throughout the state. Lastly, the administration unit responds to Public Records Act (PRA) request that district offices receive to ensure prompt processing of records. DIR requests the following positions:

- Recruitment and Retention Resources. DIR requests one additional Staff Services Analyst dedicated to the Division's recruitment efforts, administration of training and mentoring of staff to maintain a strong, current knowledgebase on legislative requirements and processes, in conjunction with the Division-wide onboarding plan the DLSE has established. This position would focus on recruitment, staff development, onboarding, training, and performance management.
- Increased Facilities and Procurement Needs: The Prompt Payment Act requires state agencies to pay each vendor within 45 days of receiving an invoice; however DIR notes that vendor invoices have been consistently late ranging from 30 to 60 days. Additionally, the division has seen late contract renewals ranging between 30 to 60 days. DIR requests two additional Staff Services Analysts to assist with the DLSE facility needs.
- Significant Growth in Number and Complexity of PRA Requests. The PRA requires that public agencies respond within 10 days to any requests for public records. Complex PRA requests, which account for approximately 17 percent of requests, responses take an average of four to six months to prepare. This has led to two lawsuits against the DLSE. DIR requests one Staff Services Analyst to coordinate the DLSE's statewide PRA requests, and serve as a key liaison with the DIR and the public upon the enactment of new legislation.

**Staff Recommendation.** Approve as proposed.

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**Issue 6: Apprenticeship Programs in Nontraditional Industries**

**Summary:** The Department of Industrial Relations requests \$3.5 million Employment Training Fund and 22.0 positions in 2018-19, \$4.5 million and 32.0 positions in 2019-20, \$5.7 million and 42.0 positions in 2020-21, and \$5.6 million ongoing to expand statewide apprenticeship opportunities to nontraditional industries and the inmate population.

**Background**

The Division of Apprenticeship Standards (DAS), within the DIR, is responsible for promoting and developing employment based apprenticeship training programs, improving apprentices' working conditions, and advancing profitable employment opportunities for apprentices. The division accomplishes these objectives by providing consultative services to apprenticeship program sponsors, employers, employee organizations, and education providers.

California's State Strategic Workforce plan calls for creating a million middle-skill, industry-valued and recognized postsecondary credentials between 2017 and 2027 and for doubling the number of people enrolled in apprenticeship programs during that same period. As of June 30, 2017, the Division reports over 74,000 active apprentices. The challenge is to substantially increase the number of apprentices in non-construction sectors and to increase access to an approved apprenticeship program for inmates, ex-offenders, veterans, women and other under-represented communities, in order to achieve the qualitative and quantitative goals of the State Strategic Workforce Plan. Over two-thirds of all active apprentices are in the building and construction trades, and 92 percent of all construction apprentices are enrolled in joint management/labor programs.

The 2017 Budget Act approved six positions and \$923,000 in federal funds to accomplish the objectives of a federal grant to expand and diversify registered apprenticeship, and to begin the expansion and diversification of California's Strategic Workforce Plan. This funding is set to expire in 2018-19. Under the 2017-18 budget, 40 new programs were created, with 20,000 new apprentices, and 133 companies were engaged.

**Governor's Budget Proposal.** The Administration requests the continuance of that initial funding with an ongoing augmentation of 42.0 positions and \$5.6 million annually to be phased-in over a three-year period.

This proposal will build and strengthen a collaborative relationship between DIR, the California Department of Corrections and Rehabilitation (CDCR), the California Prison Industry Authority, and the Labor and Workforce Development Agency (Agency) by collaborating to create apprenticeship programs and on-the-job training certification for inmates prior to release. The goal is to provide inmates with occupational training and industry recognized certifications while in prison to increase their opportunity for job placement or paid apprenticeship programs upon their release, and successful reintegration into society.

This proposal focuses on engaging nontraditional industry leaders in apprenticeship and increase opportunities for veterans, women and low-income groups. Job growth in the state is occurring in the information technology, health care, advanced manufacturing, and transportation/logistics sectors. DIR has collaborated with and will hold round table discussions with Cisco, Salesforce, California Manufacturing and Technology Association, etc. to increase employer awareness of, enthusiasm for and participation in apprenticeship programs.

Labor Agency and DIR will coordinate with the following governmental agencies:

- CDCR: To develop connections between the Department of General Services, other state agencies and the State Building Trades Council to promote hiring of ex-offenders into state civil service as well as local building trades apprenticeship training committees.
- Workforce Development Board: To meet its Federal Workforce Innovation and opportunity Act and AB 554 mandate, align workforce and education program content with the state's industry sector needs, and provide employers with the skilled workforce necessary to compete in the global economy.
- Employment Training Panel: To provide funding support to employers in upgrading the skills of their workers.
- CalHR Civil Service Initiative team: To craft apprenticeship programs for civil service occupations where skill gaps exist.

The proposal will create opportunities for new and emerging industries by utilizing a creative approach to program design and deployment, which reflects a consensus among government, businesses, and labor about the value of apprenticeship to industry growth, as well as worker advancement and security. Program objectives are as follows:

- Develop a new understanding of apprenticeship among relevant state agencies.
- Create a parallel system for nontraditional apprenticeship models in information technology, health care, advanced manufacturing, etc.
- Ensure the ability of the Division to accommodate unique needs of each industry sector.
- Refresh the established inmate apprenticeship training program to prepare parolees and ex-offenders to meet criteria for successful job placement.
- Align inmate apprenticeship programs with industry demand. Currently, there are approximately 304 internal inmate continuing education training programs in: automotive repair, machinist, meat cutting, printing, upholstery and others. Through coordination with CDCR, these programs are being formalized as apprenticeship or on-the-job training programs where appropriate.
- Engage businesses in the nontraditional industries, to educate them on the value of hiring well trained ex-offenders through partnership with other governmental agencies (i.e. the Board), or local community colleges, to provide a robust package of resources to employers.
- Promote opportunities for ex-offenders, women, veterans, and those from other under-represented communities.

The Administration estimates the following outcomes associated with the proposal.

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<b>Workload Measure</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>
Number of active apprentices	81,794	87,570	93,346	99,122	104,898
Number of new apprentices enrolled	36,807	39,407	42,006	44,605	47,204
Number of completion certificates issued to graduating apprentices	11,357	13,698	15,204	16,359	17,514
Number of new apprenticeship program applications received	52	100	100	100	100
Number of new apprenticeship programs approved	48	92	92	92	92

**Staff Recommendation.** Approve as proposed.

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**7501 CALIFORNIA DEPARTMENT OF HUMAN RESOURCES (CALHR)****Issue 7: Trailer Bill Language for State Retiree Census Data****Summary**

The Governor's budget proposes trailer bill language that would require the Public Employees' Retirement System (CalPERS) to assist the CalHR by providing retiree names and addresses to CalHR for the purposes of notifying those retirees of eligibility for enrollment into a benefit program, such as dental or vision, offered by CalHR.

**Background**

CalHR administers benefits for active and retired state employees. CalPERS maintains the census data for retired state employees, while the State Controller's Office maintains the census data for active state employees. In order to fulfill its duty to administer benefits for retired state employees, CalHR needs access to the retiree census data maintained by CalPERS. CalPERS has requested that CalHR obtain express legislative authorization to facilitate the provision of the census data. Without this census data, CalHR is unable to contact retired state employees to inform them about the benefits that are available to them. Retired state employees are currently eligible for dental, vision, and group legal benefits offered by the state.

This change would ensure CalPERS can provide the necessary census data to CalHR. The information is limited to the retiree names and addresses, and no sensitive personal information, such as social security numbers, would be exchanged. The information would be used solely for the purpose of notifying retired state employees about eligibility for enrollment into a benefit program offered by the state and any information provided to CalHR would be treated as confidential by CalHR.

**Staff Recommendation.** Approve as proposed.

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**Issue 8: Statewide Human Resources Workload**

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**Summary.** CalHR requests eight positions and \$1.8 million (\$213,000 General Fund, and remainder is reimbursement and special fund) in 2018-19, and \$1.9 million (\$111,000 General Fund, and the remainder is reimbursement and special funds) in 2019-20 and ongoing to address workload in areas of training, retention, and recruitment.

**Background.** The Administration's proposal enables CalHR to follow through on its commitment to fully modernize and improve HR services. The resources will be allocated to the following divisions:

- Workforce Development Division
  - Statewide Training Center - \$759,000 Reimbursement (five Training Officer IIs and one Office Technician-Typing) to increase training and course offerings to meet demand, and to address customer service and administrative support. CalHR lacks a comprehensive IT solution to efficiently administer growing statewide training programs, and much of the operations are currently manual with limited functionality. Currently, CalHR can only meet approximately 48 percent of 2018-19 and 37 percent of 2019-20 projected demand for training.
  - Learning Management System: \$330,000 (\$188,000 General Fund) in 2018-19 and \$150,000 ongoing. This is to create a centralized training record of employees, so that departments can track employees training records as they move to different departments. Additionally, this will help manage the statewide training centers course catalog. Currently, some departments are still using excel systems to track training. This proposal will allow departments' systems to interface with CalHR's system.
  - Statewide Employee Engagement Survey: \$441,000 reimbursement and one position. Last year, the budget provided \$135,000 to create the program, and to procure vendor-hosted survey support for approximately 21 departments or 17 percent of 123 departments. This proposal seeks to expand it to 54 percent of departments in 2018-19 and all departments in 2019-20 ongoing.
- Selection Division
  - Selection Hiring and Consulting: \$136,000 Reimbursement and one position. CalHR's goal is to update selection and hiring practices, making them user friendly while providing for the high user demand necessary to fulfill department hiring needs. The position will help produce online examinations and assessments, and work with external stake holders and departments regarding examinations. The requested staff will be able to dedicate the time necessary to accomplish the goal without redirecting staff from current mission critical duties.
- Executive Office
  - Statewide Multimedia Vendor Services: \$165,000 (\$25,000 General Fund, remainder is reimbursement and special funds). CalHR will establish a contract(s)

for marketing and branding support, video production and other digital media services, to be managed through the Office of the Deputy Director of Communications. With this proposal, CalHR will have the ability to produce statewide recruitment materials to generate interest and drive prospective applicants to want to work for the State of California.

**Staff Recommendation:** Approve as proposed.

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**Issue 9: Merit System Services Program**

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**Summary.** CalHR is requesting an overall reduction of \$944,000 in reimbursement authority and the establishment of 13 permanent positions, both to be phased-in over three years, to assume the duties performed by a vendor, Cooperative Personnel Services (CPS), that currently administers the Merit System Services (MSS) Program on behalf of CalHR:

- Fiscal year (FY) 2018-19: increase of \$207,000 reimbursement authority and establish 7.0 positions.
- FY 2019-20: decrease of \$317,000 reimbursement authority and establish four positions.
- FY 2020-21: decrease of \$834,000 reimbursement authority and establish two positions.

**Background**

The merit systems services (MSS) is a program required by federal law. Since the inception of specified Social Security Act programs in the 1930s, the federal government has conditioned the receipt of federal funding for this program on the state ensuring that both the state and the local agencies involved in administering these programs maintain a merit-based civil service system. Initially, predecessors of the current Department of Social Services and Department of Health Care Services ensured local agency compliance. However, in 1970, the MSS Program was consolidated and transferred to the State Personnel Board (SPB), and in 2014, this responsibility was transferred from SPB to CalHR.

In July 2016, CalHR adopted state regulations known as Local Agency Personnel Standards (LAPS), which permits flexibility in allowing counties to use their own local rules when administering the MSS Program. Under LAPS, many of the functions that a vendor, Cooperative Personnel Services (CPS), had performed on behalf of the MSS Program became the counties' responsibilities. Overall, the revised regulations changed the way business is done in many aspects. This change can be used as a pivotal point in transitioning the program from CPS to CalHR. Since the revision of LAPS, a limited-term position at CalHR was approved in 2016-17 to assess and develop a strategy to transfer back state duties performed by CPS. This limited-term position has been performing management review and analysis to gain a thorough knowledge of CPS' operations by reviewing the operations.

The day-to-day operations of the program are currently conducted by CPS. SPB first contracted with CPS in 1985 and the contract has been renewed regularly thereafter including after the transition to CalHR in 2014. The present contract with CPS expires on June 30, 2018. If the BCP is approved, CalHR will renegotiate this contract with CPS to reflect CalHR assuming the county audit functions in FY 2018-19 and for CPS to continue to administer the MSS Program in counties that have not been approved as independent counties with an overall plan to gradually assume those duties over the next several years (2018-2021).

The work CPS performs on behalf of the MSS Program falls into two broad categories:

1. CPS audits counties that are approved to operate its own merit system, known as Approved Local Merit System (ALMS) counties. The ALMS counties are periodically

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audited to ensure continued compliance with the six federal requirements. Currently, 33 of the 58 counties are ALMS. The remaining 25 counties are known as Interagency Merit System (IMS) counties that fall into the second category of work performed by CPS.

2. CPS provides direct human resource assistance to IMS counties. Currently, the IMS counties are not audited.

**Positions:** In 2018-19, seven positions will assume the audit functions CPS currently performs for 33 counties that have been approved to independently operate their own merit personnel system. The staff members' primary responsibilities will be to perform the following functions:

- Staff Services Manager II (one): This position will direct and implement the MSS Program integration into CalHR, provide ongoing administration of the program, and be responsible for creating a business plan to include goals, objectives, and timeframes for the integration. This will require the manager to conduct detailed research for best practices and innovative business processes. Further, the manager will act as the point of contact for stakeholders, provide general supervision over the staff within the unit, and continuously interpret laws, rules, regulations, and develop policies.
- Associate Personnel Analyst (four): The main responsibilities of these analysts will be to audit the 33 ALMS counties. In addition, they will assist in developing processes and procedures for the audit portion of the program.
- Associate Personnel Analyst (one): The main responsibility of this position will be to study the current operations of CPS and perform project management duties to assist in transitioning the program in-house as efficiently as possible. In addition, the analyst will act as contract manager, and track and monitor integration development schedules. They will also have the responsibility of monitoring the website for incoming appeals.
- Office Technician-Typing (one): This position will serve as support to all MSS program staff. As this is a new unit, the office technician will have a responsibility to assist with the development of office processes and procedures, training materials, and templates. They will format, proofread, and correct grammar/spelling/punctuation for correspondence and reports. In addition to other administrative duties, this position will make travel arrangements, compile, copy, assemble materials, etc.

In 2019–20, CalHR will assume the human resources services functions from CPS for 12 of the 25 IMS counties. The additional staff members' primary responsibilities will be to perform the following functions:

- Staff Services Manager I (one): This position will provide direct supervision over staff responsible for providing the IMS counties human resources services such as recruitment, selection, and human resources consultation.

- Associate Personnel Analyst (three): The primary responsibilities of these analysts will be to provide examination, recruitment, and human resource consultative services to the counties who currently rely on CPS to perform human resources functions.

In 2020–21, CalHR will assume the human resources services functions from CPS for the remaining 13 IMS counties. The additional staff members' primary responsibilities will be to perform the following functions:

- Associate Personnel Analyst (two): The primary responsibilities of these analysts will be to provide examination, recruitment, and human resource consultative services to the remaining IMS counties.

### **Staff Comments**

This proposal would allow CalHR to assume the audit duties and assess the HR duties provided to counties performed by an outside vendor. CalHR has modernized the regulations that guide the MSS Program. This proposal is the first step toward bringing CalHR into compliance with Government Code Section 19130, which discourages state agencies from contracting out for services that could be carried out by state employees.

**Staff Recommendation:** Approve as proposed.

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**Issue 10: Enterprise Data Strategy**

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**Summary.** The Governor's budget includes \$503,000 (\$63,000 General Fund, \$301,000 Reimbursements, \$53,000 Central Services Cost Recovery and \$86,000 Special Fund) and three positions in 2018-19, and ongoing, to address workload resulting from statewide enterprise human resources (Enterprise HR) automation initiatives and support. This effort is in collaboration with the Department of Technology (CDT) and the State Controller's Office (SCO).

**Background**

Enterprise HR is a statewide cross-agency initiative with associated governance co-chaired by the California Department of Human Resources (CalHR) and State Controller's Office (SCO). Today, California's HR processes, procedures and reporting are typically manual across departments. They consist of a collection of disparate systems, built on various technical platforms, with a range of automation maturity. The current systems are not integrated, making reporting across state entities difficult without significant manual effort. Challenges with data sharing and consistency add to the inability to effectively collect, synthesize and utilize state employee history. Current manual efforts result in the duplication of the tasks required to manage employee training, employment, payroll, reimbursements, and other key human resource activities statewide.

Enterprise HR will help define enterprise strategies for addressing these business challenges including, but not limited to, business processes, data, and technology. This will provide solutions for promoting statewide interoperability and data sharing across departments.

CalHR requests resources to establish the enterprise core record (ECR). This project lays the foundation for tracking reporting on all state employees with an employee ID throughout their state career and will be the central location that tracks all employee information for all statewide HR solutions that come on board. The second initiative that began is the statewide learning management solution (LMS) project, which is a part of the CalHR Statewide Human Resources Workload budget change proposal. Currently, the ECR and LMS efforts are underway with CalHR, SCO, and CDT leading these efforts with minimal staff between the participating departments. CalHR owns the majority of the projects on the Enterprise HR initiatives roadmap and without additional resources, CalHR cannot continue to staff these projects going forward.

**Positions:**

- **Data Processing Manger III (1.0):** Currently, CalHR has one project manager that is primarily working on CalHR's ECOS project along with other projects. These initial Enterprise HR efforts will begin with CalHR's CIO as the project manager along with a temporary project manager from CDT. The project requires a project manager to oversee each of these efforts, drive timelines, develop and monitor work breakdown structures, acquire resources, manage scope, risks, and issues, and all other project manager duties necessary.

- **Systems Software Specialist III, Technical (1.0):** CalHR currently does not have an Enterprise Architect (EA) and this effort needs an EA to maintain a consistent enterprise vision, ensure business values, and give direction for all of CalHR's Enterprise HR initiatives. The EA also ensures that CalHR's efforts are in-line technically with all other efforts at CDT, SCO, and any other projects approved by the governance committee. The EA will be responsible for ensuring that a scalable data layer will sit between all of the initiatives and the data store for the core employee record to promote interoperability between systems and keeping a single employee record for all HR systems in the state. These are very large efforts and affect all state departments.
- **Senior Information Systems Analyst (Specialist) (1.0):** The business analyst is also essential to any project to lead process reengineering, elicitation and documentation of requirements, tracking and verifying requirements traceability matrices, testing solutions, documenting workflows, completing PAL stage gate process documentation, and assisting in managing scope. CalHR currently has two primary business analysts that are already working on several different projects and cannot also work on Enterprise HR efforts.

**Staff Recommendation.** Approve as proposed.

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**7503 STATE PERSONNEL BOARD****Issue 11: Administrative Services Workload**

**Summary.** The State Personnel Board (SPB) requests five positions and \$655,000 (\$223,000 General Fund, \$263,000 Reimbursements, and \$169,000 Central Service Cost Recovery) in 2018-19 and ongoing to provide internal administrative resources to assist with equal employment opportunity (EEO) duties, business services support, and manage SPB proceedings.

**Background**

Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated specific functions of SPB and the former Department of Personnel Administration (DPA) into the new Department of Human Resources (CalHR) and transferred SPB's administrative support functions to CalHR. CalHR continues to provide administrative support to SPB and is partially reimbursed for these services. Under the reorganization, SPB maintained authority over appeals, merit system policy, audits and oversight, and classification approval.

CalHR's EEO resources have struggled to provide service to SPB, especially without being located onsite at SPB. CalHR's facilities staff are not always able to address issues in the SPB facility in a timely manner. Having on-site facility staff will alleviate many of the issues that SPB executive staff are currently addressing directly with the Department of General Services or elevating to Government Operations Agency.

SPB is responsible for California's civil service system, ensuring that it is free from political patronage, and that employment decisions are based on merit. Prior to the GRP1 of 2011, SPB had a small unit that prepared and reviewed all board items for submission on the board meeting agenda. Under GRP1, all of SPB's operational and administrative support functions were transferred to CalHR, including the unit that reviewed, vetted, and prepared items to take before the board. Consequently, since July 2012, SPB has been without internal staff to perform this work. CalHR staff have attempted to perform these duties, including recommending which classifications can be consolidated or abolished, devising revision proposals to classification specifications, and preparing other types of board items. Absent SPB's direct management, carrying out those functions has been burdensome, time consuming, and inefficient for both SPB and CalHR.

**Staff Recommendation. Approve as proposed.**

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**7920 CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM**
**Issue 12: Internal Investment Management**

**Summary.** The California State Teachers' Retirement System (CalSTRS) requests \$15.4 million and 58 permanent positions, to be deployed over a five years. These resources will enable CalSTRS to strategically respond to global economic conditions and increased complexity of assets under management at a lower cost through the use of internal management. These resources would be deployed pursuant to Teachers' Retirement Board (TRB) actions as increased assets under management (AUM) demand and as market opportunities and risks are presented.

**Background.** In 1992, voters approved Proposition 162, which amended the California Constitution to give the board of each public pension system authority and fiduciary responsibility for investment of moneys and the administration of the pension system. As a result, the California Constitution makes a pension board the exclusive authority over the investment decisions and administration of its pension system. As of September 30, CalSTRS has a portfolio valued at \$215.3 billion, with the largest amount of assets (\$119 billion) in global equity. As of June 30, 2017 approximately 44 percent of the portfolio is managed internally, with approximately 56 percent managed externally.

In 2010-11, the TRB considered approaches to internal versus external management of assets. The findings concluded that transitioning assets to internal management increases control, transparency and results in a significant cost avoidance from external management fees. Consistent with those findings the TRB adopted the approaches to internal management in June 2011. CalSTRS has steadily increased internal asset management staff with single-year requests approved through the administrative and legislative budget process. While this process has functioned satisfactorily in the past, the increased complexity and competitive nature of the investment markets require additional nimbleness and speed to respond to market opportunities and risks. This proposal's multi-year request provides that flexibility.

The Investment Branch reports to the CalSTRS Chief Investment Officer (CIO) and to the TRB. The CIO oversees about 168 employees. The branch is organized into two major business areas: investment management and business/operational management. CalSTRS' goal is to increase value of assets under internal management, as well as look for cost efficiencies and enhanced returns by bring both public and private asset strategies in-house and reduce reliance on third-party investment managers.

CalSTRS anticipates distributing funding and positions over five years as proposed:

	2018-19	2019-20	2020-21	2021-22	2022-23	Totals
<b>Proposed budget in millions</b>	\$3.4	\$3.1	\$3.2	\$2.9	\$2.9	\$15.4
<b>Proposed staffing</b>	14	12	12	10	10	58

Additionally, the Governor is proposing budget bill language to implement the request:

7920-001-0835—For support of State Teachers’ Retirement System, payable from the Teachers’ Retirement Fund ..... 206,581,000

Schedule:

(1) 6450-Service to Members and Employers ..... 206,581,000

Provisions:

1. Of the amount appropriated in this item, up to \$6,197,000 shall be available for encumbrance or expenditure until June 30, 2021, and shall be available for liquidation until June 30, 2023, upon approval by the Teachers’ Retirement Board and written notification by the State Teachers’ Retirement System to the Controller.
2. **Notwithstanding Provision 1, of the amount appropriated in this item, \$3,400,000 is available for internal investment staff and related expenditures. The Director of Finance may adjust staffing levels and augment this item by an additional \$12,023,000, for a total of \$15,423,000, upon approval by the Teachers’ Retirement Board and written notification to the Department of Finance of the necessity of the adjustment. Within 30 days of making any adjustment to this appropriation 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 chairpersons of the committees of each house of the Legislature that consider appropriations.**

**Staff Recommendation.** Approve as proposed.

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**ITEMS PROPOSED FOR DISCUSSION**

**7501 CALIFORNIA DEPARTMENT OF HUMAN RESOURCES (CALHR)**  
**0511 GOVERNMENT OPERATIONS AGENCY**

**Issue 13: Civil Service Improvement Trailer Bill Language****Presenter**

- Marybel Batjer, Secretary of the Government Operations Agency

**Summary.** The Governor’s proposes trailer bill language to continue advancing the Administration’s civil service improvement efforts.

**Background.** The California Government Operations (GovOps) Agency is responsible for administering state operations including procurement, information technology, and human resources. GovOps oversees various departments, including CalHR, the State Personnel Board, CalPERS, CalSTRS, Office of Administrative Law, California Franchise Tax Board, Department of General Services, and California Department of Technology. Over the last three years, the Administration has proposed trailer bill language and budget change proposals to further its civil service improvement initiative. The goal of the initiative is to produce a modern human resource system that will allow state departments to find and quickly hire the best candidates through a fair and merit-based process.

**Previous Budget Acts.** The 2015-16 budget act adopted various civil service improvements, including (1) consolidating various hiring eligibility list requirements into a single process, under the “Rule of Three Ranks,” which would allow hiring managers to consider all eligible persons whose examination scores result in them being in the top three ranks; (2) Expanding the pool of candidates eligible to compete for a career executive assignment CEA position to include individuals from the private sector; and (3) Reconciling department budgets to help promote greater transparency in how departments develop their support budgets, which include vacant positions, personal services and operating expenses and equipment.

The 2016-17 Budget Act provided CalHR with 16 positions in 2016-17, and 17 positions in 2017-18 to implement civil service improvements. Additionally, the Legislature adopted trailer bill language to modify the exempt appointee reinstatement guidelines, remove the probationary period for individuals who successfully complete the Limited Examination and Appointment Program job examination period and are appointed to a position, among others.

In 2017-18 the Administration again proposed trailer bill language, which proposed significant changes to the civil service process. The proposal included the following: (1) extended the maximum probationary period from six months to one year, (2) removed requirements for when a department may refresh open and promotional eligible lists, (3) removed requirements of information that is included in job announcements, (4) created alternative eligibility lists, (5) created exam demonstration projects, which were different from existing traditional exams, among others. Ultimately, this language was not included in the final budget package.

**Trailer Bill Language.** Staff notes that the Administration published the proposed 2018-19 trailer bill language on April 18, 2018. The committee and policy staff are still reviewing and analyzing the impacts of the proposal. The proposed trailer bill makes various changes to the civil service hiring and examination process, including the following:

- State Personnel Board: Authorizes the SPB to prescribe rules to govern appointments. Currently, SPB does not have this authority under statute, however SPB has passed regulations to give itself this authority.
- Examination: Authorizes CalHR or departments to offer all examinations on a continuous basis. Currently, CalHR or departments can only offer job examinations on a continuous basis if it has difficulty maintaining qualified eligibility lists.
- Promotional Exams: Removes the requirement that an individual can only apply for a promotion if they are on an examination list for the same job classification, and provides SPB the authority to prescribe conditions for promotional examinations and transfers.
- Employee Lists: Eliminates the conditions precedent (conditions that must be met) which currently allows the department to obtain another employment list of the same or higher level class only if an employment list is unavailable for the class in which it belongs. Instead, the proposal would allow the department to obtain another list under any circumstance, as prescribed by SPB.
- Reemployment Lists/Top Three Rankings for Limited Examination and Appointment Program (LEAP): Authorizes a department to merge LEAP lists and regular employment lists.
- Reemployment Lists/Top Three Rankings: Eliminates a department's ability to recruit from candidates who scored lower than rank three should the department not have at least three names in ranks one through three.
- Examination process: Eliminates the requirement for CalHR to approve a qualified candidate, and allows the department to hire candidates directly.
- Permanent Employee Status for Career Executive Assignments (CEA): Specifies that a permanent employee would include a person who was appointed to career executive assignment (CEA) positions and who never competed in civil service exams to obtain permanent civil service status. Under current law, when the assignment is over, the person has no permanent right to a position in state government unless the person has reinstatement rights arising out of previous civil service.
- Departmental Cooperation: Requires SPB and CalHR to cooperate with each other and with DOF, the State Controller, and other agencies to promote efficient and economic administration of the state's business.

**Staff Comments**

In 2015-16, 2016-17, and 2017-18 the Administration proposed civil service improvement reforms through the budget process. In the past, members of the subcommittee noted these proposals may have been better discussed through the policy committee process. As noted above, the Administration published the proposed trailer bill language on April 18th, giving staff, stakeholders, and the public limited time to review and analyze the proposal. Staff questions whether proposed trailer bill language has a budget nexus, or if the proposal may be better suited for policy committee, or in the collective bargaining process. Additionally, it is unclear if these changes are technical, or if there are potential unintended consequences that may impact the merit principle of the civil service system.

Similar to previous years, the Administration notes that many provisions of the proposal would conform statute to SPB rules and regulations. However, staff wonders if such a process is appropriate, or if it is the responsibility and jurisdiction of Legislature to develop statute governing civil service.

Additionally, staff has concerns about the proposal to eliminate “conditions precedent”, which are effectively conditions that must be met before the SPB or the department has authority to do what the statute allows. By eliminating the conditions precedent, the changes give greater authority to essentially exercise wide and general flexibility when the Legislature intended flexibility for narrow exemptions.

Staff also questions the impact on the proposed changes of rankings and eligibility lists. Specifically, under the proposal departments can continually reissue an examination, which may lead to unintended consequences of ignoring candidates who ranked on previous exams, and make the examination process less competitive. Additionally, the proposal eliminates a department’s ability to recruit deeper within an existing list, which could allow a department to continuously offer examinations and refresh lists.

The Administration notes the intent of merging LEAP lists and other lists together is to make a department unaware that a candidate has eligibility from a LEAP list, and therefore make it easier for a LEAP candidate to be hired. While the intent of the proposal is laudable, staff wonders if there is an unintended consequence of making it actually making it harder for a LEAP candidate to be chosen over a higher ranked candidate.

Lastly, the Administration contends that many changes are technical and stylistic, however some of these may lead to unintended consequences. For example, for amendments proposed under “departmental cooperation” could be interpreted as requiring SPB to first cooperate with CalHR before engaging with other listed agencies, and could limit SPB’s ability to work independently with the other agencies except when CalHR is in agreement. In light of these concerns, staff is recommending to hold this item open allowing for additional conversation with policy committee, relevant stakeholders and further public review.

The subcommittee may wish to ask:

- Are there any court cases that the proposed statutory changes would or could overturn or impact?
- How CSI would impact seniority rights among state employees in the event there was a recession and the Administration implemented workforce reduction?
- What happens when an employee is let go, but has rights to a position that has been eliminated because of the class consolidation?

**Staff Recommendation.** Hold Open.

**7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD****Issue 14: Statewide Prison to Employment Initiative****Presenter**

- Tim Rainey, Executive Director, California Workforce Development Board

**Background**

Each year, federal Workforce Innovation and Opportunity Act (WIOA) funding is allocated to the California Workforce Development Board (State Board). The State Board then distributes WIOA funds to each of the 45 local boards, which use the funds to operate America's Job Centers of California (AJCCs) within their jurisdiction. Local boards operate roughly 200 one-stop job centers in California. In these centers, job seekers can search online job databases, take courses on resume building, receive individualized career counseling, enroll in career-focused coursework, and participate in on-the-job training. WIOA funding for job services at AJCCs is approximately \$400 million annually.

In addition to distributing federal funds, the State Board also sets statewide workforce development policy. This policy is reflected in California's state workforce plan, which the State Board is required to prepare every five years. Under state law, the state workforce plan serves as the "comprehensive framework and coordinated plan for the aligned investment of all federal and state workforce training and employment services funding streams and programs." The state's workforce plan lays out key goals, that guide the activities of the workforce system. These goals include:

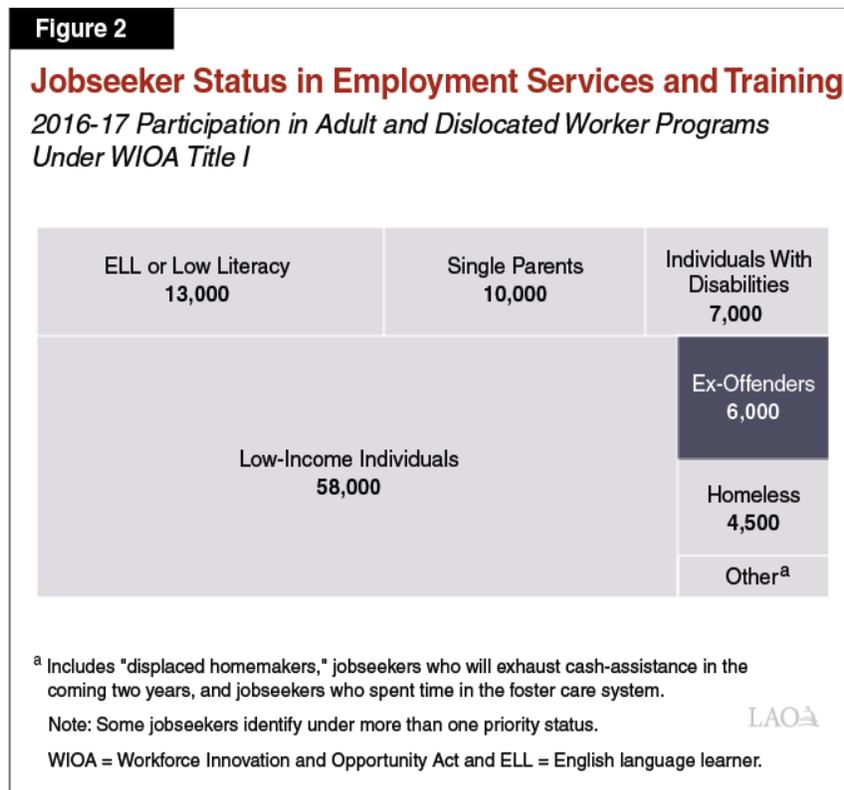
- Fostering "Demand Driven Skills Attainment"
- Workforce and education programs should align with industry needs.
- Enabling Upward Mobility for All Californians
- Workforce and education programs should be accessible to all residents, including those with barriers to employment.
- Aligning, Coordinating, and Integrating Services
- Allocate resources efficiently to meet clients' unique workforce and education needs.

**Identifying High Demand Jobs and Partnering With Other State Entities.** In developing its plan, the State Board works with businesses and labor market experts to identify job fields that are in high demand. It then designs employment training programs to prepare jobseekers for jobs in these industries. Federal law requires the state workforce plan to include jobs programs run by other state entities, such as programs operated by the Employment Development Department; the California Community Colleges; the California Department of Education, which oversees adult education; and the Department of Social Services, which oversees jobs programs in the California Work Opportunity and Responsibility to Kids program (the state's cash assistance program for low-income families) and CalFresh (the state's food benefit program for low-income households). These programs are included in the plan to ensure that job training programs work together to meet the state's workforce goals. Although some local boards work to coordinate

services with the California Department of Corrections and Rehabilitation (CDCR), this currently is not a requirement under state or federal law.

**Who Is Eligible to Receive Job Services?** Job services are available to all jobseekers, but prioritized for certain types of jobseekers who face challenges in finding and maintaining employment. These priority jobseekers include English language learners, low-income individuals, homeless individuals, seasonal farmworkers, individuals with disabilities, and ex-offenders, among others.

**What Job Services Are Provided at AJCCs?** AJCCs offer two levels of job services: basic career services and intensive career services. Basic career services include an initial assessment, self-directed job search, and referrals to other job programs. Intensive career services, which cost more and require more staff-time than basic services, are available to priority jobseekers for whom finding and maintaining employment is likely to be more challenging. Intensive career services may include one-on-one career counseling, basic skills training, career-oriented coursework, and on-the-job training. In 2016-17, a total of 88,000 Californians received WIOA career services. About two-thirds of those received basic career services (59,000) and one-third (29,000) received intensive career services. The figure below displays the different types of priority jobseekers, including ex-offenders, who received job services in 2016-17.



**Existing State Program Provides Grants for Ex-Offender Employment Services.** The state currently funds a grant program, known as ForwardFocus, which was established through AB 2060 (Pérez, V. Manuel), Chapter 383, Statutes of 2014. ForwardFocus is a competitive grants

program for county partnerships—typically comprised of the county, local board (and their AJCCs), probation department, and local community based organizations (CBOs)—who in turn coordinate services and provide integrated job training opportunities to recently released ex-offenders. Participating county partnerships were encouraged to use evidenced based practices, as well as required to integrate matching funds and the services to be provided with grant funds.

Since 2014, county partnerships have received about \$7 million from previous budget acts for these purposes and have provided employment services to about 800 recently released ex-offenders. The board is currently in its third round of grants (\$2 million), which will span from May 1, 2018 to April 30, 2020. Current law requires the State Board to submit a report to the Legislature about the program’s effectiveness, including an assessment of the viability of integrating workforce programs for ex-offenders. The report, which was due January 1, 2018, was received by the Legislature on April 6, 2018.

The report notes that grants are still in progress, and data is not final, therefore findings are preliminary. The Legislature will receive a more detailed analysis once final data is available. In the interim, the board reports that there were 13 AB 2060 grantees in 2015 and 2016, with projects spanning from 18 months to two years, and awards of up to \$400,000 each. The report presents preliminary participation and outcomes data reported by grantees.

	<b>Round 1</b>	<b>Round 2</b>	<b>Total</b>
Total participants	344	451	795
Participants enrolled in training	286	305	591
Participants completed training	222	242	464
Participants placed in employment	146	210	356

The report notes several key practices and lessons learned in serving the supervised population. Specifically, the report notes the importance of: (1) “earn-and-learn” training opportunities to ensure participants have an income while training; (2) pre-apprenticeship and apprenticeship programs; (3) flexible resources for dedicated case managers, professional development and supportive services (housing, transportation, childcare, etc.); (4) partnering with probation departments; (5) collaborating with community based organizations; and (6) considering industry sectors and training programs that are appropriate for this population, as well as employer engagement. Many of these lessons are incorporated in the boards preliminary recommendations, as well as (1) encourage formal partnerships, agreements, and co-funding arrangement of key stakeholders; (2) support state alignment of partner agencies, and (3) invest and guide the development of regional partner strategies.

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## **Governor's Budget Proposal**

**Provides \$14 Million General Fund for Employment Services for Ex-offenders.** The Governor's 2018-19 proposal would provide \$14 million General Fund over two years to fund a new job training program for ex-offenders at the state's AJCCs (and their subcontractors). Funds could be used for a variety of services, including English language learning, basic skills and adult education, training stipends, industry-approved certification programs, pre-apprenticeship, and on-the-job training, among others. Based on training cost data from the ForwardFocus grant program, the State Board estimates that about 1,000 ex-offenders would attain job placements as a result of these services. (A somewhat larger number of ex-offenders would receive services.) This represents \$14,000 in funding for each ex-offender who attains a job placement.

**Provides \$20 Million General Fund for Supportive Services.** In addition to direct employment services, the Governor proposes to allocate \$20 million General Fund over two years to fund supportive services for ex-offenders who participate in job training. Supportive services are services that an ex-offender may require in order to attend job training. Common supportive services include bus passes, childcare vouchers, and housing assistance. According to the proposal, ex-offenders who participate in employment services would be eligible for up to \$5,000 each in supportive services.

**Provides \$1.75 Million General Fund to Integrate Workforce Training Programs.** Under the proposal, the State Board would provide an additional \$1.75 million General Fund to local boards for the creation of regional partnerships and planning between the local boards, CDCR, parole centers and county probation departments, and community-based reentry services and others as authorized by the state board. Grants would be made to each of the 14 workforce regions based roughly on the number of ex-offenders in each region. According to the Administration, implementation grants that facilitate collaboration would help regional partners "package" services and customize job placement based on an ex-offender's training history and job needs.

The proposal requires all local entities to develop partnership plans. These plans would outline how each entity intends to integrate services for ex-offenders. One byproduct of this new planning requirement is that the state workforce plan would add CDCR and county probation as official workforce partners.

The trailer bill provides the board the flexibility to develop guidelines for the program, such as plan content, partners, activities of partnerships, guidelines for allocation and distribution of grants. Trailer bill language requires the board to at least consider need of workforce services in each region for formerly incarcerated, size of post-release population, and recidivism rate of each region.

**Some Grant Evaluation Data Would Be Submitted to State Board.** The proposal provides \$1 million for a grant evaluation, and would require local boards to submit to the State Board information about ex-offender participation in grant-funded programs. This would include information about how the grant was implemented, the number of ex-offenders who enrolled in

training activities, whether enrollees completed training, and whether participants found employment.

### **Legislative Analyst's Office Comments**

When the LAO published their analysis, the January ForwardFocus report was not available, as a result they recommended withholding action until the report was available for review. As an initial review of the proposal, the LAO notes that several major elements of the proposal are based on the existing ForwardFocus grant program raising questions as to the need for a new employment services program. Specifically, the Administration's proposal is similar in the following respects: (1) fund similar employment services; (2) require similar though limited data reporting; (3) both encourage integrated services.

**New Proposal's Plan to Allocate Grants Throughout State May Have Drawbacks.** Under the Governor's proposal, grants would be allocated according to the number of ex-offenders in each region or a similar measure as determined by the board. Under the existing program, grants are distributed on a competitive basis and require a two-to-one match from local entities.. The new proposal does not require a matching requirement, and instead distributes grants across all areas of the state.

The LAO is concerned that grants under the new proposal may be too small to be effective in some parts of the state. The state's ex-offender population is concentrated in major cities: three-quarters of supervised ex-offenders reside in ten large counties. Rural areas would likely receive few resources under the proposal. Statewide grants in these areas may be insufficient to integrate services or operate employment programs for ex-offenders.

Should the Legislature want to invest in the existing ForwardFocus program, the LAO recommends the Legislature request new data from grantees, including information about recidivism among past and current job training participants, and also specify how large grants should be, how many grants should be made and in what regions, and whether a different matching requirement would be more appropriate.

The LAO also recommends the Legislature request additional data to evaluate performance and effectiveness of grantees and require the State Board to submit this information in an annual report to the Legislature. This information could include: the percentage of participants or past participants that recidivated within one year of their release, the type and cost of job services provided to each participant, and whether participants maintained stable and unsubsidized work six months after finishing the program.

The LAO recommends that the Legislature to ask the department the following questions: (1) are local agencies able to integrate services within existing funding, (2) what has prevented integration from occurring in the past, (3) what steps would be needed to integrate CDCR data into the state's workforce data systems, and (4) are there other local agencies that should be included in efforts to integrate services.

**Staff Comments**

In recent years, the Administration and the Legislature has sought to create better regional coordination for services such as adult education, career technical education, and workforce development across various state departments, such as the California Community Colleges, California Department of Education, and the state board. This has aligned with the California Unified Strategic Workforce Development Plan of 2016-2020.

Additionally, the state has also invested in several initiatives and programs that specifically targets the formerly incarcerated and justice-involved population. The 2017-18 budget provided \$5 million and one position from the Road Maintenance and Rehabilitation Account, State Transportation Fund for 2017-18 through 2021-22, to implement pre-apprenticeship training programs, focused on formerly incarcerated, women, and minorities, in support of SB 1 (Beall), Chapter 5, Statutes 2017 projects. Additionally, Proposition 39 and the Clean Energy Jobs Act, SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013, created a construction pre-apprenticeship skills training grant program, which builds pipelines for the construction trades for disadvantaged youth, veterans and the formerly incarcerated, and appropriates \$3 million Proposition 39 funds annually to the State Board from FY 2013-14 through FY 2017-18. Additionally, the state used \$3 million from discretionary WIOA funds to fund the Workforce Accelerator Fund Awards, which funded 14 ex-offender projects (with \$3.6 million in local matching funds).

The proposed trailer bill language would evaluate outcomes of the grants based on individuals enrolled in programs, individuals who transition into workforce, services provided, and ability to succeed in workforce and education system, supportive services among others. While the BCP notes that the program evaluation would be completed in fall of 2021, there is currently no specified date.

The subcommittee may wish to ask:

- Under AB 2060, preliminary data shows there was a 44 percent job placement rate. Please describe what programs and practices were the most successful in job placement, and which have not been successful?
- What is the rationale for not including a local match requirement for supportive services grants or regional implementation grants?
- What is the rationale for not including non-supplantation language for the grants?

**Staff Recommendation.** Hold Open.

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**7320 PUBLIC EMPLOYMENT RELATIONS BOARD****Issue 15: Workload Oversight Item (Informational)****Presenter**

- Mary Ann Aguayo, Chief Administrative Officer, Public Employment Relations Board

**Background.** The Public Employment Relations Board (PERB) is a quasi-judicial administrative agency charged with administering the eight statutes that establish the collective bargaining process for about 2.3 million governmental employees in California. In this role, PERB (1) ensures these laws are implemented and applied consistently and (2) mediates and adjudicates disputes between governmental employers and employees. Such disputes include “unfair labor practice” claims. Section 3541 of the Government Code establishes PERB and specifies that the board “shall be independent of any state agency.” The board consists of up to five members appointed by the Governor with the advice and consent of the Senate; however, the board can establish a quorum—allowing it to conduct business—with three members.

PERB has had budgetary challenges as the agency’s workload has increased over the years without budgetary augmentations. In response to these challenges, PERB has relied on keeping various positions vacant—including vacant seats on the board—to redirect funds in the board’s budget. These vacancies—particularly in the Office of the General Counsel—have contributed to significant backlogs in resolving labor disputes at PERB. PERB’s budget issues were further complicated after the Department of General Services (DGS) determined in 2015 that PERB would need to relocate its Los Angeles regional office (located in Glendale). This office is PERB’s busiest regional office, processing more than 50 percent of PERB cases each year.

**Previous Budget Acts.**

The 2016-17 budget Act provided \$885,000 General Fund to fund five new positions—bringing the board’s total position authority to 62 positions—and \$217,000 General Fund to pay for costs associated with relocating the Glendale office. The budget also included provisional language directing PERB to report to the Legislature on or before January 10, 2017 and May 14, 2017 on specific workload metrics. The goal of this reporting was to help the Legislature determine if PERB has sufficient resources to address the existing case backlog and resolve labor disputes in a timely manner.

In the January 2017 report, PERB indicated that 60 days is a reasonably effective period for the Office of the General Counsel to complete investigations and issue determinations in unfair practice cases or representation petitions. The average age of cases has increased recently to more than three times this 60-day goal. Specifically, for January through March 2018, it takes about 165 days to process Office of the General Counsel cases, which directly affect the workload of the Division of Administrative Law. PERB reports it takes about 117 days to process cases at the Division of Administrative Law. PERB also notes that there are 37 cases which are over one year old.

The 2017-18 budget provided \$750,000 General Fund in 2017-18 and 2018-19, \$620,000 in 2019-20, and \$590,000 in 2020-21 and ongoing, to provide the appropriate level of permanent funding to support all existing permanent positions, reduce existing backlogs, and improve PERB's timeliness for issuance of resolutions and case determinations.

**Los Angeles Regional Office.** The 2016-17 budget provided funding for office relocation, whose lease ended in February 2017. PERB reports that the office is coordinating a move to take place by June 2018. In addition, PERB notes that it has held about 7.5 positions vacant, and used related spending to pay for the move.

**Two Vacant Board Seats.** In order to take action on items, a quorum of three board members must be present at board meetings. For more than two years, two of the five seats on the board have been vacant. This creates a greater likelihood of the board not having a quorum at its meetings. For example, the board was not able to achieve a quorum at its December 2016 public board meeting because one board member was absent. The LAO estimates that the three vacant positions associated with these board vacancies—the two board members and a shared support staff position—free up at least \$500,000 (about 5 percent of the department's budget) for PERB to spend on other staff and operating expenses. It is not clear the extent to which PERB relies on these freed up funds to pay for staff across the departments' four divisions.

The subcommittee may wish to ask the following questions:

1. How has PERB utilized the 2017-18 budget allocation, and its plans for the 2018-19 allocation?
2. How long will it take for General Counsel to reduce the average time it takes to process cases to the target period of 60 days?
3. Why is the PERB board not filled? If all five seats of the board are filled, how will PERB support currently filled positions?
4. Why did PERB hold positions vacant to fund the office relocation since the 2016-17 budget provided \$217,000 for this purpose?

**Staff Recommendation.** None at this time. This is an informational item.

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**7350 DEPARTMENT OF INDUSTRIAL RELATIONS****Issue 16: Victims of Wage Theft Restitution Funds****Presenter**

- Greg Edwards, Chief Financial Officer, Department of Industrial Relations

**Summary:** The Department of Industrial Relations (DIR) requests budget bill language to allow fund balance transfers in 2018-19 from the Industrial Relations Unpaid Wage Fund (Unpaid Wage Fund), to the Garment Manufacturers Special Account, the Car Wash Worker Restitution Fund, and the Farmworker Remedial Account, upon approval of the DOF to pay valid claims, in the event of a cash shortage in any of the restitution funds, prior to any annual transfer of revenue from the Unpaid Wage Fund to the General Fund.

**Background**

DIR administers the Unpaid Wage Fund which was originally established in 1975 for all wages or benefits collected by the Labor Commissioner, to be remitted to the worker or the worker's lawful representative. At the end of each fiscal year, the unencumbered balance remaining in the Unpaid Wage Fund is transferred to the General Fund. The practice of depositing the remaining unencumbered balance into the General Fund began in FY 2005-06 as a result of concerns over General Fund solvency.

The Garment Account is administered by the Labor Commissioner, and funds from this account are dispersed only to persons determined by the Labor Commissioner to have been damaged by the failure of a garment manufacturer to pay wages and benefits. California Code of Regulations Section 13635 sets the fee structure for the Garment Account, applicable to garment contractors and garment manufacturers based on their gross sales receipts. Fees for garment contractors range from \$250 for contractors with \$100,000 or less in gross sales to \$1,000 for contractors who earn over \$1 million in gross sales. In addition, \$75 of each registration is deposited into the Garment Account. This account has been insolvent since 2015-16 because the amount of new claims is greater than the account's annual revenue. This results in over \$4.5 million of claims that cannot be paid. The Garment Account receives an average of \$300,000 each year from fees but in recent years expends \$800,000 to \$1.5 million to unpaid wage claims annually. The Garment Account is short \$500,000 to \$1.2 million to meet the needs of all wage claims each year. The Unpaid Wage Fund transfers between \$2 million to \$6 million of unencumbered funds to the General Fund every year

DIR also administers other accounts including the Car Wash Fund, and the Farmworker Account, that each serve as a safety net for the workers in its respective industries when wages illegally withheld from these employees cannot be collected from the responsible employer. Workers with a valid claim may submit their request for payment to the applicable restitution fund. If/when, any of these funds are exhausted, the respective employee(s) are left without recourse. However, at this time, the Administration does not anticipate an additional need in the Car Wash Fund or the Farmworker Account. The Administration notes that these funds are included out of caution so that the DIR may have the authority to address any unfunded claims should they arise in 2018-19.

**The Governor proposes the following budget bill language:**

7350-011-0913—For transfer by the Controller, upon order of the Director of Finance, from the Industrial Relations Unpaid Wage Fund to the General Fund

..... (1,000)

Provisions:

1. *For the 2018–19 fiscal year, notwithstanding any other provision of law, and upon approval by the Department of Finance, funds available in the Industrial Relations Unpaid Wage Fund may be transferred to the Farmworker Remedial Account; the Garment Manufacturers Special Account; and/or the Car Wash Worker Restitution Fund in the event of a cash shortage prior to any transfer from the Industrial Relations Unpaid Wage Fund to the General Fund.*
2. Notwithstanding any other provision of law, the Controller shall transfer to the General Fund the unencumbered balance, less six months of expenditures, as determined by the Director of Finance, in the Industrial Relations Unpaid Wage Fund as of June 30, 2019.
3. The Department of Industrial Relations shall provide an estimate of the transfer amount to the Department of Finance no later than April 15, 2019.

**Staff Comments.** As noted above, the Garment Account is experiencing over \$4.5 million in outstanding claims due to insufficient funds in the account. Under the Administration’s proposal, the DIR expects an approximately \$4.3 million one-time transfer from the Unpaid Wage Fund to the Garment Account, which would effectively reduce transfers to the General Fund. The subcommittee may wish to consider why an imbalance exists, and what alternatives or mechanisms there are to right size the Garment fund moving forward. DIR will continue to evaluate the ongoing need as they move forward. DIR notes that the garment claims would have first priority under the proposal, and at this time, there are no shortfalls in either the farmworker or carwash funds. Statute notes that should any future claim be submitted under the unpaid wage fund, but cannot be remitted because funds have been transmitted to the General Fund then it is the General Fund responsibility to pay out the claim.

**Staff Recommendation.** Approve as proposed.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, April 26, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113  
Consultant: Anita Lee

Items Proposed for Vote Only

<u>Item</u>	<u>Department</u>	<u>Page</u>
<b>7100</b>	<b>Employment Development Department</b>	
Issue 1	Implementation of Legislation	3
<i>Approve as proposed. 2-0, Anderson absent.</i>		
Issue 2	Benefit Systems Modernization	4
<i>Approve as proposed. 2-0, Anderson absent.</i>		
<b>7350</b>	<b>Department of Industrial Relations</b>	
Issue 3	Implementation of Legislation	6
<i>Approve as proposed. 2-0, Anderson absent.</i>		
Issue 4	Schools' Occupational Injury and Illness Prevention Programs	7
<i>Approve as proposed. 2-0, Anderson absent.</i>		
Issue 5	Division of Labor Standards Enforcement Recruitment and Administrative Services	8
<i>Approve as proposed. 2-0, Anderson absent.</i>		
Issue 6	Apprenticeship Program for Nontraditional Industries	9
<i>Moved to a future subcommittee hearing.</i>		
<b>7501</b>	<b>Department of Human Resources</b>	
Issue 7	Trailer Bill Language for State Retiree Census Data	12
<i>Approve as proposed. 2-0, Anderson absent.</i>		
Issue 8	Statewide Human Resources Workload	13
<i>Approve as proposed. 2-0, Anderson absent.</i>		
Issue 9	Merit System Services Program	15
<i>Approve as proposed. 2-0, Anderson absent.</i>		
Issue 10	Enterprise Data Strategy	18

Approve as proposed. 2-0, Anderson absent.

<b>7503</b>	<b>State Personnel Board</b>	
Issue 11	Administrative Services Workload	20
	Approve as proposed. 2-0, Anderson absent.	

<b>7920</b>	<b>California State Teachers' Retirement System</b>	
Issue 12	Internal Investment Management	21
	Approve as proposed. 2-0, Anderson absent.	

**Items Proposed for Discussion**

<b>0511</b>	<b>Government Operations Agency</b>	
<b>7501</b>	<b>Department of Human Resources</b>	
Issue 13	Civil Service Improvement Trailer Bill Language	23
	Held Open.	
<b>7120</b>	<b>California Workforce Development Board</b>	
Issue 14	Prison to Employment Initiative	27
	Held Open.	
<b>7320</b>	<b>Public Employment Relations Board</b>	
Issue 15	Workload Oversight Item (Informational)	33
<b>7350</b>	<b>Department of Industrial Relations</b>	
Issue 16	Victims of Wage Theft - Restitution Funds	35
	Approve as proposed. 2-0, Anderson absent.	

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, May 3, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

<u>Item</u>	<u>Department</u>	<u>Page</u>
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**Public Comment**

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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.*

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***PROPOSED FOR VOTE ONLY*****5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**

1. **Extend Sunset for County-to-County Transfer of Inmates Trailer Bill Language.** The purpose of the trailer bill language is to extend the sunset date on provisions of law that allow a county where adequate facilities are not available for prisoners in its adult detention facilities to enter into agreements with one or more counties that have adequate facilities, as specified. The authority sunsets on July 1, 2018, and the proposal extends the transfer to July 1, 2021. Criminal justice realignment under AB 109 (Committee on Budget and Fiscal Review), Chapter 15, Statutes of 2011, placed greater responsibility on county jails in the housing and rehabilitation of inmates. In order to adequately house and care for county jail inmates, budget trailer bill SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, included a provision to allow county jails with inadequate facilities to transfer inmates to other county jails. The purpose of this was to allow impacted jails time to adjust to realignment and to renovate or construct adequate housing and rehabilitation facilities to ensure the safety of inmates and staff and reduce recidivism. AB 1512 (Stone), Chapter 44, Statutes of 2014, allowed these counties to continue to transfer inmates by extending the sunset date established in SB 1021 from July 1, 2015 to July 1, 2018.
2. **Court Holding Cell Trailer Bill Language.** The proposed trailer bill language would include court holding facilities, within a superior court that is operated by or supervised by specified personnel, in the definition of a local detention facility. Currently, a local detention facility is defined as a city, county, city and county, or regional facility used for confinement of adults or both adults and minors. These facilities are subject to BSCC inspection biennially. It would not define areas within a courtroom or a public area in the courthouse to be a court holding facility.

**8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)**

3. **Learning Portal Conversion.** POST requests \$155,000 State Penalty Fund and one permanent position in 2018-19 and ongoing to convert online training courses from expiring technology. Adobe Flash software which was used to develop 17 of the Learning Portal courses and one performance support tool will no longer be supported by Internet browsers beginning 2020. Currently, 600 state and law enforcement agencies and 10,000 peace officers participate in POST and rely on online trainings to complete necessary trainings within budget restrictions.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

4. **San Quentin State Prison, San Quentin: New Boiler Facility Spring Letter.** The CDCR requests an adjustment of \$20.481 million General Fund to reflect the removal of the construction appropriation of this project to design and construct a new central high-pressure steam boiler facility at San Quentin State Prison. The working drawings phase has been delayed and CDCR now estimates the amount requested may be insufficient to complete the

project. They anticipate making a funding request for construction in a future budget. This proposal was originally heard in this Subcommittee on March 19, 2018.

5. **Correctional Training Facility, Soledad: Administrative Cell Door Retrofit Spring Letter.**

CDCR requests an adjustment of \$9.782 million General Fund to reflect the removal of the construction appropriation for this project to replace 144 barred cell fronts in the O Wing Administrative Segregation Unit of the Correctional Training Facility. This project has been delayed as CDCR finishes construction on a similar door retrofit project at Deuel Vocational Institute.

6. **Pelican Bay State Prison: Facility D Yard Spring Letter.** The CDCR is requesting to re-appropriate the fiscal year 2017-18 preliminary plans and working drawings appropriation in the amount of \$539,000, to ensure funding remains available for this project. Preliminary plans and working drawings were funded in the 2017 Budget Act, and construction funding is being proposed in the 2018 budget act. Initiation of preliminary plans were delayed for this project by approximately six months and are not anticipated to be completed during the 2017-18 fiscal year. The encumbrance availability for preliminary plans and working drawing will expire on June 30, 2018.

## 0250 JUDICIAL BRANCH

7. **California Courts Protective Order Registry.** The Judicial Council requests an augmentation of \$200,000 General Fund in 2018-19 and ongoing for one position to complete deployment of the California Courts Protective Order Registry (CCPOR) program to the seven largest trial courts. The CCPOR program provides a statewide repository of protective orders containing both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement agencies across the state. With existing resources exhausted, funding is needed to onboard the remaining seven superior courts—Alameda, Contra Costa, Sacramento, San Bernardino, San Diego, San Mateo and Los Angeles. These courts, which are among the largest in the state, represent the remaining 49 percent of the total restraining protective orders (RPOs) issued throughout the state. Onboarding these courts will provide a statewide program and yield the full benefit of having a comprehensive central repository with scanned images of RPOs.

**Staff Recommendations:** Adopt placeholder TBL for item 1 and approve vote-only items 2-7 as proposed

## 0820 DEPARTMENT OF JUSTICE

8. **Antitrust Workload.** The Department of Justice (DOJ) Antitrust Law Section (Section) requests a permanent augmentation of 23.0 positions and Attorney General Antitrust Account spending authority of \$1,780,000 in FY 2018-19, \$3,488,000 in FY 2019-20, \$4,527,000 in FY 2020-21, \$4,419,000 in FY 2021-22 and ongoing to support the Section's increase in workload. Additional resources are needed to meet the increased workload. However (1) the total level of additional workload is unclear and (2) whether sufficient resources will be

available to support requested positions. This item was heard in Senate Budget Subcommittee 5 on April 19, 2018.

**Staff Recommendation:** Adopt the LAO recommendations and provide the nine positions and \$1.8 million to support increased Antitrust Law Section activities in 2018-19. Additionally, adopt placeholder TBL direct DOJ to submit a report by December 1, 2020, on certain fiscal and performance measures (such as number of cases pursued and litigated as well as the amount of monetary recoveries generated) to monitor the impact of these provided positions.

9. **Bureau of Gambling Control-Third-Party Providers Workload.** The Department of Justice's Bureau of Gambling Control requests \$1,564,000 in permanent funding from the Gambling Control Fund to retain 12.0 positions granted in fiscal year 2015-16 with three-year limited-term funding. The full impact of the previously approved 32 limited-term resources remains unclear. This is because 2017-18 is the first year in which nearly all 32 analytical positions were filled. Therefore, it is difficult to determine the appropriate level of ongoing resources needed to (1) eliminate the backlog and (2) prevent the creation of an extensive backlog. This item was heard in Senate Budget Subcommittee 5 on April 19, 2018.

**Staff Recommendation:** Adopt the LAO recommendation and provide \$1.6 million from the Gambling Control Fund to support the 12 positions provided in 2015-16 for one additional year, rather than on an ongoing basis as proposed by the Governor.

**ITEMS TO BE HEARD****8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)****Issue 10: Update on Peace Officer Mental Health Training (SB 11 and SB 29)**

**Background.** People with mental illnesses or intellectual disabilities are involved in nearly half of all police shootings.

**SB 11 (Beall).** Prior to SB 11 (Beall), Chapter 468, Statutes of 2015, the California Peace Officer Standard and Training Curriculum mandates only six hours of mental health training; and there is no requirement to include mental health training in an officer's continuing education. SB 11 mandates stronger evidence-based behavioral health training that has proven to reduce volatile confrontations between peace officers and people with mental illnesses or intellectual disabilities. Equally important, SB 11 acknowledges California's diverse populations by requiring training to be culturally appropriate. Specifically, the bill:

1. Required POST to establish a training course, of at least 15 hours, on law enforcement interaction with persons with mental illness.
2. Required POST to have a three-hour continuing education course on the same subject matter.

**SB 29 (Beall).** SB 29 (Beall), Chapter 469, Statutes of 2015, requires law enforcement field training officers (FTOs) to have training from POST regarding law enforcement interaction with persons with mental illness or intellectual disability.

**Staff Recommendation.** This is an informational item. No action is to be taken.

**Issue 11: Hate Crime Model Policy**

**Proposal.** This proposal requests a one-time, \$45,000 augmentation to the Commission on Peace Officer Standards and Training budget to allow POST to update its model hate crimes policy and guidelines pursuant to Penal Code Section 13519.6.

**Background.** According to the DOJ's 2016 report, Hate Crimes in California, the total number of hate crime events (an occurrence when a hate crime is involved) decreased 34.7 percent from 2007 to 2016. Filed hate crime complaints decreased 30.5 percent from 2006 to 2015. That being said, hate crime events in California have been on the rise; there was a 10.4 percent rise from 2014 to 2015, and then another 11.2 percent rise from 2015 to 2016. The total number of hate crime events, offenses, victims, and suspects had all increased in 2016.

According to its 2015 report, "The DOJ requested that each law enforcement agency establish procedures incorporating a two-tier review (decision-making) process. The first level is done by the initial officer who responds to the suspected hate crime incident. At the second level, each report is

reviewed by at least one other officer to confirm that the event was, in fact, a hate crime.” Even with the two-tiered system in place, the DOJ still lists the policies of law enforcement agencies as one of four factors possibly influencing the volume of hate crimes reported. Out of the three areas mentioned in the bill as having the greatest concentrations of hate groups—Sacramento, San Francisco Bay, and Los Angeles—the only policy language covering procedures for hate crimes that this Committee was able to locate online, was a General Order (524.04) posted by the Sacramento Police Department (SPD).

With the rise in hate and intolerant rhetoric coming from the federal government, there is a need for enforcement agencies to respond to the growing number of hate crimes. It has been 10 years since POST, working with law enforcement associations, civil rights groups, and other subject-matter experts, developed its current model policy and guidelines. While the POST work product was generally excellent, advocates argue that it does not meet the challenges posed by the spreading plague of hate crimes in the last three years and does not adequately deal with some special problems, such as anti-disability hate crimes. Few, if any, local law enforcement agencies adopted the POST model, either relying on the less comprehensive Lexipol model or continuing to use locally developed policies that in some cases do not reflect current law. Some local agencies reportedly have no hate crime policies at all.

**AB 1985 (Ting).** Introduced in 2018, AB 1985 (Ting) states that local law enforcement agencies must include certain requirements and definitions into a hate crimes policy manual if they decide to adopt or update a hate crimes policy manual. AB 1985 provides a framework on how law enforcement agencies should update their hate crime policy protocols, resources, and responsibilities, and help prevent future incidents.

**Staff Recommendation.** Hold Open.

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS****Issue 12: California Violence Intervention & Prevention Grant Program (CalVIP)**

**Proposal.** This proposal requests a reauthorization of the California Violence Intervention and Prevention (CalVIP) program and ongoing appropriation of \$18.43 million to the program, which is an additional \$9.215 million above the 2017-18 funding level.

**Background.** The CalVIP program began in 2007 when then-Governor Schwarzenegger created the Governor's Office of Youth Violence Policy (OGYVP) to help communities support strategies to reduce gang and youth violence. The program was first administered by the OGYVP, and later transferred to the California Office of Emergency Services (OES). Initially, program was named the California Gang Reduction, Intervention, and Prevention (CalGRIP) program and provided anti-gang funding to many state departments including the OES, the Employment Development Department, the Board of State and Community Corrections (BSCC), the California Highway Patrol.

In July 2012, as a result of AB 1464 (Blumenfield), Chapter 21, Statutes of 2012, the BSCC acquired sole administrative responsibility for the program. The administrative responsibility of the \$9.2 million annual grant program came to BSCC along with an increased level of accountability. Under BSCC, the CalGRIP allocation is based upon an applicant's ability to demonstrate that funding is used to implement evidence-based prevention, intervention and suppression programs.

From 2007 to 2017, California's Budget Acts appropriated \$9.215 million per year to operate the CalGRIP program, which provided dollar-for-dollar matching grants to cities for initiatives to reduce youth and gang-related crime. The Budget Acts guaranteed one million dollars annually for the City of Los Angeles, with the remainder distributed to other cities of all sizes through a competitive application process, overseen by the Board of State and Community Corrections (BSCC). The grant program also requires that grantees distribute at least 20 percent of CalGRIP funds toward community-based organizations. According to BSCC records, in recent years cities have chosen to direct a majority of CalGRIP funding to community-based organizations.

**Program Impact.** In recent years, this program leveraged state dollars and local funding matches to support some of California's most effective violence reduction initiatives. Examples of the program's impact include:

- From 2015-17, the program provided the City of Los Angeles \$3 million to help fund the Gang Reduction and Youth Development (GRYD) program. Los Angeles has seen a 38 percent reduction in homicides and 46 percent reduction in aggravated assaults since launching GRYD in 2007.<sup>1</sup> A 2015 report by the Urban Institute found that recipients of GRYD violence prevention services reported significant reductions in violent behaviors.<sup>2</sup> And a March 2017 assessment by researchers at Cal State University, Los Angeles found that GRYD incident

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<sup>1</sup> Compiled using Offense Table 8 of 2004-2015 Uniform Crime Reports data. "Crime in the U.S.," Federal Bureau of Investigation, <https://ucr.fbi.gov/crime-in-the-u.s>.

<sup>2</sup> Meghan Cahill, et al, "Evaluation of the Los Angeles Gang Reduction and Youth Development Program: Year 4 Evaluation Report," Urban Institute, 35-37 (Sept. 2015). <http://www.urban.org/sites/default/files/publication/77956/2000622-Evaluation-of-the-Los-Angeles-GangReduction-and-Youth-Development-Program-Year-4-Evaluation-Report.pdf>.

response teams—just one of many GRYD programs—had prevented an estimated 185 gang retaliations citywide from 2014-15, resulting in estimated savings of \$110.2 million over two years.<sup>3</sup>

- From 2015-17, the program provided the City of Richmond \$1.5 million to help fund the Office of Neighborhood Safety, an innovative city agency dedicated exclusively to the prevention of violence. Richmond has seen a 53 percent drop in gun homicides and a 45 percent drop in non-fatal shootings since that Office launched Operation Peacemaker Fellowship, a comprehensive street outreach and mentoring program, in 2010.<sup>4</sup>
- From 2015-17, the program provided \$1.5 million to the City of Oakland to fund Oakland Ceasefire, which is focused on reducing gun violence. Since launching Ceasefire in 2012, Oakland has seen a remarkable 43 percent drop in homicides and a 49 percent reduction in non-fatal injury shootings.<sup>5</sup> Last year, Oakland experienced its lowest number of homicides in 20 years and its second lowest number in the last four decades.

***Program changes and narrowed focus.*** Last year, the Legislature amended the name of the program from CalGRIP to CalVIP—therefore shifting the program away from initiatives targeting gang crime and affiliation toward a narrower and more objective focus on evidence-based violence prevention programs, like those implemented in Los Angeles, Richmond, and Oakland. Through local funding matches, CalVIP will have leveraged over \$55 million dollars in investments in 19 cities across the state from 2015-2017.

Legislators also acted to (1) direct CalVIP grants to localities with the highest rates of violence; (2) require CalVIP grantees to set clear, quantifiable goals for their program; (3) ensure community-based organizations can apply directly for CalVIP grants and receive a greater portion of cities' awards; (4) strengthen grantees' data reporting and transparency requirements; and (5) require BSCC to report to the Legislature on the effectiveness of CalVIP-funded programs.

However, the proposed 2018-19 Governor's budget does not provide any funding for the CalVIP program.

***Need for proposed funding.*** This year, BSCC received CalVIP grant applications from over 120 cities and community-based organizations but will distribute its \$9.215 million appropriation in small grants to fewer than 20 applicants stretched over a two-year period. Fewer than 20 percent of applicants will receive any funding for violence prevention efforts in their communities and none will receive more than \$250,000 per year, no matter how great their demonstrated need. BSCC has identified 101 California cities that rank in the top five percent for rates of homicide, aggravated assault, or robbery, and there are 36 California cities in the top five percent for at least two of these violent crime indicators. CalVIP is currently unable to make meaningful or sustained investments in many of these

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<sup>3</sup> P. Jeffrey Brantingham, et al, "GRYD Intervention Incident Response & Gang Crime," GRYD Research and Evaluation Team, 23 (Mar. 30, 2017).

[http://www.jjresearch.com/docs/IR%20and%20Gang%20Crime\\_GRYD%20Symposium%202017.pdf](http://www.jjresearch.com/docs/IR%20and%20Gang%20Crime_GRYD%20Symposium%202017.pdf).

<sup>4</sup> Compiled using the following sources: "2013 Summary Report," Office of Neighborhood Safety, <http://www.ci.richmond.ca.us/DocumentCenter/View/28431>; Wayne Drash and Tawanda Scott Sambou, "Paying kids not to kill," CNN, May 20, 2016, <http://www.cnn.com/2016/05/19/health/cash-for-criminals-richmondcalifornia>.

<sup>5</sup> Oakland City End of Year Crime Reports for 2012 and 2017.

<http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak050910.pdf>.

disproportionately impacted communities. The infusion of funds, it is argued, will enable California to replicate the successes of other states' targeted violence prevention and intervention initiatives and to better meet the enormous, unmet need in our state for resources to address serious violence in the most impacted communities.

***Comparison with other states.*** Other states have achieved much larger reductions in violence by making strong investments in violence prevention and intervention grant programs and strategically narrowing the focus of those programs by directing services to individuals most at risk for engaging in or becoming the victims of serious violence. While California spends roughly 23 cents per capita annually on CalVIP, in recent years, Massachusetts and New York have spent \$2.01<sup>6</sup> and 94 cents<sup>7</sup> per capita, respectively, on their statewide violence prevention grant programs. Both states are expected to increase their investment in these programs this year.

Massachusetts and New York's more effectively targeted programs support initiatives that interrupt cycles of violence by engaging "proven risk" individuals who are most likely to perpetrate, or be the victim of, shootings and homicides. This cohesive focus has encouraged grantees to work together to develop and export best practices and has allowed the state to hold grantees accountable for their progress in achieving and sustaining objectively measurable reductions in shootings and homicides. This approach has contributed to reductions in violence and significant cost-savings:

- Between 2010 and 2016, Massachusetts's gun homicide rate fell by 32 percent, while at the national level, gun homicides were increasing by 24 percent.<sup>8</sup> Researchers estimate that state taxpayers have saved as much as \$7.35 for every dollar invested in Massachusetts's violence prevention and intervention grant program.<sup>9</sup> Moreover, New York's gun homicide rate fell by 27 percent, led by a 34 percent decline in gun homicides among young people aged 14-24.<sup>10</sup>
- By comparison, in California gun homicide rates increased by four percent between 2010 and 2016, driven by an 18 percent increase between 2014 and 2016.<sup>11</sup> By 2016, California's gun homicide rate was nearly three times as high as Massachusetts's and nearly double New York's.

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<sup>6</sup> Massachusetts's Safe and Successful Youth Initiative, Shannan Community Safety Initiative grants, and Department of Public Health youth violence prevention program grants provided at least \$13.9 million in grant funding in FY 2017.

<sup>7</sup> New York's Gun Involved Violence Elimination and SNUG programs awarded \$18.535 million in grant funding in FY 2016.

<sup>8</sup> Based on CDC Fatal Injury Reports, available at <https://webappa.cdc.gov/sasweb/ncipc/mortrate.html>.

<sup>9</sup> Patricia E. Campie, et al., "Massachusetts Safe and Successful Youth Initiative, Benefit-to-Cost Analysis of Springfield and Boston Sites," American Institutes for Research and WestEd, Nov. 26, 2014. <http://www.air.org/sites/default/files/downloads/report/Benefit%20to%20Cost%20Analysis%20of%20Boston%20and%20Springfield%20SSYI%20Programs.pdf>.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

**SB 934 (Allen).** In the current legislative session, SB 934 was introduced to write the framework for CalVIP into law.

**Staff Recommendation.** Hold Open.

<b>Issue 13: Air Surveillance for Local Law Enforcement</b>
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**Proposal.** This proposal requests a General Fund appropriation of \$3 million to purchase a helicopter to provide air support to law enforcement and other purposes to serve the greater Stockton metropolitan area. According to the proposal, there is no Patrol air support in San Joaquin County, the closest California Highway Patrol Air Support is 65 miles away in Auburn, and the National Police Foundation's Review of a Stockton Police Department incident strongly recommends patrol air support.

**Staff Recommendation.** Hold Open.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION****Issue 14: Health Care Facility Improvement Program (HCFIP) Spring Letter**

**Spring Letter.** The CDCR requests trailer bill language to increase the lease revenue appropriation authorized by Government Code Section 15819.403(a) by \$73 million to complete construction of Health Care Facility Improvement Program (HCFIP) projects and proposes legislation for allocating funds for the projects. Individual HCFIP projects at 25 prisons have been established by the State Public Works Board utilizing the lease revenue bond financing authority in Government Code Sections 15819.40-15819.404.

**Background.** Since 2006, the medical care provided in state prisons operated by the California Department of Corrections and Rehabilitation (CDCR) has been under a federal court receivership for failing to provide constitutionally adequate care. Among the obstacles to providing this level of care identified by the court were inadequate and insufficient health care facilities. The Administration created HCFIP, which is overseen by the federal Receiver, to renovate and expand treatment spaces at most prison facilities in order to improve access to medical care.

SB 1022 (Committee on Budget and Fiscal Review), Chapter 42, Statutes of 2012 authorized the use of \$900.4 million in existing lease revenue authority from AB 900 (Solorio), Chapter 7, Statutes of 2007, to support HCFIP projects, as well as nine specific mental health facility projects at existing prisons.

***SB 1022 attempted to streamline completion of projects.*** In an attempt to expedite the completion of HCFIP projects and address the lack of adequate health care treatment space in state prisons, SB 1022 established a separate project approval process. This process differs from the state's normal capital outlay process in two ways. First, the process established under SB 1022 did not require the administration to seek legislative approval of the original scope and cost for individual HCFIP projects or request funding from the Legislature as the individual projects progressed. Rather, the Joint Legislative Budget Committee (JLBC) was only notified by the Administration when the scope of each project was established and when preliminary plans were completed. Under the state's normal capital outlay process, each individual project requires legislative approval to fund each phase of the project.

Second, the SB 1022 process allows the Administration to consider all of the individual projects funded with the \$900.4 million as one project—meaning both HCFIP projects and the nine mental health projects—rather than as separate projects for the purposes of augmentations. Accordingly, the Administration can approve augmentations up to \$90 million (10 percent) without having to notify JLBC. With JLBC notification no less than 20 days prior to State Public Works Board (SPWB) approval, the Administration can approve augmentations up to \$180.1 million (20 percent). The SPWB is responsible for the review and approval process for all capital outlay projects to ensure they adhere to legislatively approved scope and budget. This responsibility includes reviewing and approving project cost augmentations and changes to project scope. By contrast, under the normal capital outlay process, these augmentation thresholds would be based on the legislatively approved budget for each individual project, which would limit the amount any specific project could be augmented.

***HCFIP Projects Have Experienced Significant Cost Increases and Delays.*** After the enactment of SB 1022, the Receiver hired a consultant to identify the specific treatment space needs at each prison. Based on these assessments, the Administration allocated lease revenue authority totaling \$193.1 million of \$900.4 million was allocated for nine mental health infrastructure projects (such as

Enhanced Outpatient Program treatment and office space and Intermediate Care Facilities). These nine mental health infrastructure projects have been completed. The remaining \$707.3 million was allocated to 25 HCFIP projects.

**Status of projects.** One project (California State Prison-Los Angeles County) was completed in 2017; the remaining projects are scheduled for completion in 2018, 2019 and 2020. At the time of this request, the Administration had already approved a total augmentation of \$167.1 million—18.6 percent of the total \$900.4 million authorized—to cover cost increases associated with each of the 25 HCFIP projects.

**Issues driving requested increase in lease revenue authority.** According to the Administration, the requested increase in lease revenue authority is mostly related to two factors focusing on design changes.

1. Some of the design changes were likely related to the CDCR's expedited design process for HCFIP projects that gave design firms less time than under the typical process.
2. The Administration indicates that architectural and design firms also made errors. Due in part to the above design changes, all of the HCFIP projects have been delayed. Specifically, these projects were originally anticipated to be completed in over three years on average, but are now expected, on average, to be completed in over five years.

Once each project is completed, the Administration indicates that it will review the project to determine whether any identified design errors are significant enough to hold the design firm accountable, such as by withholding a portion of the firms' payments. Without additional funding, the CDCR projects that further cost increases in HCFIP projects will cause it to exhaust the \$13 million that currently remains below the 20 percent augmentation limit at some point in 2018-19. The Administration indicates that if this occurs, any projects that need additional funding would be delayed until more resources were approved by the Legislature.

**Proposal details.** The Administration is requesting \$73 million in additional lease revenue authority to prevent any delays. Of this amount, \$42.8 million is tied to estimated cost increases for specific projects at 14 prisons. The remaining \$30.2 million is proposed as increased contingency funds to address unforeseen challenges which the department has not yet identified and is not tied to specific projects.

The Administration also proposes budget trailer legislation that would allow any of the HCFIP projects to receive a portion of the proposed \$73 million. In addition, the proposed language would require Department of Finance to notify JLBC no more than 30 days *after* the SPWB approves such an allocation. This notification would include the following information: (1) which project is receiving the allocation, (2) the amount allocated, (3) the reason for the allocation, (4) the estimated date that the project receiving the allocation will be completed, and (5) the amount remaining to be allocated to other projects.

**Legislative Analyst's Office (LAO).** The LAO believes that there is inadequate justification for the proposal. The Administration was unable to provide the LAO with an adequate amount of information justifying the need for the proposed increase in authority. For example, while the Administration identified the 14 projects that might receive \$42.8 million of the proposed funds, it was not able to

provide information on why each of those projects needed additional funds or how the funds would be used. The Administration also indicates that the projects could receive a different amount of funding than the level identified in the proposal. In addition, the Administration was not able to provide any information on how it estimated that it needs \$30.2 million in contingency funding or how such funding might be used.

As mentioned above, the Administration indicated that it is proposing additional lease revenue authority to ensure that projects are not delayed when its believes its current authority will be exhausted in 2018-19. However, it was unable to provide any information on when in 2018-19 this might occur or on the amount of additional authority it would need over the course of 2018-19. As a result, it is not clear what the consequences would be if the Legislature did not approve the Administration's proposal or which projects might be affected if the authority was not provided.

***Proposed Legislative Notification Process Limits Legislative Input and Oversight.*** The legislative notification process in the proposed budget trailer legislation does not provide the Legislature with adequate oversight of the funds. This is because the proposed process requires the notification to occur after SPWB has made an allocation. As such, the process does not provide the Legislature the ability to ensure funds are spent in a manner that is consistent with its goals for the project.

**LAO Recommendation.** Given the lack of justification included with the request, the LAO recommends that the Legislature reject the \$73 million increase in lease revenue authority for HCFIP projects and direct the department to use the \$13 million remaining under the 20 percent limit until it can submit a new request with adequate justification. They also recommend that the Legislature direct the Administration to include the following information to justify any new request: (1) the amount of funding each project would receive, (2) how the additional funding would be used on each project, (3) data justifying any proposed contingency funds, (4) how much additional lease revenue authority is needed to prevent projects from being delayed, and (5) what projects would be delayed without additional funding.

**Staff Comments.** Staff believes that approval of this proposal should be held until important pieces of information are presented to the Legislature. For example, the proposal lacks a timeline for using these funds, an explanation of the amount of funds each project would receive, as well as a justification of the proposed contingency funds. Moreover, there is insufficient justification for the proposal method of approving fund allocation of projects—which is different for the current method outlined in SB 1022 and limits Legislative input and oversight. Why is a notification process proposed to come after the SPWB has made an allocation and how does this improve the project completion timeline?

**Staff Recommendation.** Hold open pending presentation of information.

**0820 DEPARTMENT OF JUSTICE****Issue 15: Bureau of Environmental Justice**

**Proposal.** This proposal requests a General Fund appropriation of \$3.5 million for FY 2018-19 for the California Attorney General’s Bureau of Environmental Justice.

**Background.** Earlier this year, California Attorney General Xavier Becerra established the Bureau of Environmental Justice within the Environmental Section at the California Department of Justice. This new Bureau’s mission is to protect people and communities that endure a disproportionate share of environmental pollution, through investigation and enforcement of violations of environmental laws. In many cases, the same communities that are most impacted by pollution lack the resources to investigate or litigate cases to address those environmental concerns and improve their health.

Since FY 2016-17, the California Environmental Protection Agency has received funding to convene its boards and commissions to coordinate enforcement and compliance efforts in the state’s environmental justice communities. Existing law requires the Secretary to work with the Attorney General on enforcement efforts; however, it has been argued that the Legislature has not appropriated any funding to assist the Attorney General with investigation and enforcement efforts in environmental justice communities.

**Staff Recommendation.** Hold open.

**Issue 16: Civil Rights and Sex Equity in Education Enforcement**

**Proposal.** This proposal requests a \$1.9 million General Fund and ten positions for the DOJ Civil Rights Enforcement Section to actively engage in investigations of, and enforcement actions against, higher education institutions that have not taken prompt and effective steps to respond to sexual harassment.

**Background.** Title IX protections apply to all schools, public and private, that receive federal funding. This federal civil rights law and its implementing regulations are enforced by the Office for Civil Rights (OCR) within the United States Department of Education. In 2011, OCR issued a detailed guidance document in the form of a “Dear Colleague” letter updating the interpretation of Title IX and explaining that sexual harassment covers all physical sexual acts perpetuated against a person’s will or where a person is incapable of giving consent, including forms of sexual violence such as rape, sexual assault, sexual battery, and sexual coercion. The guidance document reminds schools of their responsibilities to take affirmative steps to respond to sexual violence in accordance with Title IX. Sexual harassment and sexual violence impedes a student’s right to pursue and receive an education in a safe, non-discriminatory environment. The civil rights and protections enshrined in Title IX and its implementing regulations have been an important tool for student victims, survivors, and advocates, helping to make California’s campuses a safe space for students.

This request would provide the DOJ with resources, focused on sexual assault and Title IX investigations, to engage in investigation and enforcement actions.

**Staff Recommendation.** Hold open.

## SUBCOMMITTEE NO. 5

## Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, May 3, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

**ALL VOTE-ONLY ITEMS APPROVED 3-0**

<u>Item</u>	<u>Department</u>	<u>Page</u>
<b>Vote-Only Items</b>		
<b>5227</b>	<b>Board of State and Community Corrections (BSCC)</b>	
Issue 1	Extend Sunset for County-to-County Transfer of Inmates Trailer Bill Language	3
Issue 2	Court Holding Cell Trailer Bill Language	3
<b>8120</b>	<b>Commission on Peace Officer Standards and Training (POST)</b>	
Issue 3	Learning Portal Conversion	3
<b>5225</b>	<b>Department of Corrections and Rehabilitation (CDCR)</b>	
Issue 4	San Quentin State Prison: New Boiler Facility Spring Letter	3
Issue 5	Correctional Training Facility, Soledad: Administrative Cell Door Retrofit Spring Letter	4
Issue 6	Pelican Bay State Prison: Facility D Yard Spring Letter	4
<b>0250</b>	<b>Judicial Branch</b>	
Issue 7	California Courts Protective Order Registry	4

**Outcome: Adopt placeholder TBL for item 1 and approve vote-only items 2-7 as proposed**

<b>0820</b>	<b>Department of Justice</b>	
Issue 8	Antitrust Workload	4

**Outcome: Adopt the LAO recommendations and provide the nine positions and \$1.8 million to support increased Antitrust Law Section activities in 2018-19. Additionally, adopt placeholder TBL direct DOJ to submit a report by December 1, 2020, on certain fiscal and performance measures (such as number of cases pursued and litigated as well as**

**the amount of monetary recoveries generated) to monitor the impact of these provided positions.**

Issue 9 Bureau of Gambling Control-Third-Party Providers Workload 5

**Outcome: Adopt the LAO recommendation and provide \$1.6 million from the Gambling Control Fund to support the 12 positions provided in 2015-16 for one additional year, rather than on an ongoing basis as proposed by the Governor.**

### Discussion Items

<b>8120</b>	<b>Commission on Peace Officer Standards and Training (POST)</b>	
Issue 10	Update on Peace Officer Mental Health Training (SB 11 and SB 29)	6
Issue 11	Hate Crime Model Policy	6
<b>5227</b>	<b>Board of State and Community Corrections (BSCC)</b>	
Issue 12	California Violence Intervention & Prevention Grant Program (CalVIP)	8
Issue 13	Air Surveillance for Local Law Enforcement	11
<b>5225</b>	<b>Department of Corrections and Rehabilitation (CDCR)</b>	
Issue 14	Health Care Facility Improvement Program (HCFIP) Spring Letter	12
<b>0820</b>	<b>Department of Justice</b>	
Issue 15	Bureau of Environmental Justice	15
Issue 16	Civil Rights and Sex Equity in Education Enforcement	16

### Public Comment

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# **SUBCOMMITTEE NO. 5**

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# **Agenda**

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**Senator Nancy Skinner, Chair**  
**Senator Joel Anderson**  
**Senator Jim Beall**



**Monday, May 7, 2018**

**12:30 p.m. - State Capitol - Room 112**

## **Informational Hearing**

### **Juvenile Justice – Youth Reinvestment**

Consultant: Christopher Francis

- I. Overview of the state’s youth diversion programs and effect of proposal on local diversion programs
  - Frankie Guzman, Director, California Youth Justice Initiative at National Center for Youth Law
- II. Impact and scope of social workers’ assistance in the diversion process
  - Brendon D. Woods, Public Defender, Alameda County
- III. Discussion on trauma-informed programs for Native American youth
  - Daniel R. Domaguin, LCSW, Behavioral Health Clinical Manager, California Rural Indian Health Board
  - Youth Speaker: Shannon Albers, Hoopa Valley Youth Council
- IV. Discussion of the impact of the proposal on organizations that offer diversion programs to youth
  - Alisha Murdock, Youth Justice Program Manager, RYSE Youth Center

### **Public Comment**

**Issue: Youth Reinvestment Fund**

**Proposal.** This proposal requests \$100 million to establish the Youth Reinvestment Fund to improve the outcomes of vulnerable youth populations using trauma informed, community based, and health based interventions. The proposal is separated into three parts:

- \$75 million to fund Local Diversion Programs for at-risk youth over a three year period.
- \$15 million to fund Social Workers in Public Defender Offices: to hire social workers to support cases where minors are arrested and prosecuted in either juvenile or criminal court, depending on the need of the office. The social workers may also support youth re-entry and other critical youth related needs of the public defender office.
- \$10 million to fund Tribal Diversion Programs for Native American youth using trauma informed, community based, and health based interventions.

**Background.** California’s juvenile justice system is one that is largely handled locally by trial courts, county probation departments, and local law enforcement. Over the past 20 years, the Legislature has enacted various measures which realigned to counties increasing responsibility for managing juvenile offenders. Under current law, only youth adjudicated for a serious, violent, or sex offense can be sent to state facilities by the juvenile courts. As a result, over 98 percent of juvenile offenders are housed or supervised by counties. In 2016, while there were approximately 39,000 youth involved in the county probation system, with 29,000 being wards under the Welfare and Institutions Code 602 for felony and misdemeanor crimes, there were only 653 youth under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ).

In addition to shifting responsibility for juvenile justice from the state to counties, the juvenile crime rate has declined significantly contributing to the 73 percent decline in the state’s DJJ population from 2,516 youth in 2007 to 653 youth in 2016. At the same time, there has been a 60 percent reduction in the population housed in county juvenile camps and halls, down from 11,000 youth in 2007 to 4,200 youth in 2016.<sup>1</sup> This significant and continuing decline offers an opportunity for California to comprehensively assess its juvenile justice system and invest in the best treatments and interventions for rehabilitating youth and emerging adults and to explore additional interventions in order to continue to reduce the number of young people who end up in the criminal justice system.

**Juvenile Arrest Rates.** As noted above, juvenile crime rates have decreased dramatically in recent decades, declining from a peak of 408,131 juvenile arrests in 1974 down to 62,743 in 2016. More recently, juvenile felony arrests decreased 54.7 percent between 2011 and 2016. In addition, juvenile misdemeanor and status offenses<sup>2</sup> have decreased by 59.4 percent between 2011 and 2016.

Of the 62,743 arrests made in 2016, 19,656 (31.3 percent) were for felonies, 35,756 (57 percent) were for misdemeanors, and 7,331 (11.7 percent) were for status offenses. Of the 2016 arrests, 44,980 were males and 17,763 were females. Of the felony arrests, 36.3 percent were for violent offenses (i.e. homicide, forcible rape, robbery, and assault), 29.8 percent were for property offenses (i.e. burglary,

<sup>1</sup> Data provided by the Chief Probationers of California.

<sup>2</sup> A “status offense” is an offense that would not be considered a crime if it were committed by an adult. Examples include: underage drinking, skipping school, violating a city or county curfew, or running away.

theft, and arson), 6.8 percent were for drug offenses, and 27.1 percent were for all other felony offenses (i.e. vehicular manslaughter, hit-and-run, lewd or lascivious acts, or weapons related offenses).<sup>3</sup>

**Court Adjudications.** In the juvenile justice system, cases are handled differently than the adult system. When a juvenile is arrested by local law enforcement agency in California, there are various criminal justice outcomes that can occur depending on the circumstances of the offense and the criminal history of the offender. Many juveniles, who are arrested, particularly if their alleged offenses are more serious, are referred to county probation departments. (Probation departments also receive referrals from non-law enforcement entities and people—such as schools and parents.) The probation department then has the option to close the case, place the juvenile in a diversion program or on informal probation, or refer the case to the courts. Most such referrals are adjudicated in juvenile court, but depending on the nature of the alleged offense and the age of the accused, some cases may be prosecuted in adult criminal court. The courts place almost all juvenile offenders under the supervision of county probation departments, while a small number of juvenile offenders, are sent to state institutions, either a juvenile facility operated by DJJ or state prison.<sup>4</sup>

**Trauma-informed Youth Diversion Programs.** Of the approximately 62,000 annual juvenile arrests in California, two-thirds of the arrests are for status offenses or misdemeanors. Approximately eight out of 10 youth arrested are referred to probation and of these youth, a quarter of them are detained. Research has shown that non-detention alternatives, particularly for low level offenses, are more appropriate responses to curb delinquent behavior, avoiding pushing youth deeper into the juvenile justice system. Most importantly, communities that have intentional diversion programs show improved outcomes for youth *and* public safety. Effective diversion programs in the state already exist including San Francisco’s Huckleberry Youth Program’s Community Assessment and Resource Center, which serves as a single point of entry for crisis intervention, assessment, service integration and referral of arrested youth and San Diego’s Community Assessment Teams which provides alternatives to more formal juvenile justice or school interventions. Researchers found diversion and mentoring programs produced \$3.36 of benefits for every dollar spent in terms of reduced crime and the costs of crime to taxpayers. This proposal will fund the creation and expansion of trauma-informed, developmentally-appropriate, culturally-relevant community diversion programs for youth as an alternative to detention for low level offenses. Youth in conflict with the law who are provided responses to their behavior that directly address their immaturity and underlying health and mental health needs see far better health and educational outcomes; they earn more money and contribute more tax revenue, and do not draw down as much public support, such as housing assistance and food stamps. This more appropriate approach can have the added benefit of reducing the disproportionate impact the juvenile justice system has on youth of color, children with disabilities, girls, LGBTQ youth, and foster children.

**Social Workers in Public Defender Offices.** Juvenile defender offices that include social workers have demonstrated an ability to employ holistic, cost-effective strategies that can improve youth outcomes and reduce recidivism. According to the National Juvenile Defender Center, utilizing this multidisciplinary approach allows a holistic representation where “juvenile defenders not only prepare and litigate the legal aspects of the cases in the courtroom, but also be prepared to address the underlying causes that bring troubled children into the delinquency system, such as mental illness, drug and alcohol dependency, co-occurring disorders, developmental disability, homelessness, abuse, and trauma.” Integrating social workers with public defenders will allow our justice system to better address

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<sup>3</sup> Department of Justice, *Juvenile Justice in California* (2016).

<sup>4</sup> Legislative Analyst’s Office, *California’s Criminal Justice System: A Primer*, January 2013.

root causes of youth delinquency. Some states, including Colorado, have passed legislation to require public defender offices to hire social workers to assist in defending youth defendants.

Counties, such as Los Angeles, San Francisco, and Contra Costa, have already hired a limited number of social workers that support public defender offices. These counties have a grossly insufficient number of social workers compared to the caseload of each office. For example, in Los Angeles County, public defenders refer certain cases to social workers based on their discretion. In total, social workers only see about five to ten percent of the total cases that come through in Los Angeles. Funding for social workers has varied but have included the Federal Juvenile Justice Accountability Block Grant, Title IV(e), and AB 109 funding. Without a dedicated resource, public defender offices have had difficulty receiving sufficient, dependable resources to fund these positions. Contra Costa has one social worker to assist in adult matters and more recently requested AB 109 funding to fund a social worker to support juvenile matters but was denied.

***Trauma Informed Diversion Programs for Native American Youth.*** Today's American Indian youth have inherited the legacy of centuries of eradication and assimilation-based policies directed at Indian people in the United States, including removal, relocation, and boarding schools. This intergenerational trauma continues to have devastating effects among children in tribal communities, and has resulted in substantial social, spiritual, and economic deprivations, with each additional trauma compounding existing wounds over several generations. Statistics highlight the magnitude of the problem. Although they represent one percent of the U.S. population, Native American juveniles represent two to three percent of youth arrests in categories such as theft and alcohol possession. Similarly, they are committed to adult incarceration at a rate 1.84 times that of whites and are placed under the jurisdiction of the criminal justice system at a rate 2.4 times that of whites. In California, where we have a substantial Native American population, they represent from 29 percent to 42 percent of juveniles held in secure confinement. The alcohol-related death rate among Native American youth stands at 17 times the national rate. Their suicide rate is triple the national average among males aged 15 to 24. Their high school dropout rate is the highest of any racial group. While at first glance these numbers are bad enough, what makes them even harsher is the fact that the Native American population is a relatively young one: according to the Indian Health Service, in 2008 the median age of the Native American population was 28.0 years versus 35.3 years for the U.S. population as a whole.

The Youth Reinvestment Fund will, according the proposal, strengthen the partnerships between nonprofits and community based organizations and agencies to deliver critical services, and support trauma informed, culturally relevant and health based interventions.

**Staff Recommendation.** Hold Open.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



**Thursday, May 10, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Christopher Francis

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<b>Discussion Items</b>		
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Issue 2	Integrated Services for Mentally Ill Parolees (ISMIP)	6
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<b>0250</b>	<b>Judicial Branch</b>	
Issue 4	Court Reporters in Family Law	8
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## Public Comment

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## ITEMS TO BE HEARD

### Issue 1: Reentry Programs in California

**Background.** Upon release from incarceration, ex-offenders often face a range of challenges.<sup>1</sup> Many have low levels of education and literacy, limited prior attachment to the legal workforce, reduced ties to family and community, and histories of substance abuse and mental health problems. Former prisoners may also confront a number of barriers that can directly limit their ability to gain employment, including lack of basic documentation such as a current driver's license, the use of criminal background checks by employers, and state laws and licensing requirements for jobs in certain fields. Research has also shown that large numbers of prisoners are released into a disproportionately small number of vulnerable communities, causing instability and reduced social cohesion within these neighborhoods.<sup>2</sup> Reentry refers to the transition of individuals who are incarcerated in prisons or jails back into the community after release.

Currently, there are reentry efforts emerging throughout the US and in California that employ evidence-based strategies focused on comprehensive planning and coordinated service delivery to increase the likelihood that individuals will make safe and successful transitions back into their communities after incarceration.

***Reentry Programs associated with CDCR.*** In California, the CDCR partners with other organizations on pre- and post-release rehabilitative programs and services are offered in communities throughout California delivered through alternative custody, residential, outpatient and drop-in centers.<sup>3</sup> Live-in programs for offenders serving the last part of their sentence in community programs in lieu of confinement in state prison provide links to community rehabilitative services and programs focused on skills such as Substance Use Disorder Treatment (SUDT), education, housing, family reunification, vocational training and employment services. Residential programs for parolees are offered throughout the state. All provide residency and support services to parolees including substance use disorders treatment, cognitive outpatient and drop-in programs for parolees provide support in employment assistance and placement, relationships, Cognitive Behavioral Therapies, education, housing and vocational training, behavioral therapies, life skills, employment, education and transitional housing. Some reentry programs are coed while other may only be for male or female ex-offenders.

***Advocates' perspectives.*** However, advocates argue that reentry funding through CDCR is highly problematic. They argue that the money often gets allocated to private corporations that have poor track records when it comes to reentry instead of Community Based Organizations who offer robust programs. They believe in reentry models that have stronger grassroots and community-based infrastructure, rather than one-size-fits-all models by private corporations. They also point to other states that have had success with unique reentry models—some that work with state prisons and others that work with county jails and state agencies.

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<sup>1</sup> Jeanne Bellotti et al., "Examining a New Model for Prisoner Re-Entry Services: The Evaluation of Beneficiary Choice Final Report," March 16, 2011. [https://www.dol.gov/asp/evaluation/completed-studies/Examining\\_a\\_New\\_Model\\_for\\_Prisoner\\_Reentry\\_Services/FINAL\\_REPORT\\_examining\\_new\\_model\\_prisoner\\_reentry\\_services.pdf](https://www.dol.gov/asp/evaluation/completed-studies/Examining_a_New_Model_for_Prisoner_Reentry_Services/FINAL_REPORT_examining_new_model_prisoner_reentry_services.pdf).

<sup>2</sup> Ibid.

<sup>3</sup> "CDCR's reentry services," [https://www.cdcr.ca.gov/Adult\\_Operations/FOPS/reentry-services.html](https://www.cdcr.ca.gov/Adult_Operations/FOPS/reentry-services.html).

**National trends- “Housing First” models of reentry in Ohio.** Returning Home Ohio (RHO), a joint project of the Ohio Department of Rehabilitation and Correction and the Corporation for Supportive Housing (CSH), has received additional press on its positive outcomes reducing recidivism for persons who have a behavioral health disorder and who upon release from state prison are entering supportive housing. For the pilot program, disabilities were broadly defined to include developmental disorders, severe addiction, and serious behavioral health problems. Evaluation involving a treatment and comparison group was conducted by a team of researchers at the Urban Institute’s Justice Policy Center. Amongst the Urban Institute’s findings from this program were:

- RHO participants were 60 percent less likely to be reincarcerated
- RHO participants were 40 percent less likely to be rearrested for any crime
- RHO participants received more mental health and substance abuse services and received them sooner than comparison subjects.
- Very few individuals – in either the treatment or comparison group – used emergency shelter following release.
- Other program structure measures (e.g., scattered site versus single site) were not related to re-arrest outcomes. Given the diverse needs of participants and the diverse array of provider settings/capacities, the overall positive findings suggest that, through effective partnerships and inter-agency coordination, RHO was able to match the “right” participants with the “right” provider to meet their needs.
- Among those housed through RHO, individuals with a substance use disorder or personality disorder as their primary disability were significantly more likely to be rearrested.
- RHO participation was associated with an increase in system costs of about \$9,500 per person per year. However, RHO participants had lower criminal justice system costs and higher mental health and substance abuse system costs than comparison group subjects.

The results spurred Ohio to expand the program by 40 percent in 2013 and again by 40 percent in 2014.

**National trends- “Housing First” in Utah.** Studies have shown that the first month after release is a vulnerable period “during which the risk of becoming homeless and/or returning to criminal justice involvement is high.”<sup>4</sup> Yet, in most jurisdictions to which individuals return after incarceration, accessible and affordable housing is in exceedingly short supply. Additional challenges unique to people with a criminal history make it even more difficult for them to obtain suitable housing. Historically, the national debate on housing for people returning from prison or jail has been considered within broader discussions of affordable housing. However, as the number of formerly incarcerated individuals has skyrocketed over the last few decades, widespread concern has developed about how to provide them with housing in ways that promote public safety. Across the U.S. in 1980, 144,000 individuals were released back to their communities from state prisons;<sup>5</sup> by 2008 that number had more than quadrupled to 683,106.<sup>6</sup>

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<sup>4</sup> Council of State Governments, Report of the Re-Entry Policy Council (New York: Council of State Governments, 2005), 272.

<sup>5</sup> Jeremy Travis and Sarah Lawrence, Beyond the Prison Gates: The State of Parole in America (Washington, DC: Urban Institute, Justice Policy Center, 2002).

<sup>6</sup> William J. Sabol, Heather C. West, and Matthew Cooper, Prisoners in 2008, U.S. Department of Justice, Bureau of Justice Statistics, NCJ 221944 (Washington, DC: U.S. Department of Justice, 2009).

The vast majority of people in prison or jail expect to live with their families or friends after their release, but many are not equipped to receive them. For those individuals who do not own a home and cannot live with friends or relatives, there are six other categories of stable housing options that may be appropriate for supporting successful reentry: private-market rental housing; public housing; affordable housing (nonprofit or privately owned and managed); halfway houses; supportive housing; and specialized reentry housing.

Homelessness overall remains a continuing challenge for many cities. The U.S. homeless population falls into three major categories: those that are temporarily homeless, about 75 percent; those that are episodically homeless, about 10 percent; and those that are chronically homeless, about 15 percent. Chronic homelessness is defined as an unaccompanied adult who has been continuously homeless for a year or more or more than four times homeless in three years that totals 365 days. This small 15 percent of the homeless population, estimated to be 80,000 people in the U.S., can consume 50 to 60 percent of the homeless resources available in a community.

The U.S. government began an initiative in 2003 inviting states and cities and counties to develop a plan to end chronic homelessness in a 10-year period. In early 2005, Salt Lake County Mayor Peter Corroon identified jail overcrowding as a priority issue for his administration.<sup>7</sup> The Salt Lake County Council committed \$300,000 in HUD HOME funds later that year to help people with special needs (such as mental illnesses, substance use disorders, and histories of incarceration) to secure housing. The county homeless coordinator recommended that the funds be used to seed a housing placement and rental assistance program that could ease overcrowding in the county jail as well as in substance abuse treatment and mental health facilities. As a result of this funding, the Homeless Assistance Rental Project (HARP) was launched in January 2006. To reduce recidivism, the project focuses on providing housing to homeless individuals who have a history of involvement in the criminal justice system. Some of these individuals may come directly from the jail or may already be homeless. HARP also moves people awaiting release from mental health or substance abuse treatment facilities to subsidized housing.

Salt Lake County partnered with the Housing Authority of the County of Salt Lake (HACSL) for this program. Through an intergovernmental agreement, HACSL agreed to provide housing placement services to eligible candidates and to serve as an intermediary between tenants and landlords. HACSL's housing placement process involves identifying landlords who are willing to rent to candidates (with the backing of HACSL). HACSL subsidizes (with HARP funds) the share of the rent above what the tenant is able to pay. As part of their agreement, HACSL mitigates landlord risk by insuring landlords against damages or eviction proceedings—which can be costly—and mediating landlord or tenant concerns. After one year of operation, HARP had placed tenants into fifty-five housing units; 51 percent were female-led households and 32 percent of the households had children living with them.<sup>8</sup>

Moreover, Utah reported a reduction in the chronic homeless population of 91 percent statewide in 2015.

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<sup>7</sup> Katherine Cortes and Shawn Rogers, “Reentry Housing Options: The Policymakers’ Guide” [https://csgjusticecenter.org/wp-content/uploads/2012/12/Reentry\\_Housing\\_Options-1.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/12/Reentry_Housing_Options-1.pdf).

<sup>8</sup> Ibid.

*National trends- “Housing First” in New York.* The CSH’s signature initiative Frequent Users System Engagement (FUSE) helps communities break the cycle of homelessness and crisis among individuals with complex medical and behavioral health challenges who are the highest users of emergency rooms, jails, shelters, clinics and other costly crisis services. The New York pilot placed 200 individuals into supportive housing. After a year, 91 percent<sup>9</sup> of FUSE participants were still housed in permanent housing, compared to 28 percent of those in a comparison group; after two years, 86 percent of FUSE participants were permanently housed, compared to 42 percent of others. Over the 24 months after housing placement, FUSE participants averaged 29 jail days vs. 48 jail days for the matched comparison group. And, the percentage of participants with any recent use of hard drugs such as heroin or cocaine was half as high as the comparison group. The comparison group was hospitalized for an average of eight days for psychiatric reasons, while FUSE members were hospitalized for 4.4 days; FUSE members had, on average, half as many ambulance rides as the comparison group. Through reduced usage of jails, health services and shelters, each individual housed through FUSE generated \$15,000 in public savings, paying for over two-thirds of the intervention cost.<sup>10</sup>

**Staff Recommendation.** This is an informational item. No action is necessary at this time.

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<sup>9</sup> Corporation for Supportive Housing, “Reducing Homelessness, Incarceration, and Costs through Supportive Housing: The NYC FUSE Program,” [http://www.csh.org/wp-content/uploads/2013/11/FUSE\\_Eval\\_2page\\_Results\\_Final.pdf](http://www.csh.org/wp-content/uploads/2013/11/FUSE_Eval_2page_Results_Final.pdf).

<sup>10</sup> Alana Semuels, “How to End Homelessness in New York City,” *The Atlantic*, Jan. 4, 2016, <https://www.theatlantic.com/business/archive/2016/01/homelessness-new-york-city/422289/>.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION****Issue 2: Integrated Services for Mentally Ill Parolees**

**Proposal.** This proposal would create a pilot program to provide supportive housing to people who are on parole.

**Background.** As discussed in the previous item, providing homeless parolees with supportive housing is proven to reduce recidivism. An Ohio supportive housing program demonstrated formerly homeless parolees living in supportive housing have a 60 percent lower recidivism rate than those who are still homeless. New York supportive housing programs also show lower recidivism rates and lower Medicaid costs. California data shows that supportive housing tenants are able to decrease their days incarcerated by over 60 percent.

The Integrated Services for Mentally Ill Parolees (ISMIP) was established in California's 2007-08 budget. ISMIP is funded at \$13 million per year, and was intended to support housing and intensive case management for homeless parolees who have mental illness. It requires California Department of Corrections and Rehabilitation (CDCR) to pay for housing and housing-based services. ISMIP is currently used to provide the entire cost of mental health treatment to a small number of parolees, even though they are eligible for Medi-Cal (50 to 90 percent of reimbursement for costs of care). Additionally, a small percentage, if any, of the ISMIP participants are homeless. The program, according to this proposal's proponents, is not serving its intended purpose.

This proposal would require CDCR to provide supportive housing to parolees experiencing homelessness or at risk of homelessness through existing funding, and partner with counties once the participant transitions off of parole and into the community. Current participants in ISMIP would continue to receive the same treatment they are currently receiving. As program participants transition off of parole, new participants will transition into the pilot program.

Additionally, it would require CDCR to enter into a Memorandum of Understanding (MOU) with counties. CDCR would use savings from receiving federal reimbursement for mental health treatment to pay for rental assistance and services in supportive housing during the participant's term of parole. The participating county would agree to provide community-based mental health treatment and would fund rental assistance and services under Proposition 63 (Mental Health Services Act program) once the participant transitions off of parole.

**Staff Recommendation.** Hold Open.

**0552 OFFICE OF INSPECTOR GENERAL (OIG)****Issue 3: Overview of the OIG**

**Background.** The mission of the OIG is to assist in safeguarding the integrity of the state's correctional system by overseeing the state's prisons and correctional programs. The OIG accomplishes that mission by conducting ongoing system monitoring, and select reviews of policies, practices, and procedures of the CDCR when requested by the Governor, the Senate Committee on Rules, or the Assembly. The OIG is also responsible for contemporaneous oversight of the internal affairs investigations and the disciplinary process of CDCR, for conducting reviews of the delivery of medical care at each state institution, and for determining the qualifications of candidates submitted by the Governor for the position of warden.

**Staff Recommendation.** This is an informational item. No action is necessary at this time.

**0250 JUDICIAL BRANCH****Issue 4: Court Reporters in Family Law**

**Proposal.** This proposal requires court reporters in all family court matters. Court reporters serve a critical function in court proceedings. Without a transcript of the proceedings, litigants are: (1) unable to appeal decisions; (2) unable to draft orders effectively; and (3) unable to accurately recount what actually happened during proceedings. While there is a strong need for court reporters in all court proceedings, the need for court reporters in family law proceedings is especially critical.

**Staff Recommendation.** Hold Open.

**Issue 5: Unfunded Appellate Judgeships**

**Proposal.** This proposal requests an augmentation of \$1.2 million from the General Fund to the judicial branch for the purpose of funding the cost of the new appellate court justice and accompanying staff. This request would increase the number of judges in the second division of the fourth District Court of Appeal located in the San Bernardino/Riverside area to eight judges.

**Background.** Existing law specifies the number of judges for the superior court of each county and for each division of each district of the court of appeal. Existing law provides that the Court of Appeal for the fourth Appellate District consists of three divisions. Existing law requires that one of these divisions hold its regular sessions in the San Bernardino/Riverside area and further requires this division to have seven judges.

In the 10 years, since AB 159 (Jones), Chapter 722, Statutes of 2007, authorized 50 judges to meet the needs of California, these positions remain unfunded and this critical need has only grown. Since these judges were authorized in 2007, the state has grown by three million people, and the Judicial Council reports that California now requires 188.5 judges to provide an adequate judiciary system.

San Bernardino and Riverside Counties, which have a combined need of 95 judges, account for half of the entire statewide need for judges. Inland Southern California was plagued by court closures just when statewide population shifts were greatly increasing the region's demand for judicial resources. For years, inaction by the state has required some of our citizens to take an entire day off work and drive hours across the state in order to access their closest court house. Division Two completed 2,467 cases in FY 2016, the most of any single appellate division in California. Moreover, it has transferred approximately 600 cases over the last five years to Division One in San Diego or Division Three in Santa Ana. This, according to the proposal adds an additional 50-100 miles of travel time to reach the Appeals Court.

The underdeveloped public transportation systems in rural California only serve to make it harder for poorer and disabled Californians to access core services and justice, and the impacted nature of the remaining court houses is especially harmful to those with time sensitive matters like family law proceedings.

**Staff Recommendation.** Hold Open.

**VARIOUS DEPARTMENTS****Issue 6: Driving Under the Influence Trailer Bill Language**

**Proposal.** This proposal requests technical changes to Vehicle Code sections 23612, 23577, and 23578 to bring the state into compliance with the U.S. Supreme Court ruling in *Birchfield v. North Dakota* (2016).

**Background.** The U.S. Supreme Court ruling in *Birchfield v. North Dakota* (2016) held that breath testing incident to arrest was not a violation of the Fourth Amendment, but obtaining a blood sample would require a warrant. Further the Court declared that states cannot impose criminal sanctions against drivers for the refusal of a blood test, but may pursue administrative remedies in regulating safety.

Under California's implied consent laws, a person convicted of a DUI can have additional penalties for refusing a peace officer's request to submit to, or willfully complete a specified chemical test. These additional sanctions raise constitutional questions following the *Birchfield* case.

The proposed trailer bill language changes the implied consent to chemical testing and provides that, when lawfully arrested for DUI, the officer shall inform the person that he or she has a choice to refuse the test but the refusal will then result in the administrative sanction. This proposal imposes the administrative sanction of a license suspension or revocation. Moreover, it proposes language that requires an officer to advise the person that he or she is required to submit a blood test is a preliminary alcohol screening test administered by an officer prior to the arrest revealed no alcohol present in the person's blood.

**Staff Recommendation.** Hold Open.

<b>Issue 7: State Penalty Fund Adjustment</b>
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**Governor’s Proposal.** The Governor’s budget projects that about \$81 million in criminal fine and fee revenue will be deposited into the SPF in 2018-19—a decline of \$12.6 million (or 13.5 percent) from the revised current-year estimate. Of this amount, the Administration proposes to allocate \$79.5 million to eight different programs in 2018-19—all of which received SPF funds in the current year. The below chart, generated by the LAO, many of these programs are also supported by other fund sources. Under the Governor’s plan, five of the eight programs would receive less SPF support compared to the estimated 2017-18 level. Finally, the Governor’s budget does not include funding for two programs—the California Violence Intervention and Prevention Grant Program (CalVIP) and Internet Crimes Against Children Program—that received General Fund support in 2017-18 to backfill, on a one-time basis, the elimination of SPF support for these programs.

Table: Governor’s Proposed State Penalty Fund (SPF) Expenditures for 2018-19 (*In Thousands*)<sup>11</sup>

Program	2017-18 (Estimated)			2018-19 (Proposed)			Change From 2017-18
	SPF	Other Funds	Total	SPF	Other Funds	Total	Total
Victim Compensation	\$9,100	\$103,656	\$112,756	\$6,534	\$105,867	\$112,401	-\$355
Various OES Victim Programs <sup>12</sup>	11,834	73,377	85,211	8,984	63,649	72,633	-12,578
Peace Officer Standards and Training	47,241	5,287	52,528	43,835	1,959	45,794	-6,734
Standards and Training for Corrections	17,304	100	17,404	15,998	100	16,098	-1,306
CalWRAP	3,277	—	3,277	2,478	—	2,478	-799

<sup>11</sup> credit: LAO “The 2018-19 Budget: Governor’s Criminal Justice Proposals”

<sup>12</sup> Includes Victim Witness Assistance Program, Victim Information and Notification Everyday Program, Rape Crisis Program, Homeless Youth and Exploitation Program, and Child Sex Abuse Treatment Program, OES = Office of Emergency Services; CalWRAP = California Witness Relocation and Assistance Program; and DFW = Department of Fish and Wildlife.

DFW employee education and training	450	2,628	3,078	450	2,536	2,986	-92
Bus Driver Training	895	494	1,389	—	1,447	1,447	58
Traumatic Brain Injury	800	314	1,114	800	92	892	-222
Local Public Prosecutors and Public Defenders Training	450	—	450	450	—	450	—
CalVIP*	—	9,500	—	—	—	—	-9,500
<b>Totals</b>	<b>\$91,351</b>	<b>\$195,356</b>	<b>\$277,207</b>	<b>\$79,529</b>	<b>\$175,650</b>	<b>\$255,179</b>	<b>-\$31,528</b>

*\*CalVIP received General Fund support in 2017-18 to backfill, on a one-time basis, the elimination of SPF support for this program. However, the proposed 2018-19 Governor's budget does not provide any funding for the CalVIP program.*

**Background.** During court proceedings, trial courts typically levy fines and fees upon individuals convicted of criminal offenses (including traffic violations). When such fines and fees are collected, state law (and county board of supervisor resolutions for certain local charges) dictates a very complex process for the distribution of fine and fee revenue to numerous state and local funds. These funds in turn support numerous state and local programs. For example, such revenue is deposited into the SPF for the support of various programs including training for local law enforcement and victim assistance. State law requires that collected revenue be distributed in a particular priority order, allows distributions to vary by criminal offense or by county, and includes formulas for distributions of certain fines and fees. A total of about \$1.7 billion in fine and fee revenue was distributed to state and local funds in 2015-16. Of this amount, the state received roughly one-half.

**Various Actions Taken in Recent Years to Address Declining Criminal Fine and Fee Revenue.** The total amount of fine and fee revenue distributed to state and local governments has declined since 2010-11. As a result, a number of state funds receiving such revenue, including the SPF, have been in operational shortfall for years—meaning annual expenditures exceed annual revenues—and some have become insolvent. Over the past few years, the state has adopted a number of one-time and ongoing solutions to address the shortfalls or insolvency facing some of these funds:

- **Eliminating SPF Distribution Formulas.** As part of the 2017-18 budget, the state eliminated existing statutory provisions dictating how revenues deposited into the SPF are distributed to nine other state funds. Instead, specific dollar amounts are now appropriated directly to specific programs in the annual budget based on state priorities.
- **Shifting Costs.** In recent years, the state has shifted costs from various funds supported by fine and fee revenue to the General Fund or other funds. Most of these cost shifts were either on a one-time or temporary basis. For example, nearly \$16.5 million in costs were shifted from the Peace Officers Training Fund to the General Fund in 2016-17. More recently, the state

authorized the Department of Justice to effectively shift \$15 million in costs from the DNA Identification Fund in 2017-18 and 2018-19 to two other special funds. However, one such cost shift—specifically the General Fund backfill of the Trial Court Trust Fund, which supports trial court operations—has been provided continuously since 2014-15.

- **Reducing Expenditures.** The state has also directed certain departments to reduce expenditures from fine and fee revenue. For example, the Commission on Peace Officer Standards and Training (POST), which receives such revenue to support training for law enforcement, was required to reduce expenditures. In response, the commission took several actions, such as suspending or reducing certain training reimbursements and postponing some workshops. Similarly, as we discuss in more detail later in this report, the reduction in fine and fee revenues has halted certain trial court construction projects.
- **Increasing Revenue.** The state has also attempted to increase the amount of fine and fee revenue collected in different ways. For example, the 2017-18 budget provided one-time and ongoing resources for the Franchise Tax Board (FTB) to increase its fine and fee revenue collection activities. (Currently, court and county collection programs can collect fine and fee revenue themselves, as well as contract with FTB or private entities.)

**Legislative Analyst's Office.** The LAO states that the Governor's proposed SPF expenditure plan reflects priorities that are generally consistent with the expenditure plan for 2017-18. Specifically, the proposed plan does not eliminate SPF support for any programs which received such support in 2017-18 except the Bus Driver Training Program which would be supported by the Motor Vehicle Administration instead. Additionally, similar to 2017-18, reductions in SPF support for certain programs (such as for victim compensation) will be offset by increased expenditures from other funds.

**Unclear What Impact Proposed Reductions Will Have.** The Governor's proposed expenditure plan does not specify how the programs would accommodate the proposed funding reductions. Rather, the reductions are unallocated and the programs would be given flexibility in how such reductions will be implemented. For example, it is unknown at this time how POST will accommodate its reductions. Accordingly, the programmatic impact of the proposed reductions is unknown.

**Legislature May Have Different Priorities.** While the Governor's proposal reflects the Administration's funding priorities, it is likely that the Legislature has different priorities. The Legislature could decide that programs should implement different levels of expenditure reductions. For example, the Legislature could make greater reductions for peace officer or corrections standards and training in order to make funding available to support CalVIP. In addition, the Legislature may want to specify how certain departments implement their reductions in order to ensure that their choices are consistent with legislative priorities.

**Structural Problems with Criminal Fine and Fee System Still Remain.** The Governor's proposal does not provide a long-term solution to address the structural problems of the state's criminal fine and fee system. As noted above, the amount of criminal fine and fee revenue distributed into state and local funds—such as the SPF—continues to decline. The elimination of formulas dictating SPF allocations in 2017-18 increased the Legislature's control over the use of the revenue and allowed the Legislature to allocate funding based on its priorities. However, numerous other distribution formulas remain—thereby making it difficult for the Legislature to make year-to-year adjustments in spending. Additionally, the level of funding allocated to programs, including those supported by the SPF, still relies on the amount of criminal fine and fee revenue that is available rather than on

workload or service level needs. This means that programs that are supported by such revenue, which can fluctuate depending on factors outside of the Legislature's control (such as the number of citations issued and individuals' willingness to pay), will continue to be disproportionately impacted compared to programs that are not supported by this type of revenue. Finally, to the extent that revenue continues to decline, the Legislature will be required to continue to take action to address the operational shortfalls and insolvencies of funds supported by such revenue.

**LAO Recommendations.** Although the Governor's proposed SPF expenditure plan is generally consistent with the 2017-18 plan, the Legislature will want to review it to make sure the plan reflects its priorities—particularly given the projected reduction in SPF revenues—and make any necessary adjustments. The LAO recommends the Legislature to direct the entities that administer the programs to take specific actions in implementing any reduction in SPF support, in order to ensure that legislative priorities are maintained. For example, the Legislature could require that entities maintain certain types of training provided to local agencies.

**Consider Changing Overall Distribution of Fine and Fee Revenue.** As the LAO has indicated in recent years, a broader, long-term approach to changing the overall distribution of fine and fee revenue is needed to address the ongoing structural problems with the current system. As initially discussed in their January 2016 report, the LAO continues to recommend that the Legislature (1) eliminate all statutory formulas related to fines and fees and (2) require the deposit of nearly all such revenue, except those subject to legal restrictions, into the General Fund for subsequent appropriation in the annual state budget. This would allow the Legislature to maximize control over the use of such revenue and ensure that state and local programs it deems to be priorities are provided the level of funding necessary to meet desired workload and service levels. This would also eliminate the need for the Legislature to continuously identify and implement short-term solutions to address various other such funds supported by this revenue that are currently facing or nearing structural shortfalls or insolvency.

**Consider Other Long-Term Solutions to Address Structural Problems.** In recent years, the LAO also identified various key weaknesses and problems with the state's assessment, collection, and distribution of criminal fine and fee revenue, such as a lack of clear fiscal incentives for collection programs to collect debt in a cost-effective manner that maximized the amount collected. To address these deficiencies, they provided a number of recommendations to overhaul and improve the system. For example, they recommended piloting a new collections model to address the lack of clear incentives for collection programs to collect debt in a cost-effective manner, as well as consolidating most fines and fees to address the challenges of distributing revenues accurately.

**Staff Recommendation.** Hold Open.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, May 10, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

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## Public Comment

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# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Tuesday, May 15, 2018  
1:30 p.m.  
State Capitol - Room 113

Consultant: Christopher Francis

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**Public Comment**


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**PROPOSED FOR VOTE ONLY****0250 JUDICIAL BRANCH**

- 1. Language Access Plan May Revise Proposal.** The Judicial Council requests an ongoing augmentation of \$4.0 million General Fund and three positions beginning in 2018-19, to advance the Strategic Plan for Language Access in the California Courts (Language Access Plan) adopted in January 2015. The request will provide funding for infrastructure and foundational items requested in the Judicial Branch Language Access Plan: 1) electronic and stationary signage; 2) court interpreter credential review; 3) language access training; 4) language access infrastructure and equipment; and 5) staff to administer the programs, distribute funding to the courts for equipment and infrastructure, and maintain the online Language Access Toolkit.

**January Governor's proposal.** The Judicial Council requested a one-time augmentation of \$4.0 million General Fund in 2018-19 to further advance the implementation of the Strategic Plan for Language Access in the California Courts adopted in January 2015.

**Previous Subcommittee Hearing.** This item was part of the subcommittee's April 19, 2018 hearing. The agenda and video recordings from that hearing are available on the State Senate website.

- 2. Technical Adjustment to Reimbursements May Revise Letter.** The Administration requests that Item 0250-001-3037 be amended by decreasing reimbursements by \$4,000,000, and that Item 0250-001-3066 be amended by increasing reimbursements by \$4,000,000 for a net-zero technical correction to reflect reimbursement amounts within the correct funds.
- 3. Trial Court Employee Benefits Adjustment May Revise Letter.** The Administration requests that Items 0250-101-0932 and 0250-111-0001 each be decreased by \$966,000 to reflect the updated health benefit and retirement rate changes for trial court employees.
- 4. Trial Court Trust Fund Revenue Shortfall Adjustment May Revise Letter.** The Administration requests that Item 0250-113-0001 be decreased by \$20,452,000 to reflect a reduction to the amount needed to backfill revenue shortfalls, based on the most current estimates of Trial Court Trust Fund fee revenues for fiscal year 2018-19.

**0820 DEPARTMENT OF JUSTICE (DOJ)**

- 5. Cybersecurity Program Resources May Revise Proposal.** The Department of Justice (DOJ), Division of California Justice Information Services, requests \$2,251,000 General Fund in FY 2018-19, and \$1,942,000 General Fund in 2019-20 and ongoing, along with six permanent positions, to provide additional resources to the cybersecurity program to ensure the information security of law enforcement networks throughout California. The additional resources will help safeguard the integrity and security of the California Law Enforcement Telecommunications System (CLETS) and other DOJ information assets and ensure that California's stringent laws related to cybersecurity are fairly and adequately enforced. The program aims to further protect California consumers by providing an additional avenue for reporting cybercrime. Currently, the majority of local enforcement agencies (LEAs) direct complaints of cybercrimes to the FBI as they are not equipped to investigate the incidents at the

local level. The program would allow citizens two ways to report cybercrimes to the DOJ Cybersecurity Program: directly via the Attorney General's web site, and through their local LEAs, who could direct reports to the DOJ as necessary.

## **8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)**

- 6. Peace Officer Training Course Restoration Trailer Bill Language and May Revise Proposal.** The Administration requests \$3.41 million State Penalty Fund to restore various training programs to 2017-18 funding levels. The reduction proposed by the Governor's budget in January would instead have decreased the number of Sherman Block Supervisory Leadership Institute, Robert Presley Institute of Criminal Investigation, and Command College training courses. The May Revision also requests that trailer bill language be added to amend the Penal Code and the Health and Safety Code to replace references to the Peace Officers' Training Fund, which is no longer used by the Commission on Peace Officer Standards and Training, with the State Penalty Fund.

## **5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)**

- 7. Post Release Community Supervision Population May Revise Letter.** The Administration requests that Item 5227-106-0001 be decreased by \$820,000 to adjust the amount provided to county probation departments to supervise the average daily population of offenders on Post Release Community Supervision. The adjustment reflects a revised estimate of the temporary increase in the number of offenders expected to be released to Post Release Community Supervision as a result of the Public Safety and Rehabilitation Act of 2016 (Proposition 57).

**Staff Recommendation.** Approve May Revise Proposal for Issue 1 and approve Issues 2-7 as proposed in May Revision Letters and Proposals.

## **5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

**Previous Subcommittee Hearings.** Issues 9-16 were originally proposed as part of the Governor's January Budget. Issue 9 was discussed during the subcommittee's March 8, 2018 hearing. Issues 10-13 were discussed during the subcommittee's March 15, 2018 hearing. Issues 14-16 were discussed during the subcommittee's April 5, 2018 hearing. The agenda and video recordings from those hearings are available on the State Senate website.

- 8. Office of Research Resources.** The proposed budget requests \$755,000 General Fund and six positions ongoing for CDCR's Office of Research. The Office of Research is responsible for publishing a variety of reports, ranging from statistical summaries of CDCR's adult and juvenile offender populations to evaluations of innovative rehabilitative treatment programs. In addition, the office is responsible for producing population projections twice a year, upon which the CDCR budget is built. The Office of Research also carries out short-term and long-term evaluations for programs within CDCR, conducts research projects to enhance the classification of offenders according to their treatment needs and risks, conducts research designed to assess facility program needs, and provides research-based information to CDCR

administrators and staff, and facilitates external research requests to others (Governor, legislators, press, etc.).

**Staff Recommendation.** Approve as proposed.

**9. January Capital Outlay Proposals.** The following Capital Outlay proposals were previously heard:

- a) **MEDICATION DISTRIBUTION IMPROVEMENTS – 14 INSTITUTIONS.** The budget requests \$3.3 million General Fund for design and construction of a second phase of medication distribution improvements at 14 institutions. These projects are required to address recent population changes, along with projects inadvertently omitted from the original phase. While this request is combined into one proposal for efficiency purposes, this is not a joint appropriation; it is 14 separate projects with the same objective.
- b) **CLASSROOM SPACE – PELICAN BAY.** This proposal requests \$1 million General Fund for the preliminary plans, working drawings and construction necessary to modify an existing 2,500 square foot storage room in Facility D at Pelican Bay State Prison (PBSP) into three separate classrooms to support education and cognitive behavioral treatment (CBT) programming. Education courses will include career technical education (CTE), adult basic education (ABE), and college courses. The CBT program includes substance use disorder treatment (SUDT), anger management, criminal thinking, and family relationships.
- c) **NEW CLASSROOMS FOR COGNITIVE BEHAVIORAL THERAPY – CSP SACRAMENTO.** This proposal requests \$459,000 for the preliminary planning phase of a project to construct three 1,300 square foot classrooms with inmate and staff restrooms and staff offices to support the CBT program at California State Prison, Sacramento (SAC). Classes include SUDT, anger management, criminal thinking, and family relationships.
- d) **COGNITIVE BEHAVIORAL TREATMENT SPACE – SAN QUENTIN.** This proposal requests \$296,000 General Fund for the preliminary planning for the remodel of approximately 8,000 square feet of vocational Building 32 for CBT programs at San Quentin State Prison.
- e) **AIR COOLING – CALIFORNIA INSTITUTION FOR MEN.** This proposal requests \$935,000 General Fund for the preliminary planning phase of a project to install evaporative cooling units with required fire/life/safety improvements in Facility A housing units at the California Institution for Men (CIM) to ensure that indoor temperatures will be maintained at or below 89° Fahrenheit (F) in accordance with the CDCR's Design Criteria Guidelines (DCG). Facility A housing units were built in 1952 when air cooling systems were not required by departmental standards.
- f) **STATEWIDE MINOR CAPITAL OUTLAY PROGRAM.** The Administration requests \$609,000 General Fund to fund one project for 2018-19 for the construction of minor capital outlay improvements at the CDCR's adult and juvenile.

- g) **BUDGET PACKAGES AND ADVANCE PLANNING – STATEWIDE.** The budget includes \$250,000 for CDCR to perform advance planning functions and prepare budget packages for capital outlay projects. This would enable CDCR to provide detailed information about the scope and costs of requests for planned projects.
- h) **PHASE II: 50-BED MENTAL HEALTH CRISIS FACILITIES – RJ DONOVAN AND CALIFORNIA INSTITUTION FOR MEN.** The budget requests the second phase of funding for the creation of two 50-bed mental health crisis facilities. Specifically, it proposes \$3.6 million General Fund for the working drawings phase of a project to construct a licensed 50-bed Mental Health Crisis Facility at Richard J. Donovan Correctional Facility (RJD) and \$3.4 million General Fund for the working drawings phase of a project to construct a licensed 50-bed Mental Health Crisis Facility at California Institution for Men (CIM).

**Staff Recommendation:**

- Approve items a-g as proposed.
- Reject item h to the extent additional mental health crisis beds are necessary in the future. Approve budget bill language requiring that the department reports how they will address future need with additional beds that could be used more flexibly (“flex beds”) rather than costly construction projects.

**10. Mental Health Bed Management.** The proposed budget requests \$20.1 million General Fund and 115.9 positions ongoing to address the shortage of mental health treatment beds, improve health care data reporting, and manage patient referrals. Specifically, the primary components of the request are the following:

- a) **Activate 60 Flex Beds.** This proposal includes 55 positions to convert 60 high-custody intermediate care facility (ICF) beds at the California Medical Facility (CMF) and the California Health Care Facility in Stockton into flex beds. According to the Administration, these beds would be staffed in a manner that allows them to flex between being used as high-custody ICF beds, acute psychiatric program (APP) beds, or mental health crisis beds (MHCBs). Since MHCBs have higher staffing requirements than inpatient psychiatric program beds, the requested funds would add enough staff to the 60 existing ICF beds so that they are always staffed like MHCBs and, thus, can be used to meet multiple bed needs.
- b) **Activate 15 MHCBs and Five Flex Beds.** This proposal includes 40.2 positions to activate 15 MHCBs and five flex beds for the California Institution for Women (CIW).
- c) **Increase Health Care Placement and Oversight Program (HCPOP) Staff.** The proposal includes funding for HCPOP to: (1) continue the five existing, limited-term positions on an ongoing basis, and (2) add three new permanent positions. According to the Administration, this would allow HCPOP to review referrals for appropriate housing assignments more quickly and better manage the mental health patient movement process.
- d) **Require CDCR to Conduct Mental Health Projections.** The proposal includes an increase of nine positions for CDCR’s Office of Research to use the court-approved methodology to conduct mental health population projections, rather than McManis Consulting. (This would be

in addition to the \$150,000 currently provided to McManis Consulting.) According to the Administration, moving the mental health projections from the contractor to CDCR would demonstrate to the court that the department can do these projections internally. The department states that it needs approval from the federal court, which it is in the process of seeking, to be able to do its own projections. CDCR indicates that the current contract with McManis Consulting is likely necessary through the end of 2020-21 to allow the department to develop its own projections in accordance with the court-approved methodology.

- e) ***Increase Inpatient Reporting Unit (IRU) Staff.*** The proposal includes funding for IRU to: (1) continue the two existing, limited-term psychologists on an ongoing basis, and (2) add four additional psychologists. According to the Administration, this would allow additional clinical reviews of referrals to take place and reduce the number of MHCB patients that remain in the beds beyond the ten-day limit established by the court.

**Staff Recommendation:** Adopt the LAO recommendation. This recommendation includes the following:

- Since the need for flex beds is estimated to be short-term in nature, the LAO recommends providing funds for the 60 flex beds on a four-year, limited-term basis. This would allow the department to address the near-term need for MHCBs—as well as any unexpected increases—until the need for these additional beds is projected to be eliminated.
- Approve supplemental reporting language requiring the department to report annually starting on January 10, 2019, for the next four years on how frequently the flex beds were used as MHCBs, ICF beds, or APP beds.
- Reject the proposed research staff since the proposed resources have not been fully justified.
- Approve staffing changes for HCPOP and IRU. The additional staff requested for these units would allow CDCR to manage referrals more quickly, which would further reduce the need for costly MHCBs and inpatient psychiatric program beds.

- 11. Roof Replacement and Mold Remediation May Revise Proposal.** The CDCR requests in its May Revision proposal an adjustment to the January proposal to: (1) align funding for interior water damage repairs with a refined system-wide needs assessment, (2) add funding for roof replacement design activities at four prisons in 2018-19, and (3) add funding for roof replacements at a third prison in 2019-20. This adjustment results in a reduction of \$8.4 million General Fund in 2018-19 and an increase of \$22.6 million General Fund in 2019-20.

**January Governor’s proposal.** The Governor’s budget requested \$60.7 million General Fund in 2018-19 for roof repairs at three state facilities and \$20 million to repair interior water damage caused from roof leaks at various facilities. In addition, the budget requested \$58.2 million General Fund in 2019-20 for roof replacements at two additional prisons.

**Staff Recommendation:** Adopt the May Revision proposal.

- 12. Health Care Access Vehicles.** The Governor’s budget proposed \$17.5 million from the General Fund on a one-time basis in 2018-19 to purchase 338 vehicles that are used for transporting inmates to health care and other appointments (such as attending court). Specifically, the budget proposes \$14.6 million to replace 291 existing health care vehicles ranked highest in CDCR’s replacement priority order and \$2.9 million for 47 additional health

care vehicles—thereby increasing the size of the department’s vehicle fleet. According to CDCR, it intends to either dispose of or sell at the state auction the vehicles proposed for replacement.

**Staff Recommendation:** Approve as proposed.

**13. Parole Non-Ratio Positions.** The CDCR requests \$2.3 million General Fund and 23 positions in 2018-19 and ongoing to provide the Division of Adult Parole Operations the staff necessary to support field operations and ratio-driven staff. Non-ratio staff support the activities of the ratio-driven supervision positions through development and maintenance of service contracts, procurement of necessary equipment and supplies, and all human resource activities including management of workers' compensation claims and coordination of return-to-work tasks.

**Staff Recommendation:** Adopt the LAO recommendation. This includes:

- Approve requested funding and positions for 2018-19.
- Direct the department to utilize a budgeting methodology that is based on specific staffing ratios and takes into account the size and composition of the parolee population, and to annually adjust the total number and type of positions needed each year—not just for direct-supervision positions.
- Require the department to report at future budget hearings during BY 2018-19 on a timeline for incorporating support staff into the annual parole staffing adjustment.

**14. Career Technical Education Expansion and Equipment Refresh.** The CDCR requests \$8.2 million General Fund and 21.5 positions in 2018-19, and \$4.5 million in 2019-20 and ongoing, to expand Career Technical Education (CTE) programming to 13 additional sites and replace and refresh core equipment statewide. This proposal contains two components: (1) expanding the CTE programs and (2) refreshing equipment.

**Staff Recommendation:** Approve as proposed.

**15. Rehabilitative Achievement Credit Staffing.** The CDCR requests \$2.5 million General Fund and 13 positions in 2018-19 and ongoing to implement a Rehabilitative Achievement Credit (RAC) earning program associated with the passage of Proposition 57. Additional Self-Help Sponsors (SHS) funds will ensure that the institutions can expand Inmate Activity Groups (IAGs) to meet inmate demand for RAC-eligible programs. SHSs will sponsor IAGs throughout the institutions and rove between various volunteer support groups to ensure attendance is tracked and input into Strategic Offender Management Systems. The \$1.5 million in SHS funds will allow the Department to obtain an additional 84,602 hours of programming.

**Staff Recommendation:** Approve as proposed.

**16. Case Records Training Team May Revise Proposal.** The CDCR requests \$444,000 General Fund in 2018-19 and ongoing and three positions to provide sentencing and computation training to all adult institutions. Case Records Administrators (CRAs) have been actively preparing training material and providing training to Case Records staff in all 35 adult institutions specific to changes in calculations as a result of Proposition 57 implementation. In doing so, the Regional CRA trainers discovered disparate levels of knowledge in the Case Records offices statewide on overall sentencing calculations. Case Records staff are responsible for determining an inmate's credit-earning rate based on sentencing laws and regulations and

for an accurate interpretation and calculation of an inmate's release date or Board of Parole Hearing date. Each time a change is introduced, it requires the CRAs, who are the subject matter experts, to complete a revised or newer method for manual calculations, and to develop training modules, deliver training to staff, and provide updated materials to automate the calculations.

**Staff Recommendation:** Approve as proposed.

**17. Psychiatry Registry Funding May Revise Proposal.** California Correctional Health Care Services, on behalf of the Division of Health Care Services, within CDCR, requests \$18.1 million, on a two-year limited term basis beginning in fiscal year 2018-19, to offset the difference in cost between mid-step funding and contracted costs for registry psychiatrists at California's institutions. This request also includes Budget Bill Language that specifies the requested funding will be used for psychiatry registry purposes and any remaining funds at the end of the year shall revert to the General Fund. The CDCR continues to experience difficulty recruiting and retaining a sufficient number of psychiatrists within the institutions. Among the reasons cited for not filling the vacancies are a nationwide shortage of psychiatrists, making competition for their services very competitive; the undesirability of working in an institutional setting to many health care professionals; and the remote locations of many of the State's correctional facilities.

**Staff Recommendation:** Approve as proposed.

**18. Court Resentencing Petitions May Revise Proposal.** The CDCR requests \$2 million General Fund in 2018-19, \$1.9 million in 2019-20, and \$1.5 million in 2020-21 and ongoing to fully utilize Penal Code section 1170(d)(1), which allows the Department to request the recall and resentencing of inmates who have exhibited exceptional conduct or whose records contain sentencing errors. This request includes funding for 13 permanent positions and two, two-year limited term positions. Currently, the CDCR uses the provision under PC section 1170(d)(1) on a limited basis for the recall and resentencing of inmates who demonstrate exemplary behavior during incarceration.

**Staff Recommendation:** Approve as proposed.

## ITEMS TO BE HEARD

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

#### Issue 19: Population Adjustments

**May Revise Proposal.** The May Revision requests the following population adjustments based upon updated caseload projections and additional alternative custody program placements:

**Adult Population Adjustment** – This reflects a net decrease of \$21.8 million and a net increase of 37.3 positions, which is comprised of a reduction of \$21.8 million General Fund and an increase of \$28,000 Inmate Welfare Fund. The May Revision reflects an estimated average daily population of 126,890 in fiscal year 2018-19, which is 522 fewer than projected in the Governor's budget. The projected parolee average daily population is 48,535 in 2018-19, which is a decrease of 1,259 compared to the Governor's Budget projection.

**Juvenile Population Adjustment** – The May Revision includes a decrease \$259,000 General Fund and 1.7 positions and an increase of reimbursements by \$33,000. The May Revision reflects an estimated average daily population of 646 wards in 2018-19, which is one more ward than projected in the Governor's budget.

**Staff Comment.** The subcommittee discussed the Governor's January population projections during its March 8, 2018 hearing. In addition, the subcommittee had an in-depth discussion of CDCR's juvenile justice programs during its April 5, 2018 hearing. Agendas and video recordings from both hearings are available on the State Senate website.

**Staff Recommendation.** Hold open.

#### Issue 20: Hepatitis C Treatment Funding

**May Revise Proposal.** The California Correctional Health Care Services (CCHCS) is requesting an augmentation of \$105.8 million annually in General Fund for three Fiscal Years (FY), beginning in FY 2018-19, and ongoing through FY 2020-21, to enable CCHCS to fully implement the expansion of the hepatitis C virus (HCV) treatment program. This funding will result in a total budget of \$165 million for HCV treatment in FY 2018-19. After FY 2020-21, the baseline HCV treatment funding will be evaluated and adjusted as needed to meet the needs of the projected population to be treated.

**Background.** Chronic HCV infection is a major causal factor in the development of end-stage liver cirrhosis, which is a leading cause of hospitalizations and death in incarcerated patient populations, including in the CDCR adult institution population.

Prevalence of HCV among CCHCS's patient population is estimated to be 16.4 percent, which is much higher than in the community (one percent), and is comparable to that of the Veterans Administration (VA) which ranges from 6.6 to 21.7 percent. Estimates of HCV prevalence are likely underestimations of the true prevalence of HCV in California's prison system since most infections are asymptomatic.

The United States Centers for Disease Control (CDC) estimates each reported HCV case represents 13.9 actual cases.

As of September 2017, the prevalence of HCV infection, based on positive serology and detectable viral loads for those inmates who were tested, was 16.4 percent or 16,365 patients (out of 99,647 patients tested). If the prevalence of 16.4 percent is applied to the 33,418 inmates who have not been tested, the additional number of inmates potentially eligible for treatment is 5,480, which totals 21,845 eligible patients. Of the nearly 22,000 inmates infected with HCV, approximately 10 percent have stage 3 or 4 liver fibrosis or other co-morbidities necessitating treatment in the next 12 months, with the remaining patients, primarily with stage 0-2, being eligible for treatment within three to five years.

Historically, chronic HCV treatment required up to 48 weeks of medication, had significant side effects, and had limited effectiveness. However, significant advances in HCV treatments have occurred over the past five years with the release of a new class of medication called direct-acting antiviral agents. There is now an increased number of medications available for treatment, treatments can be completed in a shorter duration (typically within 12 weeks), have fewer side effects, and are more effective. The possibility of curing 95 to 99 percent of the infected population is now available with these new treatment regimens, regardless of the patients' stage of disease.

This request would allow CCHCS to expand HCV treatment to all inmates infected with the disease, regardless of their stage of progression, consistent with new treatment guidelines issued in December 2017. The additional resources would allow CCHCS to increase the number of patients treated for HCV from 2,300 in FY 2017-18 to an estimated 6,600 patients per year in FY 2018-19 through FY 2020-21.

**Staff Recommendation.** Hold Open.

#### **Issue 21: Contraband Interdiction Program**

**May Revise Proposal.** The CDCR is requesting \$9.1 million General Fund in 2018-19 and \$8.3 million General Fund in 2019-20 to implement a two-year Contraband Interdiction Program at the California Substance Abuse Treatment Facility (SATF). The program will deploy contraband interdiction devices at the front entrance areas, employ a staffing complement to operate the devices, expand SATF's canine teams, conduct enhanced vehicle and institution searches, and institute a Medication Assisted Treatment (MAT) program to respond to the opioid crisis.

**Background.** The Legislature previously approved two-year limited-term funding of \$5.2 million per year and 24.0 positions to begin an Enhanced Drug and Contraband Interdiction Program (EDCIP) pilot. In 2014-15, CDCR began to implement the EDCIP at 11 institutions three identified as an intensive level of interdiction and eight as a moderate level. The pilot designations were intended to gather an overall understanding of the effectiveness of the strategies through CDCR's varying designs and custody levels, including male, female, camp, and reception center institutions. Ultimately, upon expiration of the funding, a 2016-17 Budget Change Proposal authorized the continuation of portions of EDCIP for an additional year. To quantify the success of the EDCIP pilot, the University of California, Berkeley in conjunction with fellows from the Public Policy Institute of California, were contracted to perform a data analysis study measuring the effectiveness of the strategies implemented by EDCIP. A final comprehensive report was completed on April 29, 2017. Concurrent with the drug

interdiction strategies in this proposal, the contract that provides Inmate/Ward Telephone Systems and Managed Access Systems for the Department was amended to provide a suite of contraband interdiction and detection devices.

***Selection of SATF for Contraband Interdiction Program.*** Currently, CDCR does not have mechanisms in place to conduct a thorough search of every individual who enters the institutions. To prevent contraband from entering the institutions, the CDCR is proposing to implement a seven-day per week/24-hour per day, comprehensive approach at both entrance areas at SATF. SATF was chosen as the pilot location because it has two entrances, consistent with about half of the institutions statewide. This approach will include the utilization of a baggage/parcel scanner x-ray machine and a millimeter wave full body scanner at each entrance and enhanced searching by canine teams. CDCR is requesting six additional canine teams for SATF, which currently has two canine teams. This strategy will minimize/eliminate contraband from entering through the entrance areas.

***Drug Interdiction Program.*** On June 27, 2016, Governor Brown approved Senate Bill 843, which required CDCR, under the direction of the Undersecretary of Health Care Services, to create a three-year pilot program at one or more institutions to develop and implement a MAT substance use disorder treatment model for inmates with a history of substance use problems. Due to the burgeoning national problem of substance abuse, the use of MAT programs, which use medication in combination with counseling and behavioral therapies to help inmates in treating their substance use disorders, has been growing in both community and institutional settings across the country.

In response to the new California Penal Code Section 2694.5, CDCR worked with its partners at the California Correctional Health Care Services (CCHCS) to develop a MAT pilot program within California's institution system. The goals of this program are to create a model which addresses the issues of inmate drug and alcohol use in institutions and to reduce risks when inmates are released. Risks upon release include overdosing on narcotics, relapsing into substance abuse, and engaging in drug-related recidivistic criminal activities. To mitigate these risks, treatment before release is essential. MAT requires close integration with the Complete Care Model (CCM) in CDCR facilities, in which all health care needs of the inmates, including the inmates' need for substance abuse treatment, are integrated. CDCR has implemented pilot MAT programs at CIW and CIM.

***Selection of SATF for MAT Pilot.*** The Administration determines that SATF would be the best place to expand the MAT program because it anticipates an increase in the number of identified substance users within the institution. CDCR is requesting approximately \$370,000 for medications and funding for limited-term positions to expand MAT to SATF. The CDCR anticipates treating roughly 50 inmates per year, per institution with MAT, although more than 50 can be treated with psychosocial interventions offered within the MAT Program. These numbers are based on their pilot program at CIM and CIW. The duration of treatment within the MAT program is determined by signs, symptoms, and severity of substance use disorder(s). Some inmates will be treated briefly before release from incarceration, while inmates with high levels of cravings and use while incarcerated may be treated for years (as would be done in the community). Treatment consists of psychosocial interventions including motivational enhancement, cognitive behavior therapy, and 12-step facilitation and/ or medications indicated for alcohol and/or opioid use disorders (oral naltrexone, injectable naltrexone, or acamprosate).

***LAO Assessment and Recommendation.*** While the LAO acknowledges that drug use and contraband are serious problems in CDCR facilities, it that the strategy proposed by the department would be extremely costly if expanded statewide. Specifically, the LAO estimates that statewide expansion of

the proposed program would cost hundreds of millions of dollars annually and require hundreds of additional correctional staff to operate. Furthermore, they note that the proposed pilot costs more than *ten* times as much on a per prison basis as a different drug interdiction pilot program conducted between 2014-15 and 2016-17 that was found to successfully reduce inmate drug use at certain prisons.

***Program Appears Difficult to Evaluate.*** The LAO finds that the pilot is not designed to allow for a meaningful evaluation. For example, the pilot: (1) does not include random drug testing of inmates to measure underlying drug use at SATF and comparison institutions, meaning it would be difficult to assess whether the program is affecting inmate drug use and (2) is not designed to test which specific strategies are effective, only whether the entire package of interventions is effective; and (3) includes only one institution making it difficult to evaluate whether a similar package of interventions would be effective at other institutions.

To the extent the Legislature is interested in pursuing a pilot, the LAO recommends that it directs the Administration to propose a new pilot in January that is designed with the assistance of researchers to ensure that evaluators would be able to assess which specific drug and contraband interdiction strategies are most cost-effective.

**Staff Comments.** Staff believes that this is a worthwhile endeavor and that this pilot could have important policy ramifications. The location for the pilot, explicit language outlining that all persons must searched, and outside evaluators for this report should be considered amongst other factors. However, there may need to be additional time to sufficiently address questions about the details of the program and the goals of the Legislature, as well as re-design the pilot if needed.

**Staff Recommendation.** Hold open.

## Issue 22: Overtime Base Adjustment Proposal

**May Revision Proposal.** The CDCR requests \$16.5 million General Fund in 2018-19 and ongoing to adjust the base overtime budget to reflect approved salary increases.

**Background.** CDCR's overtime budget has not been adjusted to account for increases in employee compensation since 2014-15. Since then, Correctional Officers, Sergeants, and Lieutenants have received salary increases totaling approximately 17 or 18 percent compounded over the previous five years. In 2014-15, the CDCR's overtime authority supported roughly 2.6 million hours of overtime. In 2017-18, the overtime authority only supports 2.2 million hours of overtime. By providing the requested overtime budget increase, the proposal restores CDCR's ability to purchase 2.6 million hours of overtime. To augment for the past increases, CDCR's overtime requires an increase of \$24.6 million. This need is offset by \$8.1 million due to the realignment of excess lump sum funding, resulting in an increase of \$16.5 million. With this augmentation, there would be a total overtime budget of \$150.1 million. The augmentation will allow the overtime budget to support the employee compensation increases that have occurred annually, since 2014-15.

**Staff Recommendation.** Hold open.

**Issue 23: Training Initiatives**

**May Revision Proposal.** The CDCR requests \$12.9 million General Fund in 2018-19 and five positions, \$21.6 million General Fund in 2019-20 and 2020-21, and \$19.3 million General Fund in 2021-22 and ongoing to add essential training for peace officer and supervisory positions.

**Background.** To fully support the cultural changes underway, CDCR must adapt and expand its training program to become a comprehensive model which meets the needs of employees at every stage of their career. The CDCR has partnered with the California State University system to develop training curriculum and worked with Humboldt State University to complete a review of CDCR's training programs to identify opportunities for improvement. During the review, completed in March 2018, it was determined additional training would benefit both staff and supervisors. This proposal had four components:

1. The first component of the expanded training would add 40 hours to the Basic Correctional Office Academy and requires an update to Penal Code section 13603. The additional hours would incorporate implicit bias, leadership, and reality-based scenarios into the academy training. Many of these subjects would be further reinforced during annual Off-Post Training (OPT), which would be expanded by an additional 8 hours to provide critical institution specific training, as well as behavioral training tied to organizational culture change and the role custody staff play in supporting inmates in the rehabilitative process. Expanding OPT also allows current peace officers to participate in the new training topics.
2. Second, employees who promote into management would attend the Advanced Management for custody and non-custody supervisors and managers courses. This proposal would increase these courses from 80 hours to 120 hours and add trainings on topics such as implicit bias, ethical leadership, an employee's role in rehabilitation, and stress resiliency.
3. Third, employees who promote to the rank of Captain and above would attend Command College for leaders in law enforcement. The Command College is a 14-16-month leadership program designed to prepare law enforcement leaders of today for the challenges of tomorrow. The program focuses on leadership principles needed to influence the future direction of the organization, strategies to identify emerging issues and provide a proactive response, skills and knowledge necessary to anticipate and prepare for the future, methods and benefits of sharing information, and how to engage stakeholders in problem-solving.
4. Lastly, to ensure investigative staff are trained appropriately, and to improve investigation outcomes, CDCR requests five Special Agent positions to create an investigative training unit responsible for oversight and administration of statewide Special Agent and Investigative Services Unit training.

**LAO Assessment and Recommendation.** Given that CDCR special agents currently do not receive POST investigator training, despite having responsibilities similar to law enforcement officers who do, the LAO believes the proposal to provide special agents with such training is reasonable. However, they have significant questions about the remaining training proposed by the department. While such training could address challenges faced by the department, the LAO does not believe the Administration has not provided sufficient information to assess whether it would be successful. For example, it is unclear what curricula and training materials the department would use, whether the proposed training has been implemented successfully elsewhere, or why the department believes it would be successful in California. Furthermore, it is unclear to the LAO whether CDCR has already developed curricula and training materials and would actually be able to begin offering trainings in

2018-19 as proposed. Finally, it is unclear to the LAO whether the trainings could be offered in a more cost-effective manner, such as by providing them in lieu of training that is no longer necessary.

**Staff Recommendation.** Hold open.

#### **Issue 24: Medical Guarding and Transportation**

**May Revision Proposal.** The CDCR requests \$5.9 million General Fund in 2018-19 and ongoing and 42.7 positions to augment medical transportation custody positions at adult institutions.

**Background.** Healthcare treatment has steadily increased to meet the needs of the inmate population. The requirement to transport inmates is at the direction of CCHCS medical professionals, and it is the responsibility of CDCR custody staff to ensure such mandated transports are completed expeditiously to ensure inmate access to healthcare. Therefore, the CDCR is unable to delay the transportation of inmates requiring medical or mental healthcare. Based on a review of overtime hours for March 2017 through February 2018 compared to the Access Quality Report (AQR), a report compiled by CCHCS, which tracks inmates' access to medical appointments, of the total unscheduled medical transports, 54 percent occurred during third watch hours.

When unscheduled emergency inmate transports occur during third watch, it results in either an overtime shift or a current on-site third watch staff being redirected from their assigned post to the emergency transports. When a staff member is redirected to perform these duties, the institution often times must modify or close inmate programs due to the reduced staffing available. As a result, the ability for inmates to participate in programs is negatively impacted where the programs are modified or cancelled due to the lack of custody staffing. These programs include: Self-Help programs, religious activities, Transitional Reentry Programs, Cognitive Behavioral Treatment, Veteran's advocacy, core recreational activities such as yard and dayroom, etc. These programs enhance rehabilitative efforts to aid in the successful reintegration of inmates back into California's communities. Additionally, depending on the program impacted, modifications or cancellation could affect an inmate's ability to earn credits that allow them to reduce their sentence. CO overtime hours for medical transportation have increased by 47 percent from 2015-16 to 2017-18. Establishing a budgeted position specific to third watch medical transportation needs, the CDCR argues, will also provide a consistent dedicated resource for such duties thereby reducing inmate program modifications.

**LAO Assessment and Recommendation.** The LAO does not have significant concerns with the Administration's proposal to provide CDCR with \$5.9 million for additional medical guarding and transportation staff to conduct unscheduled medical transports in evening hours. (They note that this request is in addition to a January proposal for \$1.2 million and 8.4 position for these purposes.) However, CDCR has indicated that it plans to conduct a comprehensive review of the medical guarding and transportation needs at each institution. Accordingly, the LAO recommends that the Legislature direct the department to provide it with the results of this comprehensive review when they become available. This would help the Legislature to determine whether medical guarding staffing levels need to be adjusted in the future.

**Staff Recommendation:** Hold Open.

**Issue 25: Healthcare Services for Reentry Programs**

**May Revision Proposal.** The CDCR requests \$10.8 million General Fund in 2018-19 and ongoing to contract with either the Department of Health Care Services, or with third-party vendors, to provide healthcare services for reentry program participants.

**Background.** CDCR operates several reentry facilities in the community to house certain CDCR inmates serving the final one or two years of their sentence. Until recently, inmates in these facilities were generally enrolled in Medi-Cal and received healthcare services from Medi-Cal providers near the reentry facilities. However, in January 2018, the federal Centers for Medicare and Medicaid Services found that these inmates were ineligible for Medi-Cal services. Since that time, CDCR has been paying for healthcare services for these inmates using existing resources on an as-needed basis. In response, the administration proposes \$10.8 million from the General Fund to contract with the Department of Health Care Services (DHCS) or other vendors to provide healthcare services to inmates in these facilities. Under this approach, CDCR would pay a monthly fee to DHCS for each inmate, regardless of the level of services provided.

**LAO Assessment and Recommendation.** The LAO states that, according to the department, the details of this contracting arrangement are still being developed, meaning the actual costs of providing healthcare services through such a contract are uncertain. In addition, since CDCR has only been paying for healthcare services on an as-needed basis for a few months, the ongoing cost of doing so is uncertain. As such, it is not clear which approach to delivering healthcare services is the most cost-effective.

Given these uncertainties, they recommend the Legislature reject the Governor's proposal and direct CDCR to continue to provide healthcare services to reentry facility inmates on an as-needed basis until a more detailed proposal can be provided in January. This will give the department time to clarify how much each approach would cost and whether there are other alternatives for providing these services.

**Staff Recommendation:** Hold Open.

**Issue 26: Correctional Counselor I Ratio Adjustment**

**May Revision Proposal.** The CDCR's Division of Adult Institutions, requests \$13.5 million General Fund in 2018-19 and 89.2 positions to adjust the offender to Correctional Counselor I (CCI) ratio from 150:1 to 135:1 to provide enhanced rehabilitation and program enrollment assistance to the offender population.

**Background.** Historically, CCI ratio positions have been funded on a ratio formula of 150 inmates to one CCI. CCI adjustments are completed biannually based on the inmate population estimates included in the Governor's Budget and Budget Act. For the past 30 years, CDCR has operated under the 150:1 ratio formula; however, the CCI workload has steadily increased based on new workload demands resulting from policy changes, legislative mandates, and court orders, including the implementation of Correctional Officer Management Profiling for Alternative Sanctions in 2008, as well as the passage of the Public Safety Realignment Act in 2011. Additionally, new inmate rehabilitative programs such as

Community Prisoner Mother Program, Alternative Custody Program, Male Community Reentry Program, Custody to Community Transitional Reentry Program, and Cognitive Behavioral Treatment require additional focus from counselors to appropriately assess individual inmate's eligibility based on both the inmate's profile and the unique focus of each program. Furthermore, CDCR has experienced an increase in participation in inmate work groups as a result of Proposition 57 implementation, as well as increased Interdisciplinary Treatment Team committees held for inmates within the Mental Health Services Delivery System. There are various levels of treatments available within the MHSDS, including but not limited to: Enhanced Outpatient, Mental Health Crisis Bed (MHCB), and Psychiatric In-Patient treatment.

The Administration proposes \$13.5 million from the General Fund in 2018-19 to hire additional CCI staff who compile and maintain information about inmates (such as criminal and medical histories) and assist with assigning inmates to appropriate housing settings and rehabilitation programs.

CDCR requests to decrease the CCI ratio, thereby increasing the number of CCI positions. This will enable counselors to provide enhanced assistance to the inmate population. The expectation of counselors to interactively engage with the inmate population via interviews and counseling has evolved from its previous sole focus of adjusting to a correctional setting. By decreasing the CCI ratio, CDCR has the ability to increase the time available for one-on-one interaction between inmates and their assigned counselors to address individual needs and other various concerns, known as an "open line." Currently, counselors are limited to only four hours per week to provide individual attention to all inmates on their caseload. This minimal amount of time is insufficient for counselors to provide essential rehabilitative services to inmates. Increasing the time counselors are available by two hours each week will allow for improved communication with the inmates regarding their individual needs and assist in connecting them to available resources. It will allow enough time for counselors to serve as an advocate for participation in programs designed to benefit inmates.

**LAO Assessment and Recommendation.** The LAO recommends that the Legislature reject this proposal as the department did not fully demonstrate the need to reduce CCI caseloads. For example, it is unclear why CCIs need more time to identify rehabilitation programs for inmates. Furthermore, it is unclear why CCIs need to spend more time helping inmates plan for release when CDCR has separate staff who are responsible for this. Moreover, the department has not provided any evidence to suggest that more one-on-one time between CCIs and inmates is needed. For example, it is not clear that CCIs are turning away inmates due to a lack of availability.

**Staff Recommendation:** Hold Open.

#### **Issue 27: Juvenile Justice ID Card Trailer Bill Language**

**May Revision Proposal.** The Administration requests that trailer bill language be added to authorize the Division of Juvenile Justice (DJJ) to obtain California identification cards issued by the Department of Motor Vehicles to youth offenders upon discharge.

**Background.** This bill would require the CDCR's DJJ and the DMV to ensure that an eligible juvenile offender, as defined, who is released from a state juvenile facility has a valid ID card. The bill would set the fee for the ID card at eight dollars and would require an eligible juvenile offender to provide the DMV with specified information.

Specifically, eligible juvenile offenders who previously held a California driver's license or identification card or eligible juvenile offenders would have to provide acceptable proof that they are covered by the proposed language. This proof includes information regarding his or her true full name, date of birth, social security number, legal presence in the U.S., and California residency.

**LAO Assessment and Recommendation.** The LAO did not raise any issues with this proposal.

**Staff Recommendation:** Hold Open.

## 0250 JUDICIAL BRANCH

### Issue 28: Capital Outlay, Trial Court Construction

**May Revision Proposal.** The Administration requests that Budget Bill Item 0250-301-0660 be increased by \$972 million to add funding for the construction phases of the following projects:

- Glenn County: Renovation and Addition to Willows Courthouse (\$38,292,000)
- Riverside County: New Mid-County Civil Courthouse (\$75,792,000)
- Sacramento County: Sacramento Courthouse (\$459,801,000)
- Sonoma County: New Santa Rosa Criminal Courthouse (\$160,734,000)
- Stanislaus County: New Modesto Courthouse (\$237,243,000)

The authority to sell the remaining \$972 million in lease-revenue bonds to finance the five projects proposed to move into construction in 2019-20 would be provided as part of the 2019-20 budget.

**January Governor's Proposal.** In January, the Administration proposed using lease revenue bonds backed by the General Fund—rather than the Immediate and Critical Needs Account—to finance the construction of ten trial court projects totaling about \$1.3 billion by 2019-20. Under the Administration's January proposal, the 2018-19 budget would provide the judicial branch with: (1) the authority to sell \$343 million in lease-revenue bonds to begin to finance the construction of five projects in 2018-19, and (2) \$32.2 million from the Immediate and Critical Needs Account to complete pre-construction design activities for three of the five projects (Riverside, Sonoma, and Stanislaus) proposed to move into construction in 2019-20. The request would provide funding authority for these projects to proceed with construction when they are ready.

**Previous Subcommittee Hearing.** This issue was part of the subcommittee's April 19<sup>th</sup>, 2018 hearing. The agenda and video recordings from that hearing are available on the State Senate website.

**LAO Assessment and Recommendation.** The LAO recommends that the Legislature reject the Governor's May proposal to increase the judicial branch's 2018-19 lease-revenue bond authority by \$972 million. This is because this additional authority will likely not be needed in 2018-19, as the five projects that would be financed by these bonds will generally be completing pre-design construction activities at that time. As such, it is premature to provide the judicial branch with this additional authority. Furthermore, as the LAO discussed in their February budget publication, they continue to recommend the Legislature either overhaul the existing trial court construction system to address key underlying problems or modify the Governor's proposal to address some key issues if the existing system is maintained.

**Staff Comments.** In order to ensure that the Legislature has sufficient information to determine whether a proposed project should begin or continue to move forward, the judicial branch should submit a long-term fund condition statement for the construction account with each construction funding request. Additionally, reassessment would help the Judicial Council determine whether the proposed projects have the greatest needs under the judicial branch's existing system for assessing needs. This updated assessment will be considered by the Legislature when determining whether to approve subsequent construction budget requests and should occur prior to the selling of the approved bonds.

**Staff Recommendation.**

1. Approve both the May Revision and January Governor's proposals for the lease revenue authority
2. Adopt budget bill language requiring:
  - a. A long-term fund condition statement, and
  - b. Updated assessment of trial court facility needs

**Issue 29: County Office of Education (COE) Offset of Trial Court General Fund Support**

**Summary.** The Governor's budget estimates that the amount of excess property tax revenue available in 2018-19 will not increase over the 2017-18 level of \$48 million.

**Background.** Each of California's 58 counties has a COE. COEs oversee the budgets and academic plans of school districts within their jurisdictions, operate certain alternative schools, and provide various optional services to school districts. A primary source of funding for COEs is the Local Control Funding Formula (LCFF). Each COE's annual LCFF allotment is determined by formula.

***Some COEs Collect "Excess Property Tax" Revenue.*** A COE's annual LCFF allotment is supported first with local property tax revenue, with the remainder covered by state Proposition 98 General Fund. Some COEs do not receive state support because they collect enough property tax revenue in a given year to cover their entire LCFF allotment. In virtually all of these cases, the COEs collect *more* in property tax revenue than their LCFF allotment. The amount collected above the LCFF allotment is known as excess property tax. Because the amount of property tax revenue collected can change from year to year, the amount of excess property tax also can change from year to year.

***Offset of General Fund Support for Trial Courts.*** State law requires that any excess property tax revenues collected by COEs beyond their LCFF allotments be used to offset state General Fund support of trial courts. The transfer occurs at the direction of DOF and the State Controller's Office the year after the taxes are collected. For example, excess property taxes collected in 2016-17 offset the state's General Fund support of trial courts in 2017-18.

**LAO Assessment and Recommendation.** The LAOs preliminary analysis of property tax growth in February projects higher levels of excess property tax revenues available to offset General Fund support of trial courts. Specifically, they estimate that \$54 million in excess property tax revenues will be available in eight counties in 2017-18. This is \$6 million above the Governor's estimate. They estimate the annual excess tax revenue will continue to increase and will exceed \$100 million by 2020-21.

The LAO now recommends that the Legislature adjust the trial court offset in 2018-19 upward by \$8.9 million to account for property tax growth in 2017-18. This would provide the Legislature with additional General Fund resources above the level assumed in the Governor's budget.

**Staff Recommendation.** Adopt the LAO recommendation. Adjust the trial court offset in 2018-19 upward by \$8.9 million to account for property tax growth in 2017-18.

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)****Issue 30: Standards and Training for Local Corrections Trailer Bill Language**

**May Revise Proposal.** The Administration requests that Item 5227-002-0001 be added in the amount \$2.5 million and 13 positions, that reimbursements be added in the amount of \$100,000 and that Item 5227-102-0001 be added in the amount of \$14.8 million. This would redirect expenditures for the Standards and Training for Local Corrections from the State Penalty Fund to the General Fund to address a continuing decline in fine and fee revenue within the State Penalty Fund. This redirection includes an augmentation of \$1.3 million General Fund and the addition of \$1.3 million to the Standards and Training for Local Corrections program reversing the Governor's January Budget proposal to reduce the amount of funding available to support training and standards for local corrections personnel. The request also includes trailer bill language in Penal Code Section 6040 to strike out references to the Corrections Training Fund and broadly refers to funds used for the costs of administration, the development of appropriate standards, the development of training, and program evaluations.

**LAO Assessment and Recommendation.** The LAO did not raise any issues with this proposal.

**Staff Recommendation:** Hold Open.

**0820 DEPARTMENT OF JUSTICE****Issue 31: Cybercrime Investigation Teams**

**May Revision Proposal.** The DOJ Bureau of Investigation, requests \$5.6 million General Fund in FY 2018-19 and \$4.8 million General Fund in FY 2019-20 and ongoing, along with 19.0 permanent positions, to establish two investigative teams, one in the Northern California region and one in the Southern California region, focusing on cybercrimes, white collar crimes, and human trafficking crimes involving the use of technology.

**Background.** With the current economic expansion, many Americans have become more reliant on modern technology and the Internet to complete daily tasks, making them more vulnerable to cybercrimes such as security breaches, phishing, identity theft, and social media fraud. In 2013, cybercrimes accounted for an estimated \$400 billion economic loss in the United States. Cybercrimes have also become the second most reported economic crime.

According to the 2016 Internet Crime Report from the Federal Bureau of Investigation (FBI), only an estimated 15 percent of the nation's fraud victims reported their crimes to law enforcement. This may, in part, be due to the lack of both a centralized reporting mechanism and the necessary resources at the local level for the investigation of the crimes. California needs a reporting mechanism for victims of today's technology based criminal activities; cybercrimes, white collar crimes and human trafficking crimes.

The complexity of the investigations the DOJ undertakes will vary as depending upon the number of suspects and victims related to the offenses. According to the FBI's 2016 Internet Crime Report, California ranked first in the nation for several categories, including the number of victims (39,547), and monetary losses (exceeding \$255 million). In Calendar Year 2016, the National Human Trafficking Hotline Data Report for California had tips and leads from 4,184 phone calls, 494 electronic mail, messages, and 295 online tip reports. Of the total number of tips in California, there were 2,640 related to sex trafficking cases.

**LAO Assessment and Recommendation.** To the extent the Legislature believes that DOJ investigations related to cybercrimes are a General Fund priority, the LAO recommends that the Legislature modify the Governor's proposal to provide the requested resources on a three-year limited-term basis—specifically \$5.6 million in 2018-19 and \$4.8 million in 2019-20 and 2020-21. The LAO believes that providing ongoing resources is premature given uncertainty in: (1) the number of cases that will be investigated and prosecuted; (2) how long these types of cases will take; (3) the amount of time and resources needed for these cases; and, (4) the overall impact of DOJ efforts. They also recommend requiring DOJ submit a report by January 1, 2021 on various outcome measures, such as the number of cases investigated and the outcomes of such case. This information will help the Legislature determine what level of resources should be provided on an ongoing basis.

**Staff Recommendation.** Hold Open.

### Issue 32: Sex Offender Registry

**May Revision Proposal.** The DOJ requests \$10 million General Fund and 25 positions in Fiscal Year 2018-19 to begin the first-year implementation activities required to meet the mandates outlined in Senate Bill 384 (Weiner), Chapter 541, Statutes of 2017.

**Background.** California is one of the few states that require lifetime sex offender registration without discerning by the type of offense. Florida, South Carolina and Alabama are the only other states without some form of tiering. While this allows the public to see a majority of offenders, the public and local law enforcement have no way of differentiating between higher and lower risk sex offenders.

Effective January 1, 2021, SB 384 will establish three tiers of registration for adult sex offenders based on specified criteria, for periods of 10 years, 20 years, and life. Juvenile offenders will be required to register as a sex offender for a minimum of either five or ten years, as specified. A tier one or tier two offender will be required to file a petition in the superior court in the county in which he or she is registered or, if the offender is a juvenile, he or she may file in juvenile court. The offender will be required to file a petition on or after the offender's birthday that follows the expiration of his or her minimum registration period in order to be removed from the registry.

SB 384 will also authorize a sex offender registrant to petition the courts for early termination from registration, as specified. The bill requires that each petition be served on the registering Local Enforcement Agency (LEA) and the district attorney of the county of conviction of the registerable offense (if different than the county where the petition is filed). The bill further requires a registering LEA to report to the district attorney whether each petitioning sex offender registrant has met the registration requirements for termination. It authorizes a district attorney to request a hearing on a petition under specified conditions. The registering LEA and the LEA of the county of conviction of a

registerable offense, if different than the county where the petition is filed, shall, within 60 days of receipt of the petition, report to the district attorney and the superior or juvenile court in which the petition is filed regarding whether the person has met the requirements for termination. SB 384 will also authorize annual resubmission of petitions for termination for each tier two offender and resubmissions every one to five years for each tier one offender, as determined by the courts. Pursuant to the bill, tier two offenders will be eligible for early termination, as specified, after 10 years.

Finally, SB 384 will reduce the number of sex offender registrants in the community; however, it will not reduce the impact of registration to LEAs, courts, district attorneys, or the DOJ.

**Effect on DOJ.** SB 384 requires the DOJ's California Sex Offender Registry (CSOR) to transition from a lifetime registration system that has been in place since 1947 to a significantly more complex tier-based registration system. There are currently nearly 104,000 sex offender registrants in the state, all of whom are now required to be assigned by the CSOR to one of three tiers by January 1, 2021. To comply with this requirement, numerous existing technology systems must undergo extensive enhancements to be capable of interfacing with numerous criminal justice systems prior to transitioning away from the lifetime registration system. The DOJ also needs to develop new policies, procedures, and training modules, as well as train courts, district attorneys, and law enforcement entities on these policies and systems.

In 2004, AB 488 (Parra), Chapter 745, Statutes of 2004, mandated the DOJ to host, implement, and maintain the Megan's Law website. If an offender met specific requirements, he or she may have become eligible and applied for exclusion from the website. Under the new legislation, approximately 2,610 registrants are no longer eligible for exclusion and will need to be notified and posted to the public Megan's Law website. Until January 1, 2022, the DOJ must also maintain the existing Megan's Law website and posted offender information.

The systems that support sex offender registration and notification are currently not equipped to fully facilitate the mandates of SB 384, as a large volume of the data necessary to make tiering determinations is not currently reported to, collected, or maintained by the DOJ. This necessitates significant system modifications and consultant costs.

**LAO Assessment and Recommendation.** The LAO does not have significant concerns with the Governor's proposal for a one-time \$10 million General Fund augmentation to fund the first year of DOJ's costs to implement a tier-based sex offender registry as required by Chapter 541 of 2017 (SB 384, Wiener and Anderson). However, given that DOJ currently estimates that the project would cost around \$65 million over five years, they recommend the Legislature direct DOJ to provide the following reports to increase legislative oversight of the project:

1. **Implementation Plan.** They recommend that DOJ submit a report outlining its plan for fully implementing the registry upon completion of Stage 2 of the California Department of Technology's Project Approval Lifecycle (PAL) process. This will provide the Legislature with more comprehensive information on how long the project will take, the steps needed to implement the new registry, and the total level of staff and resources needed to complete the project. This will help the Legislature determine whether it is comfortable with DOJ's implementation plan and what level of resources will be needed in the future before the project moves into the procurement phase in Stage 3 of the PAL process.
2. **Annual Progress Reports.** They also recommend that DOJ provide annual progress reports on key metrics to help monitor the status of the project. Examples of such metrics include tasks

completed, changes to project costs or deadlines for project milestones, challenges or delays that have emerged, and issues or risks that may result in project schedule or budget changes. This would allow the Legislature to ensure the project remains on schedule.

**Staff Recommendation.** Hold Open.

### **Issue 33: Statewide Forensics Services**

**May Revision Proposal.** The DOJ's Bureau of Forensic Services (BFS) requests a one-time General Fund augmentation of \$11.4 million to support statewide forensics services. Of the requested \$11.4 million increase, \$5.4 million is required to refresh critical laboratory equipment and \$6 million is required as a General Fund backfill for continuing annual declines in revenue to the DNA Identification Fund (DNA ID), which have caused a cash shortfall in the fund.

**Background.** The change in the primary revenue source to the DNA ID Fund, based on fees on criminal penalties, is no longer feasible as revenues have dropped more than 23 percent in a very short time and are no longer adequate to support the forensics program. Historically, the state supported the forensic lab program with General Fund to make the service available to all law enforcement agencies statewide and provide equal access to justice for all Californians. The requested \$6 million General Fund augmentation will help bridge the funding gap caused by the continued DNA ID Fund's revenue decline. In order to begin refreshing critical laboratory equipment, the BFS requests \$5.4 million.

**LAO Assessment and Recommendation.** The LAO does not have significant concerns with the administration's proposal to provide a one-time \$11.4 million General Fund augmentation for DOJ's Bureau of Forensic Services —specifically \$6 million to backfill a decline in criminal fine and fee revenue support and \$5.4 million to replace various laboratory equipment. However, they note that the requested funding only replaces a subset of equipment used by BFS. Accordingly, they recommend the Legislature direct DOJ to report by January 1, 2019 on its larger plan for addressing its ongoing forensic equipment needs. Specifically, this plan should include an assessment of existing equipment and its age, equipment need, the expected life of the equipment, and the amount needed annually to replace equipment. This information will help the Legislature assess what level of resources may be needed in the future.

**Staff Recommendation.** Hold Open.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Tuesday, May 15, 2018  
1:30 p.m.  
State Capitol - Room 113

## OUTCOMES

<u>Item</u>	<u>Department</u>	<u>Page</u>
<b>Vote-Only Items</b>		
<b>0250</b>	<b>Judicial Branch</b>	
Issue 1	Language Access Plan Implementation	3
Issue 2	Technical Adjustment to Reimbursements	3
Issue 3	Trial Court Employee Benefits Adjustment	3
Issue 4	Trial Court Trust Fund Revenue Shortfall Adjustment	3
<b>0820</b>	<b>Department of Justice (DOJ)</b>	
Issue 5	Cybersecurity Program Resources	3
<b>8120</b>	<b>Commission on Peace Officer Standards and Training (POST)</b>	
Issue 6	Peace Officer Training Course Restoration Trailer Bill Language	4
<b>5227</b>	<b>Board of State and Community Corrections (BSCC)</b>	
Issue 7	Post Release Community Supervision Population	4
<b>5225</b>	<b>Department of Corrections and Rehabilitation (CDCR)</b>	
Issue 8	Office of Research Resources	4
Issue 9	January Capital Outlay Proposals	5

Items 1-8: Staff Recommendation to approve May Revise Proposal for Issue 1 and approve Issues 2-8 as proposed in May Revision or January Budget. **Vote: 3-0**

Staff Recommendation adopted. Recommendation is as follows:

- Approve items a-g as proposed.
- Reject item h to the extent additional mental health crisis beds are necessary in the future. Approve budget bill language requiring that the department reports how they will address

future need with additional beds that could be used more flexibly (“flex beds”) rather than costly construction projects. **Vote: 3-0**

Issue 10 Mental Health Bed Management 6

Adopted the LAO recommendation. This recommendation includes the following:

- Since the need for flex beds is estimated to be short-term in nature, the LAO recommends providing funds for the 60 flex beds on a four-year, limited-term basis. This would allow the department to address the near-term need for MHCBS—as well as any unexpected increases—until the need for these additional beds is projected to be eliminated.
- Approve supplemental reporting language requiring the department to report annually starting on January 10, 2019, for the next four years on how frequently the flex beds were used as MHCBS, ICF beds, or APP beds.
- Reject the proposed research staff since the proposed resources have not been fully justified.
- Approve staffing changes for HCPOP and IRU. The additional staff requested for these units would allow CDCR to manage referrals more quickly, which would further reduce the need for costly MHCBS and inpatient psychiatric program beds.

**Vote: 3-0**

Issue 11 Roof Replacement and Mold Remediation 7

Adopted the May Revision proposal. **Vote: 3-0**

Issue 12 Health Care Access Vehicles 7

Approved as proposed. **Vote: 3-0**

Issue 13 Parole Non-Ratio Positions 8

LAO Recommendation adopted. This includes:

- Approve requested funding and positions for 2018-19.
- Direct the department to utilize a budgeting methodology that is based on specific staffing ratios and takes into account the size and composition of the parolee population, and to annually adjust the total number and type of positions needed each year—not just for direct-supervision positions.
- Require the department to report at future budget hearings during BY 2018-19 on a timeline for incorporating support staff into the annual parole staffing adjustment.

**Vote: 3-0**

Issue 14 Career Technical Education Expansion and Equipment Refresh 8

Approved as proposed. **Vote: 3-0**

Issue 15 Rehabilitative Achievement Credit Staffing 8

Issue 15 was pulled for discussion and held open. Action taken on 5/17/18

Issue 16 Case Records Training Team 8

**Vote: 3-0**

Issue 17      Psychiatry Registry Funding      9  
**Approved as proposed. Vote: 3-0**

Issue 18      Court Resentencing Petitions      9  
**Issue 18 was pulled for discussion and held open. Action taken on 5/17/18**

#### Discussion Items

#### **5225      Department of Corrections and Rehabilitation (CDCR)**

Issue 19	General Population Adjustment	10
Issue 20	Hepatitis C Treatment Funding	10
Issue 21	Contraband Interdiction Program	11
Issue 22	Overtime Base Budget Adjustment	13
Issue 23	Training Initiatives	14
Issue 24	Medical Guarding and Transportation	15
Issue 25	Healthcare Services for Reentry Programs	16
Issue 26	Correctional Counselor I Ratio Adjustment	16
Issue 27	Juvenile Justice ID Card Trailer Bill Language	17

**Issues 19-27 were held open. Action taken on all items on 5/17/18.**

#### **0250      Judicial Branch**

Issue 28	Capital Outlay, Trial Court Construction	18
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**Staff Recommendation Adopted. It includes:**

1. Approve both the May Revision and January Governor's proposals for the lease revenue authority
2. Adopt trailer bill language requiring:
  - a. A long-term fund condition statement, and
  - b. Updated assessment of trial court facility needs

**Vote: 3-0**

Issue 29	County Office of Education Offset of Trial Court General Fund Support	19
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**Issue 29 was held open. However, this was not a formal May Revision or January Proposal associated with Subcommittee 5**

#### **5227      Board of State and Community Corrections (BSCC)**

Issue 30	Standards and Training for Local Corrections Trailer Bill Language	21
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#### **0820      Department of Justice (DOJ)**

Issue 31	Cybercrime Investigation Teams	21
Issue 32	Sex Offender Registry	22
Issue 33	Statewide Forensics Services	24

**Issues 30-33 were held open. Action taken on all items on 5/17/18.**

#### Public Comment

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# **SUBCOMMITTEE NO. 5**

# **Agenda**

**Senator Nancy Skinner, Chair**  
**Senator Joel Anderson**  
**Senator Jim Beall**



**Thursday, May 17, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Anita Lee

## **AGENDA PART A**

### **Items Proposed for Vote Only**

<b><u>Item</u></b>	<b><u>Department</u></b>	<b><u>Page</u></b>
<b>7100</b>	<b>Employment Development Department</b>	
Issue 1	Adjustments for Benefit Programs	3
Issue 2	Information Technology Classification Consolidation	4
Issue 3	Local Assistance Adjustments	5
Issue 4	Accounting Resources	5
<b>7120</b>	<b>California Workforce Development Board</b>	
Issue 5	Global Warming Solution Act Report	7
Issue 6	Workforce Opportunity Act Discretionary Federal Funds	7
Issue 7	Statewide Prison to Employment Initiative	9
<b>7320</b>	<b>Public Employment Relations Board</b>	
Issue 8	Augmentation for Public Employment Relations Board	11
Issue 9	Employee Orientation	11
Issue 10	Kern Hospital Authority	11
<b>7501</b>	<b>California Department of Human Resources</b>	
<b>0511</b>	<b>Government Operations Agency</b>	
Issue 11	Civil Service Improvement Trailer Bill Language	12
Issue 12	Preventing Sexual Harassment and Discrimination in the Workplace	12
Issue 13	Statewide Training Center	13

<b>7900</b>	<b>California Public Employees Retirement System</b>	
Issue 14	CalPERS Operational Budget	14
<b>7920</b>	<b>California State Teachers' Retirement System</b>	
Issue 15	Revised Creditable Compensation	14
<b>9800</b>	<b>Augmentation for Employee Compensation</b>	
Issue 16	Augmentation for Employee Compensation	15
Issue 17	<b>Control Section 3.60</b>	16
<b>7530</b>	<b>Department of Industrial Relations</b>	
Issue 18	Apprenticeship Programs in Nontraditional Industries	17

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## Items Proposed for Vote-Only

### 7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

#### Issue 1: Adjustments for Benefit Programs

**Disability Insurance Program.** For 2017-18, benefit payments are projected to decrease by \$66.46 million from the level previously estimated in the October 2017 Revise. The proposed change includes a decrease of \$95.49 million in benefit payments for the Disability Insurance (DI) program and an increase of \$29 million in benefit payments for the Paid Family Leave (PFL) program. Total benefit payments are estimated to be \$6.73 million, which includes \$882.51 million for the PFL program. The DI program's Average Weekly Benefit Amount (AWBA) decreased from \$565 to \$560 and the PFL program's AWBA increased from \$615 to \$624.

For 2018-19, benefit payments are projected to increase by \$172.07 million from the level previously estimated in the October 2017 Revise. The proposed change includes an increase of \$75.76 million in benefit payments for the DI program and an increase of \$96.28 million in benefit payments for the PFL program. Total benefit payments are estimated to be \$7.51 million which includes \$1.02 billion for the PFL program. The DI program's AWBA decreased from \$609 to \$600 and the PFL program's AWBA increased from \$655 to \$663.

**Unemployment Insurance Program.** For 2017-18, benefit payments are projected to decrease by \$249.6 million from the level previously estimated in the October 2017 Revise. Total benefit payments are estimated to be \$5.56 billion. Decreases are being driven by the slight decline in the unemployment level; despite an increase to the Average Weekly Benefit Amount (AWBA) from \$321 to \$323.

For 2018-19, benefit payments are projected to increase by \$6.12 million from the level previously estimated in the October 2017 Revise. Total benefit payments are estimated to be \$5.76 billion. The increase is driven by the AWBA increasing from \$324 to \$329, while the unemployment rate remains steady. The 2017-18 and SFY 2018-19 projected benefit amounts include a buffer of three percent for economic uncertainties. Without this buffer, benefits would decrease by \$337.29 million in 2017-18 and decrease by \$161.51 million in 2018-19.

**School Employees Fund.** The SEF is a joint pooled risk fund administered by EDD, which collects contributions based upon a percentage of total wages paid by public schools and community college districts. The contribution rate is calculated annually based upon the formula established per Section 823 of the California Unemployment Insurance Code. Money deposited in the SEF is used to reimburse the Unemployment Fund for the cost of Unemployment Insurance benefits paid to former employees of those school employers who have elected this option in lieu of paying the tax-rated method, as is required of private sector employers.

Local Assistance (disbursements) includes benefit charges and claims management fees. The estimated Local Assistance for 2017-18 is \$3.53 million higher than reported in October 2017,

for a total of \$91.46 million. This increase is due to actual benefit charges that have come in higher than projected, as current year charges continue to come in at higher levels than the prior year, and the average weekly benefit amount (AWBA) rises.

The estimated Local Assistance for 2018-19 is \$8.86 million higher than the 2018-19 level reported in October 2017, for a total of \$89.83 million. This increase is due to a change in assumption that benefit charges would decrease from current year to budget year as a result of anticipated lower wage levels and more stable school budgets. However, the AWBA has been rising and schools are facing budget uncertainty in the face of rising pension costs.

**Staff Recommendation.** Approve as proposed.

## Issue 2: Information Technology Classification Consolidation

**Summary.** On March 29, the Administration submitted a spring finance letter requesting \$1.9 million ongoing (\$921,000 General Fund, \$271,000 federal funds, and \$713,000 special funds and reimbursements) appropriation for 2018-19 for the ongoing increased costs resulting from the statewide IT Classification. EDD is proposing to fund this with a mixture of fund sources.

**Background.** In June 2015, the state began an effort to consolidate IT classifications. The newly proposed classifications will transition approximately 36 current IT classifications into five rank-and-file IT classifications and four IT supervisory/managerial classifications. In developing the new IT classifications, the statewide team grouped classifications which have similar functions and/or salaries into one new classification. The consolidation of the classifications result in a salary increase to over half of the staff impacted by this change. The changes to the current classifications took effect on January 31, 2018. The number of positions impacted and the dollar calculations are provided in the table below:

Information Technology (IT) Classification Overview for State Fiscal Year 2018-19					
IT Classification		Number of Positions	Net Impact		Total
Prior	New		PS	Benefits	
Systems Software Specialist III (Supervisory)	IT Manager I	13	\$9,204	\$3,320	\$12,524
Data Processing Manager II	IT Supervisor II	22	\$264	\$95	\$359
Systems Software Specialist II (Supervisory)		1	\$144	\$52	\$196
Systems Software Specialist II (Technical)	IT Specialist (Ranges A – C)	51	\$8,568	\$3,091	\$11,659
Staff Information Systems Analyst (Specialist)		67	\$578,880	\$208,819	\$787,699
Staff Programmer Analyst (Specialist)		38	\$328,320	\$118,435	\$446,755
Systems Software Specialist I (Technical)		34	\$294,576	\$106,262	\$400,838
Associate Systems Software Specialist (Technical)	IT Associate	4	\$864	\$312	\$1,176

Assistant Information Systems Analyst (Range C)	(Ranges A – D)	5	\$66,780	\$24,090	\$90,870
Assistant Information Systems Analyst	IT Technician (Ranges A – C)	2	\$15,240	\$5,498	\$20,738
Computer Operator		9	\$87,480	\$31,557	\$119,037
Information Systems Technician		1	\$9,720	\$3,506	\$13,226
		247	\$1,400,040	\$505,037	\$1,905,077

**Staff Recommendation:** Approve as proposed.

### Issue 3: Local Assistance Adjustments

**Summary.** The May Revision proposes provisional budget bill language to align budget authority with current federal allotments for local area activities, and to allow EDD to spend federal grant dollars for local youth programs if actual receipts are underestimated.

**Staff Recommendation.** Approve as proposed.

### Issue 4: Accounting Resources

**Summary.** EDD requests 15 positions and \$6.9 million to provide resources to complete accounting transactions in its legacy system to meet federal reporting requirements necessary to provide unemployment benefits without interruption while also transitioning to the Financial Information System for California (FI\$Cal). This includes up to \$5 million for vendor services to manage this temporary additional workload and allow for successful transition to the new system. Funds will be funded equally by the Disability Insurance (DI) Fund and the EDD Contingent Fund for 2018-19.

**Background.** The EDD is one of the largest state departments with almost 8,000 employees at hundreds of service locations throughout the state and offers a wide variety of services to Californians under the Unemployment Insurance (UI), DI, Workforce Innovation and Opportunity Act, and Wagner-Peyser programs. EDD also handles the audit and collection of payroll taxes for 1.4 million employers and maintains employment records for more than 18 million California workers.

EDD is mandated to maintain a fully automated accounting and program cost accounting system utilizing a state uniform accounting and reporting system. Currently, the EDD maintains five legacy and two modernized financial information legacy systems. They include the Cost Accounting System (CAS), and two personal computer based systems. CAS is EDD's primary accounting system that captures monthly personal service expenditures, operating expenses and equipment expenditures, sub-grants, and benefit payment information. It also performs cost allocation and reports monthly program expenditures. Additionally, EDD maintains legacy procurement and asset management systems, which were used to manage the department's portfolio of capitalized and sensitive assets.

The FI\$Cal project seeks to enable the state to combine various State entity's accounting, budgeting, cash management, and procurement operations into a single integrated financial

management system. The project is being implemented by the Department of FI\$Cal in releases, with some (mostly smaller) departments having implemented the project over the past two to three years, and a number of other (mostly larger) departments – including the EDD – scheduled to implement the project in 2018-19.

Based on the complex nature of EDD’s legacy systems, combined with the varied programs and funding within EDD, resources are required in order to ensure as smooth a transition as possible without interruption to the vital services EDD provides to the people of California.

The EDD also provides administrative services for two other State agencies, the California Workforce Development Board, and the Labor and Workforce Development Agency. These two agencies would thus also be impacted when the EDD implements FI\$Cal. This proposal improves the quality of financial compliance through FI\$Cal by enabling EDD to meet all federal and state requirements.

If the proposal is not granted, the Administration notes there could be significant impacts for EDD and California, putting federal funding at risk. There could be potential loss of General Fund revenues, delays in paying UI and DI benefit payments, delays in granting cash requests to Local Areas, and untimely payments to vendors for services. Due to the EDD’s commitment to the success of FI\$Cal, this request is necessary to meet the legislative goals of FI\$Cal pursuant to Government Code 11854.

With the transition of FI\$Cal, current processes must be redesigned to adapt to the new system, and it is critical to have appropriate and adequate staffing. In addition, these resources will provide EDD’s Fiscal Programs the resources to perform mandated federal and state reporting activities, grant management responsibilities, and financial audit assistance.

The EDD is also requesting \$5 million for vendor services to manage this temporary additional workload and allow for successful transition into the new system. Specifically, to assist EDD with successful transition activities and ensure business processes conform to federal and state rules, the additional temporary vendor assistance supplements staff levels in order to adequately support implementation and post go-live operations.

**Staff Recommendation.** Approve as proposed.

7120

## CALIFORNIA WORKFORCE DEVELOPMENT BOARD

**Issue 5: Global Warming Solutions Act Report**

**Summary.** The California Workforce Development Board requests \$400,000 from the Greenhouse Gas Reduction Fund in 2018-19 to meet the legislative report requirement in AB 398 (Garcia, E.), Chapter 135, Statutes of 2017. Specifically, the bill requires the board to report by January 1, 2019, on the need for increased education, career technical education, job training, and workforce development resources or capacity to help industry, workers, and communities transition to economic and labor-market changes related to statewide greenhouse gas emissions reduction goals. The California Workforce Development Board shall ensure that the report aligns, as appropriate, with California’s Unified Strategic Workforce Development Plan, developed by the California Workforce Development Board. Pursuant to AB 398, California Workforce Development Board and the state board shall work in consultation with various entities.

**Staff Recommendation.** Approve as proposed.

**Issue 6: Workforce Innovation Opportunity Act Discretionary Federal Funds**

**Summary.** The Governor’s May Revision proposes \$60.4 million in state-level discretionary federal Workforce Innovation Opportunity Act (WIOA) funding in 2018-19, a \$1.5 million decrease relative to 2017-18.

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

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

- **SlingShot 2.0 Regional Plan Support:** Reduce by \$3.1 million (a majority which were from carry over funds from 2016-17) for a total of \$6 million. This supports regional leadership capacity for the implementation of WIOA regional plans in each Regional Planning Unit (RPU); support Regional Accelerators in the RPUs that build on existing Workforce Accelerator projects (described on the following page) and support new approaches and partnerships that accelerate employment for populations with barriers, including immigrants and/or ex-offenders; support Regional Organizers that assist RPUs in regional plan implementation, leadership coordination, SlingShot development, Workforce Accelerator coordination, and model sector initiatives; and support activities that may lead to the re-designation of multiple local workforce areas within an RPU to a single local workforce area.

- Model Multiple-Employer Industry Sector Programs: Reduce by \$800,000 for a total of \$2.2 million (funding in 2016-17 was approximately \$2 million). Funds are awarded to local workforce regions to implement or advance model sector partnerships. Successful partnerships will emphasize job quality, immigrant integration, and commitment to the joint interests of employers and workers. Targeting key sectors identified in the regional plan, model partnerships will utilize proven earn and learn training approaches (such as incumbent worker training, paid internships, formal apprenticeship) and demonstrate leadership and investment from industry in partnership with labor, education, and community based organizations. Funds will also support technical assistance, intermediary training, and program assessment.
- Service for In-School At Risk Youth: Eliminate the program (\$600,000), which was created last year. This program sought to expand youth services offered by state staff at local job centers, establish partnerships with other local agencies and community-based organizations, and educational institutions that work with youth. Staff notes that there are a variety of programs funded through the slingshot, and workforce accelerator programs that target and engage youth.
- Regional Workforce Accelerator Program: Increase of \$200,000 for a total of \$6.1. This program awards funds to local programs to test innovations that accelerate employment for populations with barriers to employment by more effectively removing barriers and creating improvements in training and job placement. Emphasis is on development of new strategies among related organizations and/or cross-program and service alignment that can improve employment outcomes for formerly incarcerated/ex-offenders and immigrant populations and others with barriers to employment.
- High Performing Boards: Increase of \$100,000. This program will be used to engage businesses and workforce partners regionally to develop sector strategies, build regional awareness of effective business engagement practices, and develop strategies to serve priority populations with barriers to employment. These funds will be used to meet the requirement of Senate Bill 698 (Lieu), Chapter 497, Statutes of 2011, which requires the Governor to establish, through the State Workforce Board, standards for certification of high-performance local workforce boards and to reserve specified federal discretionary funds for high-performance local workforce boards.
- Administration and Program Services: Increase of \$2.7 million for a total of \$37.4 million to fund (1) comprehensive services at ACJCC's, (2) audit, compliance and fraud prevention, (3) labor market information program, (5) local program oversight and technical assistance, (6) financial management and information technology, (7) WIOA implementation, (8) CAAL-Skills performance and participant data alignment, (9) CWDB administration, policy development and program partner coordination.

**Staff Recommendation.** Approve as proposed.

**Issue 7: Statewide Prison to Employment Initiative**

**Background.** This item was heard and discussed on April 26, 2018.

**Governor's Budget Proposal**

**Provides \$14 Million General Fund for Employment Services for Ex-offenders.** The Governor's 2018-19 proposal would provide \$14 million General Fund over two years to fund a new job training program for ex-offenders at the state's AJCCs (and their subcontractors). Funds could be used for a variety of services, including English language learning, basic skills and adult education, training stipends, industry-approved certification programs, pre-apprenticeship, and on-the-job training, among others. Based on training cost data from the ForwardFocus grant program, the State Board estimates that about 1,000 ex-offenders would attain job placements as a result of these services. A somewhat larger number of ex-offenders would receive services. This represents \$14,000 in funding for each ex-offender who attains a job placement, which is based on ForwardFocus, established through AB 2060 (Pérez, V. Manuel), Chapter 383, Statutes of 2014.

**Provides \$20 Million General Fund for Supportive Services.** In addition to direct employment services, the Governor proposes to allocate \$20 million General Fund over two years to fund supportive services for ex-offenders who participate in job training. Supportive services are services that an ex-offender may require in order to attend job training. Common supportive services include bus passes, childcare vouchers, and housing assistance. According to the proposal, ex-offenders who participate in employment services would be eligible for up to \$5,000 each in supportive services.

**Provides \$1.75 Million General Fund to Integrate Workforce Training Programs.** Under the proposal, the State Board would provide an additional \$1.75 million General Fund to local boards for the creation of regional partnerships and planning between the local boards, CDCR, parole centers and county probation departments, and community-based reentry services and others as authorized by the state board. Grants would be made to each of the 14 workforce regions based roughly on the number of ex-offenders in each region. According to the Administration, implementation grants that facilitate collaboration would help regional partners "package" services and customize job placement based on an ex-offender's training history and job needs.

The proposal requires all local entities to develop partnership plans. These plans would outline how each entity intends to integrate services for ex-offenders. One byproduct of this new planning requirement is that the state workforce plan would add CDCR and county probation as official workforce partners.

The trailer bill provides the board the flexibility to develop guidelines for the program, such as plan content, partners, activities of partnerships, guidelines for allocation and distribution of grants. Trailer bill language requires the board to at least consider need of workforce services in

each region for formerly incarcerated, size of post-release population, and recidivism rate of each region.

**Some Grant Evaluation Data Would Be Submitted to State Board.** The proposal provides \$1 million for a grant evaluation, and would require local boards to submit to the State Board information about ex-offender participation in grant-funded programs. This would include information about how the grant was implemented, the number of ex-offenders who enrolled in training activities, whether enrollees completed training, and whether participants found employment.

**Staff Recommendation.** Adopt placeholder trail bill language that includes pre-apprenticeship curriculum offered in state prison facilities consistent with the California Workforce Development Board's State Strategic Workforce Development Plan, to be refined as necessary.

7320

## PUBLIC EMPLOYMENT RELATIONS BOARD

**Issue 8: Augmentation for Public Employment Relations Board**

**Summary.** This item was heard on April 26, 2018. The Public Employment Relations Board (PERB) is a quasi-judicial administrative agency charged with administering the eight statutes that establish the collective bargaining process for about 2.3 million governmental employees in California. In this role, PERB (1) ensures these laws are implemented and applied consistently and (2) mediates and adjudicates disputes between governmental employers and employees. Such disputes include “unfair labor practice” claims. Section 3541 of the Government Code establishes PERB and specifies that the board “shall be independent of any state agency.” For January through March 2018, it takes about 165 days to process Office of the General Counsel cases, which directly affect the workload of the Division of Administrative Law. PERB reports it takes about 117 days to process cases at the Division of Administrative Law. PERB also notes that there are 37 cases which are over one year old. These delays are inconsistent with PERB's goals to provide meaningful resolution of labor disputes in a timely manner.

**Staff Recommendation.** Appropriate \$5 million ongoing General Fund for PERB for process cases in a timely manner and to reduce backlog.

**Issue 9: Employee Orientation**

**Summary.** The Legislature adopted AB 119 (Committee on Budget), Chapter 21, Statutes of 2017, which required certain public sector entities to allow public section representatives to present to employees during new employee orientation and provide employee contact information to the representative entities. However, some employees were inadvertently not included in the bill.

**Staff Recommendation.** Adopt placeholder trailer bill language regarding technical clean-up for employee orientation.

**Issue 10: Kern Hospital Authority**

**Summary.** The Legislature approved AB 2546 (Salas), Chapter 613, Statutes of 2014, which authorizes the Kern County Board of Supervisors to establish the Kern County Hospital Authority to manage, administer, and control the Kern Medical Center (KMC), and for the operation of additional programs, facilities, care organizations, physical practice plans, and delivery systems, and specifies the new Authority's governance, powers, and procedures. The language also contains extensive provisions relating to the Authority's effects on current KMC and County employees, including benefits, seniority, and retirement. However, additional language is needed to clarify legislative intent regarding benefits.

**Staff Recommendation.** Adopt placeholder trailer bill language to clarify legislative intent.

**7501 CALIFORNIA DEPARTMENT OF HUMAN RESOURCES (CALHR)**  
**0511 GOVERNMENT OPERATIONS AGENCY**

### **Issue 11: Civil Service Improvement Trailer Bill Language**

**Summary.** This item was heard on April 26<sup>th</sup>. The Governor's proposes trailer bill language to continue advancing the Administration's civil service improvement efforts.

**Background.** The California Government Operations (GovOps) Agency is responsible for administering state operations including procurement, information technology, and human resources. GovOps oversees various departments, including CalHR, the State Personnel Board, CalPERS, CalSTRS, Office of Administrative Law, California Franchise Tax Board, Department of General Services, and California Department of Technology. Over the last three years, the Administration has proposed trailer bill language and budget change proposals to further its civil service improvement initiative. The goal of the initiative is to produce a modern human resource system that will allow state departments to find and quickly hire the best candidates through a fair and merit-based process. Staff, the Administration, and relevant stakeholders are in ongoing conversation about the proposed trailer bill language.

**Staff Recommendation.** Approve placeholder trailer bill language, pending final agreement.

**7501 CALIFORNIA DEPARTMENT OF HUMAN RESOURCES (CALHR)**

### **Issue 12: Preventing Sexual Harassment and Discrimination in the Workplace**

**Summary.** The Department of Human Resources (CalHR) is requesting three permanent positions and \$1.45 million (\$720,000 General Fund, \$132,000 Reimbursement, \$47,000 Special Funds, and \$546,000 Central Service Cost Recovery Fund) in fiscal year 2018-19 and ongoing to establish a centralized unit, within the Office of Civil Rights, specifically responsible for the statewide oversight of monitoring and addressing discrimination and harassment complaints received by state entities. The unit will be responsible for analyzing complaint data, assisting state entities with problems, and addressing negative trends. The unit will also provide detailed reporting on all activities, allowing CalHR to be proactive in identifying compliance issues within departments.

The request includes funding for a centralized solution that allows data collection and statewide reporting. The centralized system will allow CalHR to monitor and track discrimination and harassment complaints, case outcomes, and monetary costs related to judgments and settlements. It will also allow CalHR to review and analyze department discrimination and harassment complaint data, correct problems, and identify negative trends.

**Staff Recommendation.** Approve as proposed.

**Issue 13: Statewide Training Center**

**Summary.** Since 2013, CalHR's Statewide Training Center has been creating a centralized training infrastructure with the capability to provide a variety of new civil service-taught training solutions along with its vendor offerings. The Statewide Training Center is a reimbursable program funded through the tuition charged to the employers of the class participants.

Since CalHR provides best practices training programs, there is occasional demand for public employees outside of the Executive Branch, such as public employees from cities, counties, California State University, University of California, the Legislature, judicial branch, and the federal government, to seek participation in training classes through the Statewide Training Center. Although CalHR's focus is on the development of the state's workforce, the Administration notes that there is no reason that all public employees should not benefit from the affordable programs developed and offered by the Statewide Training Center when capacity permits.

This trailer bill would ensure that all public employees could take advantage of the state's training programs by expressly stating the CalHR has the authority to provide training to any public employee and collect registration fees from their employing entity without the need for an interagency agreement.

**Staff Recommendation.** Adopt trailer bill language, to be modified as necessary.

**7900 CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM****Issue 14: CalPERS Operational Budget**

**Governor's Budget Proposal.** The May Revision proposes various budget bill amendments to incorporate changes to the California Public Employees' Retirement System (CalPERS) operational budget proposed at the CalPERS Board meeting on April 17, 2018, and anticipated to be approved at the May 2018 Board meeting. The request is comprised of the following changes:

- Decrease Item 7900-003-0830 by \$8.3 million
- Increase Item 7900-015-0815 by \$620,000
- Decrease Item 7900-015-0820 by \$34,000
- Increase Item 7900-015-0830 by \$13.6 million
- Increase Item 7900-015-0833 by \$477,000
- Decrease Item 7900-015-0849 by \$1,000
- Increase Item 7900-015-0884 by \$637,000

The budget proposed by CalPERS reflects a net increase of \$6.9 million primarily attributed to an increase in salaries and benefits, and partially offset by a continued reduction in external investment management fees. The budget bill items noted above are display items for informational purposes to reflect the corresponding changes in CalPERS' continuous appropriation authority.

**Staff Recommendation.** Approve as proposed.

**7920 CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM****Issue 15: Revised Creditable Compensation**

**Summary.** The May Revision requests that Item 7920-011-0001 be increased by \$5.58 million to reflect an increase in creditable compensation reported by the California State Teachers' Retirement System for fiscal year 2016-17, pursuant to Education Code section 22955.5. As compared to the Governor's Budget, the Defined Benefit payment will be increased by \$4.16 million and the Supplemental Benefit Maintenance Account contribution will be increased by \$1.42 million. These adjustments are consistent with existing statutory funding requirements pursuant to Education Code sections 22954 and 22955.1.

**Staff Recommendation.** Approve as proposed.

**9800 AUGMENTATION FOR EMPLOYEE COMPENSATION****Issue 16: Augmentation for Employee Compensation**

**Governor's Budget Proposal.** The Governor's May Revision proposes the following items related to employee compensation augmentations:

Budget Item 9800 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 be increased by \$129.89 million, Item 9800-001-0494 by \$2.7 million, and Item 9800-001-0988 by \$1.39 million to reflect increases to salaries and benefits for the recently negotiated memoranda of understanding with the California Correctional Peace Officers Association (Bargaining Unit 6), natural changes to enrollment in health and dental plans, updated employment information for salary increases and other post-employment benefit contributions, revised pay increases for Judges, and updated costs related to the salary survey estimates for the California Highway Patrol (Bargaining Unit 5). Additionally, while these figures include estimated health premium rates, the Administration notes final health rates are not expected to be adopted by the California Public Employees' Retirement System Board of Administration until June 2018.

**Staff Recommendation:** Approve as proposed.

**CONTROL SECTION 3.60**

## Issue 17: Control Section 3.60

**Governor's Budget Proposal.** The May Revision requests Control Section 3.60 be amended to capture changes in state retirement contribution rates for state members of the CalPERS and Judges' Retirement System II (JRS II), adopted by the CalPERS Board on April 18, 2018 and February 14, 2018, respectively. With exception to the State Safety plan, the reduction in state employer contribution rates for CalPERS state members is a result of greater than expected investment returns in fiscal year 2016-17, the state's \$6 billion supplemental pension payment per Senate Bill 84 (Committee on Budget) Chapter 50, Statutes of 2017, and more new hires entering the system under lower benefit formulas pursuant to the Public Employees' Pension Reform Act of 2013.

The newly adopted state employer contribution rates for CalPERS state members result in additional state costs of \$340.5 million, a decrease of \$18.1 million from the \$358.56 million included in the Governor's Budget. Of the \$18.1 million decrease, the General Fund is \$12.44 million, special funds are \$4.55 million, and other non-governmental cost funds are \$1.1 million. Additionally, it is requested that CalPERS' fourth quarter deferral be reduced by \$2.5 million General Fund from the Governor's Budget to reflect the changes in retirement rates. The reduction in the state employer contribution rate for JRS II members is attributed to a revision in demographic assumptions; CalPERS is assuming lower growth in life expectancy. The newly adopted rate results in General Fund costs of \$74.4 million, a decrease of \$5.3 million from the \$79.63 million General Fund included in the Governor's Budget.

The net effect of these changes on the General Fund is a decrease of \$15.2 million in 2018-19 compared to Governor's Budget.

**Staff Recommendation.** Approve as proposed.

**Issue 18: Apprenticeship Programs in Nontraditional Industries**

**Summary:** The Department of Industrial Relations requests \$3.5 million Employment Training Fund and 22.0 positions in 2018-19, \$4.5 million and 32.0 positions in 2019-20, \$5.7 million and 42.0 positions in 2020-21, and \$5.6 million ongoing to expand statewide apprenticeship opportunities to nontraditional industries and the inmate population.

**Background**

The Division of Apprenticeship Standards (DAS), within the DIR, is responsible for promoting and developing employment based apprenticeship training programs, improving apprentices' working conditions, and advancing profitable employment opportunities for apprentices. The division accomplishes these objectives by providing consultative services to apprenticeship program sponsors, employers, employee organizations, and education providers.

California's State Strategic Workforce plan calls for creating a million middle-skill, industry-valued and recognized postsecondary credentials between 2017 and 2027 and for doubling the number of people enrolled in apprenticeship programs during that same period. As of June 30, 2017, the Division reports over 74,000 active apprentices. The challenge is to substantially increase the number of apprentices in non-construction sectors and to increase access to an approved apprenticeship program for inmates, ex-offenders, veterans, women and other underrepresented communities, in order to achieve the qualitative and quantitative goals of the State Strategic Workforce Plan. Over two-thirds of all active apprentices are in the building and construction trades, and 92 percent of all construction apprentices are enrolled in joint management/labor programs.

The 2017 Budget Act approved six positions and \$923,000 in federal funds to accomplish the objectives of a federal grant to expand and diversify registered apprenticeship, and to begin the expansion and diversification of California's Strategic Workforce Plan. This funding is set to expire in 2018-19. Under the 2017-18 budget, 40 new programs were created, with 20,000 new apprentices, and 133 companies were engaged.

**Governor's Budget Proposal.** The Administration requests the continuance of that initial funding with an ongoing augmentation of 42.0 positions and \$5.6 million annually to be phased-in over a three-year period.

This proposal will build and strengthen a collaborative relationship between DIR, the California Department of Corrections and Rehabilitation (CDCR), the California Prison Industry Authority, and the Labor and Workforce Development Agency (Agency) by collaborating to create apprenticeship programs and on-the-job training certification for inmates prior to release. The goal is to provide inmates with occupational training and industry recognized certifications while in prison to increase their opportunity for job placement or paid apprenticeship programs upon their release, and successful reintegration into society.

This proposal focuses on engaging nontraditional industry leaders in apprenticeship and increase opportunities for veterans, women and low-income groups. Job growth in the state is occurring in the information technology, health care, advanced manufacturing, and transportation/logistics sectors. DIR has collaborated with and will hold round table discussions with Cisco, Salesforce, California Manufacturing and Technology Association, etc. to increase employer awareness of, enthusiasm for and participation in apprenticeship programs.

Labor Agency and DIR will coordinate with the following governmental agencies:

- CDCR: To develop connections between the Department of General Services, other state agencies and the State Building Trades Council to promote hiring of ex-offenders into state civil service as well as local building trades apprenticeship training committees.
- Workforce Development Board: To meet its Federal Workforce Innovation and opportunity Act and AB 554 mandate, align workforce and education program content with the state's industry sector needs, and provide employers with the skilled workforce necessary to compete in the global economy.
- Employment Training Panel: To provide funding support to employers in upgrading the skills of their workers.
- CalHR Civil Service Initiative team: To craft apprenticeship programs for civil service occupations where skill gaps exist.

The proposal will create opportunities for new and emerging industries by utilizing a creative approach to program design and deployment, which reflects a consensus among government, businesses, and labor about the value of apprenticeship to industry growth, as well as worker advancement and security. Program objectives are as follows:

- Develop a new understanding of apprenticeship among relevant state agencies.
- Create a parallel system for nontraditional apprenticeship models in information technology, health care, advanced manufacturing, etc.
- Ensure the ability of the Division to accommodate unique needs of each industry sector.
- Refresh the established inmate apprenticeship training program to prepare parolees and ex-offenders to meet criteria for successful job placement.
- Align inmate apprenticeship programs with industry demand. Currently, there are approximately 304 internal inmate continuing education training programs in: automotive repair, machinist, meat cutting, printing, upholstery and others. Through coordination with CDCR, these programs are being formalized as apprenticeship or on-the-job training programs where appropriate.
- Engage businesses in the nontraditional industries, to educate them on the value of hiring well trained ex-offenders through partnership with other governmental agencies (i.e. the Board), or local community colleges, to provide a robust package of resources to employers.
- Promote opportunities for ex-offenders, women, veterans, and those from other underrepresented communities.

The Administration estimates the following outcomes associated with the proposal.

Workload Measure	2017-18	2018-19	2019-20	2020-21	2021-22
Number of active apprentices	81,794	87,570	93,346	99,122	104,898
Number of new apprentices enrolled	36,807	39,407	42,006	44,605	47,204
Number of completion certificates issued to graduating apprentices	11,357	13,698	15,204	16,359	17,514
Number of new apprenticeship program applications received	52	100	100	100	100
Number of new apprenticeship programs approved	48	92	92	92	92

**Staff Recommendation.** Approve budget change proposal, and adopt placeholder trailer bill language that includes pre-apprenticeship curriculum offered in state prison facilities consistent with the California Workforce Development Board's State Strategic Workforce Development Plan, to be refined as necessary.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



**Thursday, May 17, 2018**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Anita Lee

## AGENDA PART A

### Items Proposed for Vote Only

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<i>Action: Approve as proposed (3-0)</i>		
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<i>Action: Approve as proposed (3-0)</i>		
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<i>Action: Approve as proposed (3-0)</i>		
<b>7120</b>	<b>California Workforce Development Board</b>	
Issue 5	Global Warming Solution Act Report	7
<i>Action: Approve as proposed (2-1, Anderson voting no)</i>		
Issue 6	Workforce Opportunity Act Discretionary Federal Funds	7
<i>Action: Approve as proposed (3-0)</i>		
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<i>Action: Adopt placeholder trail bill language that includes pre-apprenticeship curriculum offered in state prison facilities consistent with the California Workforce Development Board's State Strategic Workforce Development Plan, to be refined as necessary. (2-1, Anderson voting no)</i>		
<b>7320</b>	<b>Public Employment Relations Board</b>	
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Action: Appropriate \$5 million ongoing General Fund for PERB for process cases in a timely manner and to reduce backlog. (3-0)

Issue 9 Employee Orientation 11

Action: Adopt placeholder trailer bill language regarding technical clean-up for employee orientation. (2-1, Anderson voting no)

Issue 10 Kern Hospital Authority 11

Action: Adopt placeholder trailer bill language to clarify legislative intent. (2-1, Anderson voting no)

**7501 California Department of Human Resources**

**0511 Government Operations Agency**

Issue 11 Civil Service Improvement Trailer Bill Language 12

Action: Approve placeholder trailer bill language, pending final agreement. (3-0)

Issue 12 Preventing Sexual Harassment and Discrimination in the Workplace 12

Action: Approve as proposed. (3-0)

Issue 13 Statewide Training Center 13

Action: Adopt trailer bill language, to be modified as necessary. (3-0)

**7900 California Public Employees Retirement System**

Issue 14 CalPERS Operational Budget 14

Action: Approve as proposed. (3-0)

**7920 California State Teachers' Retirement System**

Issue 15 Revised Creditable Compensation 14

Action: Approve as proposed. (3-0)

**9800 Augmentation for Employee Compensation**

Issue 16 Augmentation for Employee Compensation 15

Action: Approve as proposed. (2-1, Anderson voting no)

Issue 17 Control Section 3.60 16

Action: Approve as proposed. (3-0)

**7530 Department of Industrial Relations**

Action: Issue 18 Apprenticeship Programs in Nontraditional Industries 17

Approve budget change proposal, and adopt placeholder trailer bill language that includes pre-apprenticeship curriculum offered in state prison facilities consistent with the California Workforce Development Board's State Strategic Workforce Development Plan, to be refined as necessary. (2-1, Anderson voting no)

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, May 17, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

## PART B

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## Public Comment

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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.*

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**PROPOSED FOR VOTE ONLY****0250 JUDICIAL BRANCH**

- 1. Stability for Legal Aid.** Civil legal aid organizations provide free legal assistance to low-income Californians, people with disabilities, and seniors. Legal aid helps people with problems such as foreclosure, unemployment, domestic violence, health access, consumer debt, housing, and reentry. Although many people believe that they have a “right to an attorney,” there is no right to an attorney in civil cases. Legal aid attorneys help those who are most vulnerable and who most need an attorney’s assistance.

**Equal Access Fund (EAF).** The EAF supports approximately 100 legal aid non-profits providing critical assistance to low-income Californians throughout the state. The EAF was established in 1999 with a \$10 million ongoing General Fund appropriation. In subsequent years, the EAF began to receive a portion of court filing fees. Legal aid services providers argue that their funding remains unchanged despite significant increases in the number of clients who need their services. Providers further note that California was 10th in the nation in state funding for legal services, but has now fallen to 22nd in the nation. They further note that the state of New York provides \$85 million per year for their legal aid programs. The 2017 budget included a two-year \$10 million augmentation for the Equal Access Fund.

**Cy Pres.** In the context of class action settlements, the cy pres doctrine permits a court to distribute unclaimed or non-distributable portions of a class action settlement fund to the “next best” class of beneficiaries for the *aggregate, indirect, prospective benefit* of the class. AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, was a budget trailer bill that amended Section 384 of the Code of Civil Procedure, which governs the distribution of residual funds from class action litigation. Previous to the bill, there were three entities that these residue funds could be distributed to: 1) “nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action”, 2) child advocacy programs or 3) nonprofit organizations providing civil legal services to the indigent class. There was no requirement that any one group receive any minimum or maximum of the available funds. AB 103 mandates that 25 percent of the funds be distributed to the Equal Access Fund of the Judicial Branch and 25 percent be distributed to the Trial Court Improvement and Modernization Fund for collaborative courts or grants for Sargent Shriver Civil Counsel. The remaining 50 percent is distributed to the three groups listed above, which includes the possibility for legal aid to receive additional funding on top of the 25 percent earmark. The remaining 50 percent is distributed to the three groups listed above, which includes the possibility for legal aid to receive additional funding on top of the 25 percent earmark. While the current formula under AB 103 was intended to provide a stable funding source for legal aid, the money generated under cy pres is neither consistent nor reliable. The lack of steady revenue can cause a reduction of additional resources for organizations intended to benefit the class or similarly situated persons.

This proposal contains two components:

- That the two-year \$10 million augmentation granted in BY 2017-18 for the EAF be made permanent with \$10 million ongoing starting in BY 2019-20.
- Adopts placeholder trailer bill language that does the following:
  - Reestablishes California’s previous cy pres rule without specific earmarks to the organizations previously listed.
  - Requires attorneys to disclose to the court their connection or relationship to a cy pres recipient that creates the appearance of impropriety.
  - Requires the California Research Bureau, starting on January 1, 2024, to publish a report every five years on cases awarding cy pres distributions.

**Staff Recommendation.** Adopt placeholder trailer bill language and approve the proposed funding for the EAF.

2. **Courts Honest Budget Adjustment.** The Legislature proposes a budget adjustment of \$67.5 million in 2019-20, which increases by \$67.1 million in 2020-21 and then increases by \$69 million in 2021-22. These figures are based on the Legislative Analyst Office’s estimates for the cost of providing an annual increase for the judicial branch through 2021-22. These numbers reflect cost-of-doing-business increases for all judicial and court employee salaries and benefits as well as operating expenses and equipment, but do not include most facility related expenses (such as court construction debt service and facility modification projects).

**Staff Recommendation.** Approve adjustments as proposed.

3. **Chief Justice’s Priorities.** The Governor’s January budget proposes an increase in funding to support various proposals, nearly all of which is ongoing, including:
  - \$75 million discretionary funding for allocation to trial courts by the Judicial Council (JC).
  - \$47.9 million for allocation to certain trial courts that are comparatively underfunded relative to other trial courts.
  - \$34.1 million to backfill a further decline in fine and fee revenue to the Trial Court Trust Fund, increasing the total backfill to \$89.1 million in 2018-19. A backfill has been provided since 2014-15.
  - \$25.9 million for increased trial court health benefit and retirement costs.

**Staff Recommendation.** Approve the Governor’s proposal along with budget bill language that does the following:

- Distributes the \$75 million to trial courts according to the JC’s Workload Allocation Funding Methodology (WAFM) model that was modified and subsequently approved by the JC on January 12, 2018.
- Directs the LAO to jointly work with the Department of Finance to re-evaluate WAFM—with technical assistance from the judicial branch as necessary—and offer potential recommendations for change by November 1, 2019. The intended outcome would be a workload-based model that can be used for both estimating trial court needs and allocating trial court operations funding in the future.

4. **Self-Help Centers in Trial Courts.** The Judicial Council requests an ongoing augmentation of \$19.1 million General Fund beginning in 2018-19 to implement recommendations of the Chief Justice's Commission on the Future of the California Courts regarding self-represented litigants. This item is part of the Governor's January budget.

**Staff Recommendation.** Approve augmentation of \$19.1 million on a limited-term basis through 2020-21. Adopt budget bill language directing the Judicial Council to conduct an independent comprehensive cost-benefit analysis of self-help services and provide a report on its findings by November 2020.

5. **Self-Represented Litigants e-Services Web Portal Spring Letter.** The Judicial Council proposes a General Fund augmentation of \$3.236 million in 2018-19, \$1.9 million in 2019-20, and \$709,000 ongoing beginning in 2020-21, to design, build, and maintain a statewide Self-Represented Litigants e-Services Web Portal to enable those without legal representation to research, e-file, and track noncriminal cases via an online portal. This proposal also requests four positions at the Judicial Council of California to provide support in administering and maintaining the statewide e-Services Web Portal. This item is part of the Governor's January budget.

**Staff Recommendation.** Approve this proposal.

6. **County Law Libraries Proposal.** This proposal requests a one-time allocation of \$16.5 million for County Law Libraries to account for the difference between civil filing fee revenue in 2009 and currently.

**Staff Recommendation.** Approve the one-time allocation for \$16.5 million General Fund.

7. **Pilot Project for Online Adjudication of Traffic Violations.** The Administration requests that Item 0250-001-0001 be decreased by \$1,040,000, and that Items 0250-101-0932 and 0250-111-0001 each be increased by \$1,040,000 to reflect a technical correction for the Pilot Project for Online Adjudication of Traffic Violations proposal included in the Governor's Budget.

**Governor's January budget.** The Judicial Council requests \$3.4 million and seven positions in FY 2018-19 and an ongoing amount of \$1.365 million and seven positions to design, deploy and maintain software to adjudicate traffic violations online in designated pilot courts.

**Staff Recommendation.** Approve proposal, and May adjustments with placeholder trailer bill language that includes, at a minimum, the following provisions:

- Requires an ability to pay calculation which includes an 80 percent presumptive baseline reduction of fees that may be overridden by a judge
- Adds pilot counties that have minimum population thresholds
- Includes evaluation language and a sunset date

8. **Deferral of Sentencing Trailer Bill Language.** This proposal makes statutory language in the deferral of sentencing program that was piloted in L.A., through AB 2124

(Lowenthal), Chapter 732, Statutes of 2014 permanent and applicable statewide through trailer bill language.

**Staff Recommendation.** Adopt placeholder trailer bill language.

- 9. Unfunded Appellate Judgeships Proposal.** This proposal requests an augmentation of \$1.2 million General Fund to the judicial branch for the purpose of funding the costs of a new appellate court justice and accompanying staff. This request would increase the number of judges in the second division of the fourth District Court of Appeal located in the San Bernardino/Riverside area to eight judges.

**Staff Recommendation.** Approve this proposal.

- 10. Court Reporters in Family Law Proposal.** This proposal requires court reporters in all family court matters. Court reporters serve a critical function in court proceedings. Without a transcript of the proceedings, litigants are: (1) unable to appeal decisions (2) unable to draft orders effective; and (3) unable to accurately recount what happened during proceedings. While there is a strong need for court reporters in all court proceedings, the need for court reporters in family law proceedings is especially critical.

**Staff Recommendation.** Approve the following: 1) \$10 million in BY 2018-19, 2) \$20 million in BY 2019-20, and 3) \$30 million in BY 2020-21 and ongoing. Adopt placeholder trailer bill language.

- 11. Traffic Tickets and License Suspensions.** A traffic ticket is a citation to appear in traffic court. The citation requires a ticket recipient to appear in court on, or before a specific date. A person that receives a traffic citation does not need to appear in court if they pay the full amount of the fine. Until recently, when people with traffic tickets failed to pay the fine, the court notified DMV of the failure to pay. The passage AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, eliminated the ability for the courts and DMV to suspend an individual's license based on a failure to pay the traffic fine. AB 103 went into effect on June 27, 2017. Courts retain the power to notify DMV of a failure to appear (FTA) in court and DMV will continue to suspend driver's licenses on receipt of such information.

**Staff Recommendation.** Adopt placeholder trailer bill language that includes, at a minimum, the following provisions:

- Requires that after a person who has an FTA satisfies the order of the court to appear, the court shall lift any driver's license hold. The court shall not issue a bench warrant for a failure to appear.
- Requires the court to mail a courtesy warning notice to the defendant at least 20 days before sending a notice to the Department of Motor Vehicles (DMV) that the defendant failed to appear in court, when the court seeks to notify DMV of a failure to appear, pursuant to specified law.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

**12. Supportive Housing Pilot for Mentally Ill Parolees.** This proposal would require CDCR to provide supportive housing to parolees experiencing homelessness or at risk of homelessness through existing funding, and partner with counties once the participant transitions off of parole and into the community. Current participants in Integrated Services for Mentally Ill Parolees program would continue to receive the same treatment they are currently receiving. As program participants transition off of parole, new participants would transition into the pilot program.

Additionally, it would require CDCR to enter into a Memorandum of Understanding (MOU) with counties. CDCR would use savings from receiving federal reimbursement for mental health treatment to pay for rental assistance and services in supportive housing during the participant's term of parole. The participating county would agree to provide community-based mental health treatment and would fund rental assistance and services under Proposition 63 (Mental Health Services Act program) once the participant transitions off of parole.

**Staff Recommendation.** Approve proposal with a \$5 million General Fund one-time allocation and placeholder trailer bill language.

**13. Health Care Facility Improvement Program (HCFIP) Spring Letter.** The CDCR requests trailer bill language to increase the lease revenue appropriation authorized by Government Code Section 15819.403(a) by \$73 million to complete construction of HCFIP projects and proposes legislation for allocating funds for the projects. Individual HCFIP projects at 25 prisons have been established by the State Public Works Board utilizing the lease revenue bond financing authority in Government Code Sections 15819.40-15819.404.

**Staff Recommendation.** Reject this proposal.

**14. Hepatitis C Treatment Funding May Revise Proposal.** The California Correctional Health Care Services (CCHCS) is requesting an augmentation of \$105.8 million annually in General Fund for three Fiscal Years (FY), beginning in FY 2018-19, and ongoing through FY 2020-21, to enable CCHCS to fully implement the expansion of the hepatitis C virus (HCV) treatment program. This funding will result in a total budget of \$165 million for HCV treatment in FY 2018-19. After FY 2020-21, the baseline HCV treatment funding will be evaluated and adjusted as needed to meet the needs of the projected population to be treated.

**Staff Recommendation.** Approve as proposed.

**15. Contraband Interdiction Program May Revise Proposal.** The CDCR is requesting \$9.1 million General Fund in 2018-19 and \$8.3 million General Fund in 2019-20 to implement a two-year Contraband Interdiction Program at the California Substance Abuse Treatment Facility (SATF). The program will deploy contraband interdiction devices at the front

entrance areas, employ a staffing complement to operate the devices, expand SATF's canine teams, conduct enhanced vehicle and institution searches, and institute a Medication Assisted Treatment (MAT) program to respond to the opioid crisis.

**Staff Recommendation.** Approve as proposed.

**16. Training Initiatives May Revision Proposal.** The CDCR requests \$12.9 million General Fund in 2018-19 and five positions, \$21.6 million General Fund in 2019-20 and 2020-21, and \$19.3 million General Fund in 2021-22 and ongoing to add essential training for peace officer and supervisory positions.

**Staff Recommendation.** Approve proposal along with placeholder trailer bill language.

**17. Healthcare Services for Reentry Programs May Revision Proposal.** The CDCR requests \$10.8 million General Fund in 2018-19 and ongoing to contract with either the Department of Health Care Services, or with third-party vendors, to provide healthcare services for reentry program participants.

**Staff Recommendation.** Approve as proposed.

**18. Correctional Counselor I Ratio Adjustment May Revision Proposal.** The CDCR's Division of Adult Institutions, requests \$13.5 million General Fund in 2018-19 and 89.2 positions to adjust the offender to Correctional Counselor I (CCI) ratio from 150:1 to 135:1 to provide enhanced rehabilitation and program enrollment assistance to the offender population.

**Staff Recommendation.** Approve as proposed.

**19. Juvenile Justice ID Card Trailer Bill Language May Revision Proposal.** The Administration requests that trailer bill language be added to authorize the Division of Juvenile Justice (DJJ) to obtain California identification cards issued by the Department of Motor Vehicles to youth offenders upon discharge.

**Staff Recommendation.** Adopt placeholder trailer bill language.

**20. Innovative Programming Grants.** The CDCR requests \$4 million Inmate Welfare Fund in 2018-19 and ongoing for Innovative Programming Grants to non-profit agencies to provide rehabilitative services to offenders within institutions. This item is part of the Governor's January budget.

**Staff Recommendation.**

- Approve this requested funding with an additional \$1.5 million in 2018-19 and an additional \$5 million in 2019-20 and ongoing. This provides a total of \$9 million per year, on a permanent basis.

**21. Juvenile Justice Reform May Revision.** The CDCR's Division of Juvenile Justice (DJJ) requests to amend the juvenile justice reform proposal included in the January budget by (1) delaying implementation of the Young Adult Offender Program, (2) making a technical correction to fix an error in projecting offsetting reductions in CDCR's adult prison population resulting from the proposed juvenile justice reforms, (3) revising the estimated population increase in the juvenile ward population, and (4) providing funding for a Basic Correctional Juvenile Academy. This results in a reduction of \$1.7 million General Fund and 16.4 positions in 2018-19, an increase of \$1.3 million General Fund and 6.6 positions in 2019-20, and an increase of \$4.2 million General Fund and 23.3 positions in 2020-21.

**January Proposal.** The CDCR's DJJ requested \$3.8 million General Fund and 25.6 positions in 2018-19, \$7.3 million General Fund and 51.3 positions in 2019-20, and \$9.2 million General Fund and 67.8 positions in 2020-21 and ongoing to raise the age of jurisdiction to 25 for juvenile court commitments, to increase the age of confinement to 25 for superior court commitments, and to begin implementation of a program that houses young adult offenders at a juvenile facility who would otherwise be housed in adult prison.

**Staff Recommendation.** Approve proposal with May Revision amendments and adopt placeholder trailer bill language that includes, at a minimum, the following provisions:

- Ensures that length of confinement time for youth currently committed to DJJ and similarly situated youth committed to DJJ in the future will not be increased as a result of the change in maximum age of jurisdiction.
- Establishes the Young Adult Program at DJJ as a five-year pilot with specified evaluation and reporting requirements.

**22. Academy-DJJ.** The CDCR requests \$721,000 General Fund in 2018-19 and 2019-20 to conduct one Basic Correctional Juvenile Academy each year to support the DJJ workforce. In 2016-17, CDCR began the process of ramping up the juvenile academy due to the growing number of peace officer vacancies from retirements, promotions, and separations. CDCR received funding for two years to meet this need and continued to evaluate workforce trends. Based on current vacancies and an annual attrition rate, CDCR is anticipating the need for 80 cadets over the next two years. This item is part of the Governor's January budget.

**Staff Recommendation.** Approve the proposal.

**23. Video Surveillance for Mental Health Units at the CSP – Sacramento.** The Governor's January budget proposes \$1.5 million General Fund in 2018-19 and \$177,000 ongoing to install and monitor an audio/video surveillance system within designated mental health segregation units at California State Prison – Sacramento (SAC). This item is part of the Governor's January budget.

**Staff Recommendation.** Staff recommends the following:

- Approve as proposed.

- Adopt supplemental reporting language (SRL) that includes information on the number and outcomes of inmate allegations against staff and inmate appeals as well as officer use of force in the units where cameras are installed.
- In addition, the SRL shall direct the department to provide the Legislature with any reports from court monitoring teams or other external groups that tour these housing units.

## **CALFIRE, CDCR, AND CALIFORNIA CONSERVATION CORPS. (CCC)**

**24. Ventura Training Center.** CALFIRE, CCC, and CDCR request a total of \$7.7 million General Fund in 2018-19, \$6.3 million General Fund ongoing, and 12.4 positions, to operate a Firefighter Training and Certification Program for ex-offenders at the Ventura Training Center located at the Ventura Conservation Camp in Ventura County. Additionally, CAL FIRE requests \$18.9 million General Fund for the preliminary plans, working drawings, and construction phases of a capital outlay project to make necessary improvements for the ongoing operation of the Ventura Training Center. This item is part of the Governor's January budget.

**Staff Recommendation.** Approve proposal with placeholder trailer bill language that includes the following provisions:

- Mandates that all participants must have a high school diploma or GED equivalent prior to the program's completion.
- Include professional licensing provisions.

## **VARIOUS DEPARTMENTS**

**25. State Penalty Fund (SPF) Adjustment May Revision Adjustments.** The Administration estimates that about \$80.6 million in criminal fine and fee revenue will be deposited into the SPF in 2018-19. Of this amount, it proposes to allocate about \$67 million to seven programs. This includes the Administration's proposed \$3.4 million augmentation in SPF funding for the Commission on Peace Officer Standards and Training program, to provide the program with the same level of funding it received in 2017-18. It also reflects the shift of funding support for the BSCC's Standards and Training for Corrections (STC) program from the SPF to the General Fund. After accounting for a few other relatively minor expenditures, the Administration is projecting that the SPF will retain a fund balance at the end of 2018-19 of about \$11.7 million.

**Governor's January Proposal.** The Governor's January budget projected that about \$81 million in criminal fine and fee revenue will be deposited into the SPF in 2018-19—a decline of \$12.6 million (or 13.5 percent) from the revised current-year estimate. Of this amount, the Administration proposes to allocate \$79.5 million to eight different programs in 2018-19—all of which received SPF funds in the current year.

**Staff Recommendation.** Approve this May Revision proposal and adjustment.

**26. Reentry and Diversion Programs in California.** Upon release from incarceration, ex-offenders often face a range of challenges.<sup>1</sup> Many have low levels of education and literacy, limited prior attachment to the legal workforce, reduced ties to family and community, and histories of substance abuse and mental health problems. Former prisoners may also confront a number of barriers that can directly limit their ability to gain employment, including lack of basic documentation, such as a current driver's license, the use of criminal background checks by employers, and state laws and licensing requirements for jobs in certain fields. Research has also shown that large numbers of prisoners are released into a disproportionately small number of vulnerable communities, causing instability and reduced social cohesion within these neighborhoods.<sup>2</sup> Reentry refers to the transition of individuals who are incarcerated in prisons or jails back into the community after release.

**Staff Recommendation:**

- Approve one-time allocation of \$100 million General Fund towards reentry and diversion efforts which includes:
  - Provides \$15 million to fund Social Workers in Public Defender Offices: which allows for the hiring of social workers to support cases where minors are arrested and prosecuted in either juvenile or criminal court, depending on the need of the office. The social workers may also support youth re-entry and other critical youth related needs of the public defender office.
  - Directs \$50 million to community based organizations for reentry housing efforts
  - Grants \$35 million that focuses on diversion and reentry efforts
  - Adopt placeholder trailer bill language to improve reentry outcomes and divert low-level offenders from jail and prison.

**27. Driving Under the Influence Trailer Bill Language Proposal.** This proposal requests technical changes to Vehicle Code sections 23612, 23577, and 23578 to bring the state into compliance with the U.S. Supreme Court ruling in *Birchfield v. North Dakota* (2016).

**Staff Recommendation.** Adopt placeholder trailer bill language.

## **8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)**

**28. Revising Model Hate Crimes Policy Proposal.** This proposal requests a one-time, \$45,000 augmentation to the POST budget to allow POST to update its model hate crimes policy and guidelines pursuant to Penal Code Section 13519.6.

**Staff Recommendation.** Approve this one-time, \$45,000 General Fund augmentation.

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<sup>1</sup> Jeanne Bellotti et al., "Examining a New Model for Prisoner Re-Entry Services: The Evaluation of Beneficiary Choice Final Report," March 16, 2011. [https://www.dol.gov/asp/evaluation/completed-studies/Examining\\_a\\_New\\_Model\\_for\\_Prisoner\\_Reentry\\_Services/FINAL\\_REPORT\\_examining\\_new\\_model\\_prisoner\\_reentry\\_services.pdf](https://www.dol.gov/asp/evaluation/completed-studies/Examining_a_New_Model_for_Prisoner_Reentry_Services/FINAL_REPORT_examining_new_model_prisoner_reentry_services.pdf).

<sup>2</sup> Ibid.

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)**

**29. Standards and Training for Local Corrections Trailer Bill Language May Revise Proposal.** The Administration requests that Item 5227-002-0001 be added in the amount \$2.5 million and 13 positions, that reimbursements be added in the amount of \$100,000 and that Item 5227-102-0001 be added in the amount of \$14.8 million. The request also includes trailer bill language in Penal Code Section 6040 to strike out references to the Corrections Training Fund and broadly refers to funds used for the costs of administration, the development of appropriate standards, the development of training, and program evaluations.

**Staff Recommendation.** Approve May Revision as proposed.

**30. California Violence Intervention & Prevention (CalVIP) Grant Proposal.** This proposal requests a reauthorization of the CalVIP program and ongoing appropriation of \$18.43 million General Fund to the program, which is an additional \$9.215 million above the 2017-18 funding level.

**Staff Recommendation.** Approve as proposed.

**31. New Earth Proposal.** New Earth Organization is requesting limited-term funding of \$1.5 million over the next two years. This financial infusion would enable them to sustain and grow their wrap-around services and programs for system-involved and “in-risk” youth ages 13-25. New Earth provides a host of transformative arts, educational and vocational programs for at-risk, foster care and probation youth.

**Staff Recommendation.** Approve a one-time allocation of \$1.5 million General Fund.

**0820 DEPARTMENT OF JUSTICE (DOJ)**

**32. Tax Recovery and Criminal Enforcement (TRaCE) Task Force Augmentation Proposal.** This proposal requests an allocation of \$11.86 million in 2018-19, \$17.32 million in 2019-20, and \$16.62 million in 2020-21 to support the augmentation of the Tax Recovery and Criminal Enforcement (TRaCE) task force program. Specifically, this funding will be used towards full-time dedicated staffing, an increase in DOJ agents, and expansion of the force to major metropolitan areas.

**Staff Recommendation.** Approve as proposed.

**33. Juvenile Court and Probation Statistical System Proposal.** Per Penal Code section 13010.5, the DOJ is mandated to collect data pertaining to the juvenile justice system for criminal history and statistical purposes. The Juvenile Court and Probation Statistical System (JCPSS) is the primary statewide database of information collected from county probation departments on all juvenile probation referrals, court actions and final dispositions. The system collects and compiles data on the number of juveniles referred to

a Probation Department, pursuant to Welfare & Institutions Code sections 601 and/or 602. The system also maintains data on a defined universe of data elements for each individual juvenile whose identifying information is entered into the system. Counties submit data into the JCPSS on a monthly basis, via either a manual data entry or the web-enabled uploading process. Counties that enter data manually via the web-enabled application may enter it throughout the month. Counties that submit data via the upload process must submit the data by the tenth working day of month following the reporting period. The deficiencies of the JCPSS data system were fully documented by the California Juvenile Justice Data Working Group in its 2016 report to the Legislature (“Rebuilding California’s Juvenile Justice Data System”). JCPSS is outdated and the data system lacks the capacity to produce data supporting analysis or evaluation of juvenile justice programs, policies, practices and grant programs. There is no capacity to produce recidivism reports or analysis.

**Staff Recommendation.** Adopt placeholder trailer bill language requiring the following:

- That the Department of Justice produces a plan for upgrading or replacing the JCPSS juvenile justice data system, including costs and options for modernization that will result in a capacity for recidivism-related analysis.
- That the plan should be developed in coordination with key stakeholders and experts, to identify the goals, options and costs related to system replacement. This could be achieved by the appointment of an advisory group or committee (including perhaps members of the JJ Data Working Group), or by designating specific agencies and organizations to cooperate with DOJ in plan development.
- That the plan should be produced and returned to the Legislature by March 1, 2019.

**34. Bureau of Medi-Cal Fraud and Elder Abuse Technical Redirection May Revision Proposal.** The Administration proposes that Item 0820-001-0378 be decreased by \$3 million to reflect the redirection of General Fund to the Bureau of Medi-Cal Fraud and Elder Abuse. The Administration also requests that Provision 3 of Item 0820-001-0001 be eliminated to reflect the conclusion of the Lloyd's of London (*Stringfellow*) litigation. Funding specified in Provision three for *Stringfellow* litigation will be redirected to the Bureau of Medi-Cal Fraud and Elder Abuse to use as a federal match.

**Staff Recommendation.** Approve as proposed.

**35. Cybercrime Investigation Teams May Revision Proposal.** The DOJ Bureau of Investigation, requests \$5.6 million General Fund in FY 2018-19 and \$4.8 million General Fund in FY 2019-20 and ongoing, along with 19.0 permanent positions, to establish two investigative teams, one in the Northern California region and one in the Southern California region, focusing on cybercrimes, white collar crimes, and human trafficking crimes involving the use of technology.

**Staff Recommendation.** Reject this proposal.

**36. Sex Offender Registry May Revision Proposal.** The DOJ requests \$10 million General Fund and 25 positions in Fiscal Year 2018-19 to begin the first-year implementation activities required to meet the mandates outlined in Senate Bill 384 (Weiner), Chapter 541, Statutes of 2017.

**Staff Recommendation.**

- Approve proposed funding.
- Adopt placeholder trailer bill language that includes, at a minimum, the following provisions:
- Directs the DOJ to submit a report outlining its plan for fully implementing the registry upon completion of Stage 2 of the California Department of Technology's Project Approval Lifecycle (PAL) process.
- Directs the DOJ to provide annual progress reports on key metrics to help monitor the status of the project. Examples of such metrics include tasks completed, changes to project costs or deadlines for project milestones, challenges or delays that have emerged, and issues or risks that may result in project schedule or budget changes.

**37. Statewide Forensics Services May Revision Proposal.** The DOJ's Bureau of Forensic Services (BFS) requests a one-time General Fund augmentation of \$11.4 million to support statewide forensics services. Of the requested \$11.4 million increase, \$5.4 million is required to refresh critical laboratory equipment and \$6 million is required as a General Fund backfill for continuing annual declines in revenue to the DNA Identification Fund (DNA ID), which have caused a cash shortfall in the fund.

**Staff Recommendation.** Approve as proposed

**38. Sexual Assault Kit Proposal.** This proposal requests one-time augmentation of \$6.5 million to ensure the timely forensic testing of sexual assault kits throughout California communities. As amended by Chapter 874, Statutes of 2014, California law states that law enforcement agencies "should" transfer rape kit evidence to the appropriate forensic laboratory within 20 days and that laboratories "should" process such evidence as soon as possible, but no later than 120 days, following receipt. Due to the current language of the law, this guidance is not currently being followed by a number of law enforcement agencies in the state. As a result, newly collected rape kit evidence in many jurisdictions in California is still not tested in timely fashion. Depending on the jurisdiction in which the crime occurred, the timeframe for submission and analysis of their rape kits may vary widely, slowing the criminal justice process. A significant barrier to rape kit testing is the lack of funding.

**Staff Recommendation.** Approve a one-time allocation of \$6.5 million and adopt placeholder budget bill language that does the following:

- Specifies that this allocation shall be used for the purposed of reducing the statewide sexual assault kit backlog throughout California.
- Grants an allocation to counties and city/counties provided that they match the grant.

**39. Proposition 56 May Revision Technical Adjustment.** The Administration requests that items 0820-001-3320 and 0820-101-3320 be eliminated from the budget bill. Expenditures previously budgeted in these items will be transferred to newly-created continuously appropriated items, consistent with Proposition 56 and the provisions of the Revenue and Taxation Code Section 30130.53 (c). Proposition 56, passed by the voters in November 2016, increased the excise tax rate on cigarettes and tobacco products, effective April 1,

2017. The excise tax increased by \$2, from 87 cents to \$2.87 per pack, of 20 cigarettes on distributors selling cigarettes in California. Monies from the collection of the tax are deposited in the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund and related funds to implement the purposes of the Act.

**Staff Recommendation.** Reject this proposal.

## **0280 COMMISSION ON JUDICIAL PERFORMANCE (CJP)**

**40. State Audit.** On August 10, 2016, the Joint Legislative Audit Committee (JLAC) unanimously approved an audit of CJP to examine its finances and policies and practices for handling and resolving complaints against judges. In response to the requirements of the audit, CJP filed a complaint against the State Auditor in San Francisco on October 20, 2016 – *Commission on Judicial Performance v. Howle*, CPF515308 (S.F. Super. Ct.). The petition seeks injunctive relief to block the auditor’s access to confidential records related to judicial complaints and investigations, and seeks to ensure the CJP does not bear any cost of the audit. In addition, the petition requests the auditor be required to refrain from auditing the discretionary exercise of CJP’s core constitutional functions as required by the separation of powers doctrine. Members of the Legislature have expressed concerns that rather than comply with the audit.

**Staff Recommendation.** Reduce the CJP’s budget by \$500,000 for BY 2018-19.

**ITEMS TO BE HEARD****5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION****Issue 41: Rehabilitative Achievement Credit Staffing**

**Background and Proposal.** The CDCR requests \$2.5 million General Fund and 13 positions in 2018-19 and ongoing to implement a Rehabilitative Achievement Credit (RAC) earning program associated with the passage of Proposition 57. Additional Self-Help Sponsors (SHS) funds will ensure that the institutions can expand Inmate Activity Groups (IAGs) to meet inmate demand for RAC-eligible programs. SHSs will sponsor IAGs throughout the institutions and rove between various volunteer support groups to ensure attendance is tracked and input into Strategic Offender Management Systems. The \$1.5 million in SHS funds will allow the Department to obtain an additional 84,602 hours of programming.

**Issue 42: Court Resentencing Petitions May Revise Proposal**

**Background and Proposal.** The CDCR requests \$2 million General Fund in 2018-19, \$1.9 million in 2019-20, and \$1.5 million in 2020-21 and ongoing to fully utilize Penal Code section 1170(d)(1), which allows the Department to request the recall and resentencing of inmates who have exhibited exceptional conduct or whose records contain sentencing errors. This request includes funding for 13 permanent positions and two, two-year limited term positions. Currently, the CDCR uses the provision under PC section 1170(d)(1) on a limited basis for the recall and resentencing of inmates who demonstrate exemplary behavior during incarceration.

**Issue 43: General Population Adjustments**

**May Revision Proposed Adjustments.** The May Revision makes the following population adjustments based upon updated caseload projections and additional alternative custody program placements:

*Adult Population Adjustment* – This reflects a net decrease of \$21.8 million and a net increase of 37.3 positions, which is comprised of a reduction of \$21.8 million General Fund and an increase of \$28,000 Inmate Welfare Fund. The May Revision reflects an estimated average daily population of 126,890 in fiscal year 2018-19, which is 522 fewer than projected in the Governor's budget. The projected parolee average daily population is 48,535 in 2018-19, which is a decrease of 1,259 compared to the Governor's budget projection.

*Juvenile Population Adjustment* – The May Revision includes a decrease \$259,000 General Fund and 1.7 positions and an increase of reimbursements by \$33,000. The May Revision reflects an estimated average daily population of 646 wards in 2018-19, which is one more ward than projected in the Governor's budget.

**Issue 44: Institutional Staffing Needs**

**Background and Proposal.** The CDCR requests \$4.4 million General Fund and 31.6 positions ongoing to augment custody positions in prisons. The requests includes an increase in coverage for identified security issues, Health Care Facility Improvement Project modifications, and to increase coverage for third-watch rehabilitative programs. CDCR notes that they are currently paying staff to work overtime to provide the necessary security coverage and that the funding for that workload is coming from vacancies in administrative and operational support positions which is a short-term solution that is not sustainable for the long run. The department notes that they are actively engaged in attempting to fill those critical operational support vacancies. This item is part of the Governor's January budget.

**Issue 45: Overtime Base Adjustment May Revision Proposal**

**May Revision Proposal.** The CDCR requests \$16.5 million General Fund in 2018-19 and ongoing to adjust the base overtime budget to reflect approved salary increases.

**Background.** CDCR's overtime budget has not been adjusted to account for increases in employee compensation since 2014-15. Since then, Correctional Officers, Sergeants, and Lieutenants have received salary increases totaling approximately 17 or 18 percent compounded over the previous five years. In 2014-15, the CDCR's overtime authority supported roughly 2.6 million hours of overtime. In 2017-18, the overtime authority only supports 2.2 million hours of overtime. By providing the requested overtime budget increase, the proposal restores CDCR's ability to purchase 2.6 million hours of overtime. To augment for the past increases, CDCR's overtime requires an increase of \$24.6 million. This need is offset by \$8.1 million due to the realignment of excess lump sum funding, resulting in an increase of \$16.5 million. With this augmentation, there would be a total overtime budget of \$150.1 million. The augmentation will allow the overtime budget to support the employee compensation increases that have occurred annually, since 2014-15.

**Issue 46: Medical Guarding and Transportation May Revision Proposal**

**May Revision Proposal.** The CDCR requests \$5.9 million General Fund in 2018-19 and ongoing and 42.7 positions to augment medical transportation custody positions at adult institutions.

**Background.** Healthcare treatment has steadily increased to meet the needs of the inmate population. The requirement to transport inmates is at the direction of CCHCS medical professionals, and it is the responsibility of CDCR custody staff to ensure such mandated transports are completed expeditiously to ensure inmate access to healthcare. Therefore, the CDCR is unable to delay the transportation of inmates requiring medical or mental healthcare. Based on a review of overtime hours for March 2017 through February 2018 compared to the Access Quality Report (AQR), a report compiled by CCHCS, which tracks inmates' access to medical appointments, of the total unscheduled medical transports, 54 percent occurred during third watch hours.

When unscheduled emergency inmate transports occur during third watch, it results in either an overtime shift or a current on-site third watch staff being redirected from their assigned post to the emergency transports. When a staff member is redirected to perform these duties, the institution

often times must modify or close inmate programs due to the reduced staffing available. As a result, the ability for inmates to participate in programs is negatively impacted where the programs are modified or cancelled due to the lack of custody staffing. These programs include: Self-Help programs, religious activities, Transitional Reentry Programs, Cognitive Behavioral Treatment, Veteran's advocacy, core recreational activities such as yard and dayroom, etc.

<b>Issue 47: Janitorial Services at the California Health Care Facility</b>
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**May Revision Proposal.** The Administration requests that Item 5225-001-0001 is decreased by \$1,676,000 to realign contract funding from California Prison Industry Authority to California Correctional Health Care Services and Item 5225-002-0001 is increased by \$9,717,000 to restore partial year contract funding for PRIDE janitorial services.

**Background and January Proposal.** The CDCR requests \$185,000 General Fund and 148.9 positions in 2018-19 and \$3.6 million General Fund and 207.8 positions in 2019-20 and ongoing to transition from their janitorial contract with PRIDE Industries to a civil service janitorial staff for the California Health Care Facility (CHCF) in Stockton. This item is part of the Governor's January budget.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, May 17, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

## PART B

<u>Item</u>	<u>Department</u>	<u>Page</u>
<b>Vote-Only Items</b>		
0250	Judicial Branch	
Issue 1	Stability for Legal Aid	4
Approved as proposed. <b>Vote: 2-1(Anderson NO)</b>		
Issue 2	Courts Honest Budget Adjustment	5
Approved as proposed. <b>Vote: 2-1(Anderson NO)</b>		
Issue 3	Chief Justice's Priorities	5
Adopted staff recommendation to approve the Governor's proposal along with budget bill language that does the following:		
<ul style="list-style-type: none"><li>Distributes the \$75 million to trial courts according to the JC's Workload Allocation Funding Methodology (WAFM) model that was modified and subsequently approved by the JC on January 12, 2018.</li><li>Directs the LAO to jointly work with the Department of Finance to re-evaluate WAFM—with technical assistance from the judicial branch as necessary—and offer potential recommendations for change by November 1, 2019. The intended outcome would be a workload-based model that can be used for both estimating trial court needs and allocating trial court operations funding in the future.</li></ul>		
<b>Vote: 3-0</b>		
Issue 4	Self-Help Centers in Trial Courts	6
Adopted staff recommendation to approve augmentation of \$19.1 million on a limited-term basis through 2020-21. Adopt budget bill language directing the Judicial Council to conduct an		

independent comprehensive cost-benefit analysis of self-help services and provide a report on its findings by November 2020. **Vote: 3-0**

Issue 5 Self-Represented Litigants e-Services Web Portal Spring Letter 6

Approve as proposed. **Vote: 3-0**

Issue 6 County Law Libraries Proposal 6

Approve as proposed. **Vote: 3-0**

Issue 7 Pilot Project for Online Adjudication of Traffic Violations 6

Adopted staff recommendation to do the following:

- Approve proposal, and May adjustments with placeholder trailer bill language that includes, at a minimum, the following provisions:
- Requires an ability to pay calculation which includes an 80 percent presumptive baseline reduction of fees that may be overridden by a judge
- Adds pilot counties that have minimum population thresholds
- Includes evaluation language and a sunset date

**Vote: 3-0**

Issue 8 Deferral of Sentencing Trailer Bill Language 6

Adopted placeholder trailer bill language. **Vote: 2-1(Anderson NO)**

Issue 9 Unfunded Appellate Judgeships Proposal 7

Approved as proposed. **Vote: 3-0**

Issue 10 Court Reporters in Family Law Proposal 7

Staff recommendation to approve the following: 1) \$10 million in BY 2018-19, 2) \$20 million in BY 2019-20, and 3) \$30 million in BY 2020-21 and ongoing. Adopt placeholder trailer bill language.

**Vote: 3-0**

Issue 11 Traffic Tickets and License Suspensions 7

Approved staff recommendation. This includes:

Adopting placeholder trailer bill language that includes, at a minimum, the following provisions:

- Requires that after a person who has an FTA satisfies the order of the court to appear, the court shall lift any driver's license hold. The court shall not issue a bench warrant for a failure to appear.
- Requires the court to mail a courtesy warning notice to the defendant at least 20 days before sending a notice to the Department of Motor Vehicles (DMV) that the defendant failed to appear in court, when the court seeks to notify DMV of a failure to appear, pursuant to specified law

**Vote: 2-1(Anderson NO)**

5225 Department of Corrections and Rehabilitation (CDCR)

Issue 12 Supportive Housing Pilot for Mentally Ill Parolees 8

Approved staff recommendation. This includes:

- Approve proposal with a \$5 million General Fund one-time allocation and placeholder trailer bill language.

**Vote: 3-0**

Issue 13 Health Care Facility Improvement Program (HCFIP) Spring Letter 8

Reject this proposal. **Vote: 2-1(Anderson NO)**

Issue 14 Hepatitis C Treatment Funding 8

Approved as proposed. **Vote: 3-0**

Issue 15 Contraband Interdiction Program 8

Approved as proposed. **Vote: 3-0**

Issue 16 Training Initiatives 9

Approved as proposed with placeholder TBL. **Vote: 2-1(Anderson NO)**

Issue 17 Healthcare Services for Reentry Programs 9

Approved as proposed. **Vote: 3-0**

Issue 18 Correctional Counselor I Ratio Adjustment 9

Approved as proposed. **Vote: 3-0**

Issue 19 Juvenile Justice ID Card Trailer Bill Language 9

Adopted placeholder trailer bill language. **Vote: 3-0**

Issue 20 Innovative Programming Grants 9

Staff recommendation to approve this requested funding with an additional \$1.5 million General Fund in 2018-19 and an additional \$5 million General Fund in 2019-20 and ongoing approved. This provides a total of \$9 million per year, on a permanent basis.

**Vote: 2-1(Anderson NO)**

Issue 21 Juvenile Justice Reform 10

Staff Recommendation adopted to do the following:

- Approve proposal with May Revision amendments and adopt placeholder trailer bill language that includes, at a minimum, the following provisions:
- Ensures that length of confinement time for youth currently committed to DJJ and similarly situated youth committed to DJJ in the future will not be increased as a result of the change in maximum age of jurisdiction.
- Establishes the Young Adult Program at DJJ as a five-year pilot with specified evaluation and reporting requirements.

**Vote: 2-1 (Anderson NO)**

Issue 22 Academy- Division of Juvenile Justice 10

Approve as proposed. **Vote: 3-0**

Issue 23 Video Surveillance for Mental Health Units at CSP-Sacramento 10

Staff Recommendation adopted to do the following:

- Approve as proposed.
- Adopt supplemental reporting language (SRL) that includes information on the number and outcomes of inmate allegations against staff and inmate appeals as well as officer use of force in the units where cameras are installed.
- In addition, the SRL shall direct the department to provide the Legislature with any reports from court monitoring teams or other external groups that tour these housing units.

**Vote: 3-0**

**CALFIRE, CDCR, and California Conservation Corps.**

Issue 24 Ventura Training Center 11

Staff recommendation adopted to do the following:

- Approve proposal with placeholder trailer bill language that includes the following provisions:
- Mandates that all participants must have a high school diploma or GED equivalent prior to the program's completion.
- Include professional licensing provisions.

**Vote: 2-1(Anderson NO)**

**Various Departments**

Issue 25 State Penalty Fund Adjustment 11

Approved as proposed. **Vote: 3-0**

Issue 26 Reentry and Diversion Programs in California 12

Staff recommendation adopted to do the following:

- Approve one-time allocation of \$100 million General Fund towards reentry and diversion efforts which includes:
  - Provides \$15 million to fund Social Workers in Public Defender Offices: which allows for the hiring of social workers to support cases where minors are arrested and prosecuted in either juvenile or criminal court, depending on the need of the office. The social workers may also support youth re-entry and other critical youth related needs of the public defender office.
  - Directs \$50 million to community based organizations for reentry housing efforts
  - Grants \$35 million that focuses on diversion and reentry efforts
  - Adopt placeholder trailer bill language to improve reentry outcomes and divert low-level offenders from jail and prison.

**Vote: 2-1(Anderson NO)**

Issue 27 Driving Under the Influence Trailer Bill Language Proposal 12

Adopted placeholder trailer bill language. **Vote: 3-0**

**8120 Commission on Peace Officer Standards and Training (POST)**

Issue 28      Revising Hate Crime Model Policy      12

**Staff recommendation adopted to approve as proposed Vote: 3-0**

**5227      Board of State and Community Corrections (BSCC)**

Issue 29      Standards and Training for Local Corrections Trailer Bill Language      13  
 May Revise Proposal

**Staff recommendation adopted to approve as proposed Vote: 3-0**

Issue 30      California Violence Intervention & Prevention (CalVIP) Grant Proposal      13

**Staff recommendation adopted to approve as proposed Vote: 3-0**

Issue 31      New Earth Proposal      13

**Staff Recommendation to approve a one-time allocation of \$1.5 million General Fund was adopted.**

**Vote: 3-0**

**0820      Department Of Justice**

Issue 32      Tax Recovery and Criminal Enforcement (TRaCE) Task Force      13  
 Augmentation Proposal

**Staff recommendation adopted to approve as proposed Vote: 3-0**

Issue 33      Juvenile Court and Probation Statistical System Proposal      13

**Staff Recommendation to adopt placeholder trailer bill language approved. It required the following:**

- That the Department of Justice produces a plan for upgrading or replacing the JCPSS juvenile justice data system, including costs and options for modernization that will result in a capacity for recidivism-related analysis.
- That the plan should be developed in coordination with key stakeholders and experts, to identify the goals, options and costs related to system replacement. This could be achieved by the appointment of an advisory group or committee (including perhaps members of the JJ Data Working Group), or by designating specific agencies and organizations to cooperate with DOJ in plan development.
- That the plan should be produced and returned to the Legislature by March 1, 2019.

**Vote: 2-1(Anderson NO)**

Issue 34      Bureau of Medi-Cal Fraud and Elder Abuse Technical Redirection      14  
 May Revision Proposal

**Approve as proposed. Vote: 3-0**

Issue 35      Cybercrime Investigation Teams May Revision Proposal      14

**Reject this proposal. Vote: 3-0**

Issue 36      Sex Offender Registry May Revision Proposal      14

**Staff recommendation adopted. It includes:**

- Approve proposed funding.
- Adopt placeholder trailer bill language that includes, at a minimum, the following provisions:

- Directs the DOJ to submit a report outlining its plan for fully implementing the registry upon completion of Stage 2 of the California Department of Technology's Project Approval Lifecycle (PAL) process.
- Directs the DOJ to provide annual progress reports on key metrics to help monitor the status of the project. Examples of such metrics include tasks completed, changes to project costs or deadlines for project milestones, challenges or delays that have emerged, and issues or risks that may result in project schedule or budget changes.

**Vote: 3-0**

Issue 37      Statewide Forensics Services May Revision Proposal      15  
**Approve as proposed. Vote: 3-0**

Issue 38      Sexual Assault Kit Proposal      15  
**Staff recommendation adopted. It includes:**

- Approve a one-time allocation of \$6.5 million and adopt placeholder budget bill language that does the following:
- Specifies that this allocation shall be used for the purposed of reducing the statewide sexual assault kit backlog throughout California.
- Grants an allocation to counties and city/counties provided that they match the grant.

**Vote: 3-0**

Issue 39      Proposition 56 May Revision Technical Adjustment      15  
**Staff recommendation adopted: reject this proposal. Vote: 2-1(Anderson NO)**

**0280      Commission on Judicial Performance**

Issue 40      State Audit      16  
**Staff recommendation adopted: Reduce the CJP budget by \$500,000. Vote: 3-0**

**Discussion Items**

**5225      Department of Corrections and Rehabilitation (CDCR)**

Issue 41      Rehabilitative Achievement Credit Staffing      17  
**Staff recommendation adopted: Approved with placeholder TBL to track credits. Vote: 3-0**

Issue 42      Court Resentencing Petitions May Revise Proposal      17  
**Approved as proposed. Vote: 3-0**

Issue 43      General Population Adjustments      17  
**Approve May Revision adjustments. Vote: 3-0**

Issue 44      Institutional Staffing Needs      18  
**Chair's Recommendation to approve 8.0 third-watch positions and reject all other positions approved. Vote: 3-0**

Issue 45      Overtime Base Budget Adjustment      18  
**Approved as proposed. Vote: 3-0**

Issue 46      Medical Guarding and Transportation      18  
**Approved as proposed. Vote: 3-0**

Issue 47      Janitorial Services at the California Health Care Facility      19

**Staff recommendation adopted. Reject proposal and adopt BBL to conduct a feasibility study focusing on the transition and its effect on developmentally disabled workers. Vote: 3-0**

**Public Comment**

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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.*

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**PROPOSED FOR VOTE ONLY****0250 JUDICIAL BRANCH**

- 1. Stability for Legal Aid.** Civil legal aid organizations provide free legal assistance to low-income Californians, people with disabilities, and seniors. Legal aid helps people with problems such as foreclosure, unemployment, domestic violence, health access, consumer debt, housing, and reentry. Although many people believe that they have a “right to an attorney,” there is no right to an attorney in civil cases. Legal aid attorneys help those who are most vulnerable and who most need an attorney’s assistance.

*Equal Access Fund (EAF).* The EAF supports approximately 100 legal aid non-profits providing critical assistance to low-income Californians throughout the state. The EAF was established in 1999 with a \$10 million ongoing General Fund appropriation. In subsequent years, the EAF began to receive a portion of court filing fees. Legal aid services providers argue that their funding remains unchanged despite significant increases in the number of clients who need their services. Providers further note that California was 10th in the nation in state funding for legal services, but has now fallen to 22nd in the nation. They further note that the state of New York provides \$85 million per year for their legal aid programs. The 2017 budget included a two-year \$10 million augmentation for the Equal Access Fund.

*Cy Pres.* In the context of class action settlements, the cy pres doctrine permits a court to distribute unclaimed or non-distributable portions of a class action settlement fund to the “next best” class of beneficiaries for the *aggregate, indirect, prospective benefit* of the class. AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, was a budget trailer bill that amended Section 384 of the Code of Civil Procedure, which governs the distribution of residual funds from class action litigation. Previous to the bill, there were three entities that these residue funds could be distributed to: 1) “nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action”, 2) child advocacy programs or 3) nonprofit organizations providing civil legal services to the indigent class. There was no requirement that any one group receive any minimum or maximum of the available funds. AB 103 mandates that 25 percent of the funds be distributed to the Equal Access Fund of the Judicial Branch and 25 percent be distributed to the Trial Court Improvement and Modernization Fund for collaborative courts or grants for Sargent Shriver Civil Counsel. The remaining 50 percent is distributed to the three groups listed above, which includes the possibility for legal aid to receive additional funding on top of the 25 percent earmark. The remaining 50 percent is distributed to the three groups listed above, which includes the possibility for legal aid to receive additional funding on top of the 25 percent earmark. While the current formula under AB 103 was intended to provide a stable funding source for legal aid, the money generated under cy pres is neither consistent nor reliable. The lack of steady revenue can cause a reduction of additional resources for organizations intended to benefit the class or similarly situated persons.

This proposal contains two components:

- That the two-year \$10 million augmentation granted in BY 2017-18 for the EAF be made permanent with \$10 million ongoing starting in BY 2019-20.
- Adopts placeholder trailer bill language that does the following:
  - Reestablishes California's previous cy pres rule without specific earmarks to the organizations previously listed.
  - Requires attorneys to disclose to the court their connection or relationship to a cy pres recipient that creates the appearance of impropriety.
  - Requires the California Research Bureau, starting on January 1, 2024, to publish a report every five years on cases awarding cy pres distributions.

**Staff Recommendation.** Adopt placeholder trailer bill language and approve the proposed funding for the EAF.

2. **Courts Honest Budget Adjustment.** The Legislature proposes a budget adjustment of \$67.5 million in 2019-20, which increases by \$67.1 million in 2020-21 and then increases by \$69 million in 2021-22. These figures are based on the Legislative Analyst Office's estimates for the cost of providing an annual increase for the judicial branch through 2021-22. These numbers reflect cost-of-doing-business increases for all judicial and court employee salaries and benefits as well as operating expenses and equipment, but do not include most facility related expenses (such as court construction debt service and facility modification projects).

**Staff Recommendation.** Approve adjustments as proposed.

3. **Chief Justice's Priorities.** The Governor's January budget proposes an increase in funding to support various proposals, nearly all of which is ongoing, including:
  - \$75 million discretionary funding for allocation to trial courts by the Judicial Council (JC).
  - \$47.9 million for allocation to certain trial courts that are comparatively underfunded relative to other trial courts.
  - \$34.1 million to backfill a further decline in fine and fee revenue to the Trial Court Trust Fund, increasing the total backfill to \$89.1 million in 2018-19. A backfill has been provided since 2014-15.
  - \$25.9 million for increased trial court health benefit and retirement costs.

**Staff Recommendation.**

4. **Self-Help Centers in Trial Courts.** The Judicial Council requests an ongoing augmentation of \$19.1 million General Fund beginning in 2018-19 to implement recommendations of the Chief Justice's Commission on the Future of the California Courts regarding self-represented litigants. This item is part of the Governor's January budget.

**Staff Recommendation.**

5. **Self-Represented Litigants e-Services Web Portal Spring Letter.** The Judicial Council proposes a General Fund augmentation of \$3.236 million in 2018-19, \$1.9 million in 2019-20, and \$709,000 ongoing beginning in 2020-21, to design, build, and maintain a statewide Self-Represented Litigants e-Services Web Portal to enable those without legal

representation to research, e-file, and track noncriminal cases via an online portal. This proposal also requests four positions at the Judicial Council of California to provide support in administering and maintaining the statewide e-Services Web Portal. This item is part of the Governor's January budget.

**Staff Recommendation.** Approve this proposal.

- 6. County Law Libraries Proposal.** This proposal requests a one-time allocation of \$16.5 million for County Law Libraries to account for the difference between civil filing fee revenue in 2009 and currently.

**Staff Recommendation.** Approve the one-time allocation for \$16.5 million General Fund.

- 7. Pilot Project for Online Adjudication of Traffic Violations.** The Administration requests that Item 0250-001-0001 be decreased by \$1,040,000, and that Items 0250-101-0932 and 0250-111-0001 each be increased by \$1,040,000 to reflect a technical correction for the Pilot Project for Online Adjudication of Traffic Violations proposal included in the Governor's Budget.

**Governor's January budget.** The Judicial Council requests \$3.4 million and seven positions in FY 2018-19 and an ongoing amount of \$1.365 million and seven positions to design, deploy and maintain software to adjudicate traffic violations online in designated pilot courts.

**Staff Recommendation.**