Senate Budget and Fiscal Review—Scott Wiener, Chair
SUBCOMMITTEE NO. 2 **Agenda**

Senator Josh Becker, Chair
Senator Ben Allen
Senator Catherine Blakespear
Senator Brian Dahle

Thursday, March 7, 2024
9:30 a.m. or Upon Adjournment of Session
1021 O Street - Room 2200

Consultant: Eunice Roh

Item **Department** **Page**

VOTE –ONLY

DISCUSSION

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.

VOTE-ONLY

3355 OFFICE OF ENERGY INFRASTRUCTURE SAFETY

Issue 1: Ongoing Funding for Core Contracts and Information Technology Resources

Governor's Proposal. The Governor's Budget includes $3,151,000 ($3,021,000 from the Public Utilities Commission Utilities Reimbursement Account (PUCURA) and $130,000 from the Safe Energy Infrastructure and Excavation Fund (SEIEF)) in 2024-25 and ongoing for information technology and contracting resources. More specifically, the request includes the following:

- $201,000 for 1.0 Information Technology (IT) Specialist II to develop and manage the various applications for the department.
- $450,000 for an Ongoing Ticketing System Managed Services Contract to maintain and support the Department's new IT ticketing system environment.
- $500,000 for permanent contract support to conduct the annual maturity model survey analysis.
- $500,000 for permanent contract support to conduct required independent safety culture assessment workforce surveys performed as part of the annual safety culture assessment for each electrical corporation.
- $1,500,000 for permanent contract support to conduct the statutorily required annual independent audit of nine electrical corporations' vegetation management activities.

According to the department, these resources are necessary to support and maintain IT systems key for operations as well as to conduct work that requires subject matter expertise not available within the department. The Administration does not expect any fee changes to be necessary for the PUCURA or SEIEF funds as a result of this proposal.

Staff Recommendation. Approve as budgeted.

3360 ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

Issue 2: 2023 California Vehicle Survey Supplemental Funding

Governor's Proposal. The Governor's Budget includes $200,000 in reimbursement authority to allow the California Energy Commission (CEC) to receive funding from the California Department of Transportation (Caltrans) to support the California Vehicle Survey (CVS). The survey collects information about California consumers' preferences for different types of vehicles. CEC uses this information to build their transportation energy demand forecasting and assessment, which supports their energy demand, planning, and policy assessment for the state. Caltrans also uses the survey to meet some of their vehicle and travel data needs. This funding will support CEC to complete survey design; execute the survey and collect survey data; conduct analysis of survey data to ensure data quality; and develop a final report for publication. In previous budgets, CEC has received $600,000 over three years for the survey in 2006 and 2014.

Staff Recommendation. Approve as budgeted.

Issue 3: Technical Assistance Support for Building Standards

Governor's Proposal. The Governor's Budget includes $497,000 ongoing from the Cost of Implementation Account for three positions to provide technical assistance regarding the California's Energy Code. More specifically, the request includes the following:

- One Associate Energy Specialist for the Standards Development Unit, to provide assistance to local jurisdictions seeking to adopt local ordinances and codes that exceed the current California Energy Code. These types of requests have increased more than 120 percent over the last three years, and is expected to continue to increase.
- One Energy Commission Specialist 1 for the Standards Tools Development Unit, to support compliance modeling and analysis; draft compliance forms; lead public-private partners to develop alternative compliance pathways; and provide technical assistance with compliance software and documents.
- One Electric Generation System Specialist for the Outreach and Education Unit, to lead the Energy Standards Hotline team as well as provide outreach, education, and technical assistance to various stakeholders. Currently, the Title 24 hotline receives 195 inquires each week, and has 1900 inquires in the backlog queue. As a result, response times are on average three and a half months for emails and six months for phone inquiries.

The department reports these additional positions are necessary to address the increasing requests for technical assistance, applications for review, and growing complexity of the California Energy Code.

Staff Recommendation. Approve as budgeted.

8660 PUBLIC UTILITIES COMMISSION

Issue 4: California Advanced Services Fund Local Assistance Budget

Governor's Proposal. The Budget proposes to increase the local assistance budget authority from the California Advanced Services Fund (CASF) program for the California Public Utilities Commission (CPUC) to $136.2 million in 2024-25 and ongoing. In addition, the administration requests budget bill language which makes expenditure authority contingent on the CPUC collecting sufficient revenue.

Background. The CASF program funds broadband infrastructure projects. It is funded by a single flat fee per access per access line, which applies to all telephone corporations. In 2021, AB 14 (Aguiar-Curry, Chapter 685) and SB 4 (Gonzalez, Chapter 671) extended the CASF program, and provided the CPUC the authority to collect up to $150 million for the program. Since then, CPUC has made changes to the surcharge mechanism that generates revenue for the CASF program, leading to the department now able to collect the full amount.

However, currently, CPUC only has the budget authority for $72.6 million for the program. There is growing demand for CASF—for example, in 2023, CPUC received 74 applications requesting $527 million total. Given the increasing demand for CASF, the CPUC requests the budget authority to increase to match the forecasted revenue. In addition, since the revenue mechanism is relatively new, the CPUC requests language to make the expenditure authority contingent on collecting sufficient revenue.

Staff Recommendation. Approve as budgeted.

Issue 5: Gas Transmission Pipeline Safety Staffing

Governor's Proposal. The Governor's Budget includes $550,000 from the Public Utilities Commission Utilities Reimbursement Account (PUCURA) to ensure gas operators comply with recent federal gas transmission pipeline safety mandates.

Background. The Pipeline and Hazardous Materials Safety Administration (PHMSA) is a federal agency that regulates transportation of energy and other hazardous materials. PHMSA requires the CPUC's Gas Safety and Reliability Branch (GSRB) to review, at least once every five years, the associated procedures, implementation plans, field facilities, and records that gas operators have developed and implemented to address the federal mandates.

In recent years, the PHMSA added and revised several components of federal pipeline safety regulation. According to the CPUC, these enhanced regulations increase the GSRB workload to review documents, conduct field inspections, and other regulatory activities to provide oversight to gas operators. As a result, the CPUC requests two and a half Utilities Engineer positions to address this increased workload.

Staff Recommendation. Approve as budgeted.

Issue 6: IT Asset Tracking and Management System

Governor's Proposal. The Governor's Budget includes $300,000 ongoing from various special funds for maintenance and operation costs to sustain an information technology hardware/software asset management system. Previously, the CPUC's Information Technology Services Division (ITSD) has used multiple manual spreadsheets to track IT assets, which is both labor intensive and error prone. In addition, this is not incompliance with the State Administrative Manual. The California Department of Technology has also identified this practice to be improved in previous audits. According to the department, this funding will allow the CPUC to more efficiently and accurately track IT assets, and avoid property loss, misallocation, and inflated replacement costs.

Staff Recommendation. Approve as budgeted.

Issue 7: Permanent Position Technical Adjustment

Governor's Proposal. The Governor's Budget requests permanent position authority for fourteen positions across the Communication, Energy, Legal, and Utility Audits. Risk, and Compliance Divisions. In the 2018-19 budget, the CPUC received ongoing funding for these fourteen positions, but did not receive position authority. According to the department, this was to provide the CPUC with administrative flexibility to conduct its statutory obligations. The CPUC has determined that these fourteen positions are necessary on an ongoing basis to continue addressing the workload associated with the fourteen positions.

Staff Recommendation. Approve as budgeted.

Issue 8: Reauthorization of Appropriation for CPUC Respond to Utility Restructurings and Securitizations

Governor's Proposal. The Governor's Budget includes $2,800,000 from the PUCURA for an active legal services contract to provide advice and representation on corporate and utility restructuring, finance, securitization, and bankruptcy matters.

Background. In recent years, several investor-owned utilities faced increasing costs and liabilities from wildfires, which has affected the financial condition of these utilities. For example, Pacific Gas & Electric filed a voluntary Chapter 11 Bankruptcy proceeding in 2019 as a result of the 2017-18 wildfires. In this situation, the CPUC used bankruptcy counsel through a legal services contract to develop a case plan for the bankruptcy. As PG&E continues to recover from this bankruptcy, the CPUC also has to continue reviewing complex financial transactions, such as issuing bonds and transferring assets into a subsidiary company.

In the 2019-20 budget, CPUC received $28 million from PUCURA for a legal services contract related to utility bankruptcy and securitization matters. In the 2021-22 budget, $7.5 million of the original amount was reappropriated to continue with the legal services contract. Of the reauthorized $7.5 million, approximately $5 million remains unexpended. This remaining $5 million is set to expire on June 30, 2024. Of this amount, the CPUC requests to reappropriate $2.8 million in this request.

According to the department, this funding will allow CPUC to retain restructuring and securitization counsel as the department provides ongoing oversight of the complex financial transactions by the investor-owned utilities. CPUC attorneys lack subject matter expertise relating to bankruptcy, insolvency, and bond financing matters, and retaining these outside counsel services is necessary to ensure CPUC can adequately and responsibly represent Californians' interests in these complex and time sensitive transactions.

Staff Recommendation. Approve as budgeted.

Issue 9: Autonomous Vehicle Transportation Regulation

Governor's Proposal. The Governor's Budget includes $210,000 ongoing from the Public Utilities Commission Transportation Reimbursement Account (PUCTRA) to fund one position to develop and implement regulations for autonomous vehicle (AV) passenger services.

Background. Both CPUC and the Department of Motor Vehicles (DMV) have regulatory authority over AV operations. Whereas DMV assesses whether AVs operate safely on public roads in California, CPUC focuses on whether the AV transportation service provider can safely transport passengers.

CPUC currently has four AV permitting programs: (1) two pilot programs, one drivered and one driverless; and (2) two deployment programs, one drivered and one driverless. Pilot programs do not allow AV companies to charge monetary compensation for rides in test AVs, but deployment programs do allow companies to charge fares.

In addition, the CPUC has open Autonomous Vehicle (AV) rulemaking activities in rulemaking proceeding R.12-12-011, including unresolved policy questions on enhanced AV data reporting. The department also reports staff are currently developing recommendations on further AV rulemaking scope, which could cover passenger safety or other topics in a successor proceeding, to be opened as early as 2024. There are other AV-related regulatory workload, such as application review for the permitting programs, development of compliance and enforcement referral protocol, public engagement, among other activities.

The CPUC requests one Public Utility Regulatory Analyst V position to lead the AV program, support the related rulemakings, and address the aforementioned workload. These efforts are currently led by one PURA V, whose position was authorized to cover both AV and TNC rulemaking activities in the 2022-23 budget, but has been fully redirected to the AV Program rather than rulemaking for both AVs and TNCs (as originally intended for this position). If granted this position, CPUC will redirect the existing position to TNC rulemaking activities and the new position to the AV program.

Staff Recommendation. Approve as budgeted.

DISCUSSION

3360 ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

Issue 10: Energy Resources Programs Account (ERPA) Structural Deficit Relief Trailer Bill Language

Governor's Proposal. The Governor's Budget includes trailer bill language that raises the statutory cap on the ERPA surcharge, tie the statutory cap to the Consumer Price Index, and extend the surcharge to behind-the-meter (BTM) electricity consumption.

Background. ERPA is the main fund supporting the CEC. The primary source of revenue for ERPA is a surcharge on retail electricity sales, which is currently set to the statutory maximum of $0.0003 per kWh. This surcharge generated $71.6 million in 2022-23. On average, a California ratepayer pays about 16 cents per month for the surcharge—or about $2 annually.

According to the administration, the current level of revenues generated by this surcharge is insufficient to support CEC sustainably. In 2024-25, the Governor's Budget includes $95.7 million in expenditures from ERPA, which continues a structural deficit in the fund. Without action, ERPA is projected to become insolvent in 2027-28.

Energy Resources Program Account (ERPA) Fund Condition
(dollars in thousands)
2024-25 Governor's Budget

	Past Year - 1 21-22	Past Year 22-23	CY 23-24	BY 24-25	BY +1 25-26	BY +2 26-27	BY +3 27-28	BY +4 28-29
BEGINNING RESERVES	$91,874	$100,540	$86,410	$63,088	$44,710	$26,332	$12,227	-$1,878
REVENUES & TRANSFERS								
Revenues								
Revenue	$69,450	$71,691	$71,702	$77,333	$77,333	$77,333	$77,333	$77,333
Total Resources	$161,324	$172,231	$158,112	$140,421	$122,043	$103,665	$89,560	$75,455
EXPENDITURES								
Baseline Support Expenditures								
Energy Resources Conservation and Development Commission - Base Budget	$54,839	$75,064	$82,845	$83,278	$83,278	$83,278	$83,278	$83,278
Other Departments Including Pro Rata	$5,945	$6,457	$7,879	$8,160	$8,160	$8,160	$8,160	$8,160
SB 84 Loan Repayment	$0	$4,300	$4,300	$4,273	$4,273	$0	$0	$0
Total, Support Expenditures	$60,784	$85,821	$95,024	$95,711	$95,711	$91,438	$91,438	$91,438
Expenditure Total	$60,784	$85,821	$95,024	$95,711	$95,711	$91,438	$91,438	$91,438
FUND BALANCE	$100,540	$86,410	$63,088	$44,710	$26,332	$ 12,227	$ (1,878)	$ (15,983)
Fund balance falls below prudent reserve (approximately $20 million).								
ERPA Surcharge TBL Proposal - Additional Revenue								
Residential BTM Surcharge	$0	$0	$0	$2,243	$4,486	$4,486	$4,486	$4,486
Non-utility Generation Facility BTM Surcharge	$0	$0	$0	$1,024	$2,048	$2,048	$2,048	$2,048
Utility Scale Generation		$0	$0	$1,675	$3,351	$3,351	$3,351	$3,351
Total				$4,942	$9,885	$9,885	$9,885	$9,885
New Fund Balance with BTM Revenue only				$49,652	$36,217	$22,112	$ 8,007	$ (6,098)
Fund balance falls below prudent reserve (approximately $20 million).								

Source: Department of Finance

The administration reports that this imbalance between revenue and expenditures stem from a variety of factors. First, one factor is the growing capacity of BTM rooftop solar, wind, and non-utility generation. Because the ERPA surcharge only applies to retail electricity sales, revenues are expected to decrease as BTM makes a growing share of the total electricity consumption. Although transportation, building, and other forms of electrification is expected to increase electricity consumption in the coming years, the administration claims that the growth of ERPA expenditures currently outpace the growth of electricity consumption.

Second, the scope of CEC's roles and responsibilities have grown in the last several years, as clean energy, electrification, and energy reliability have become key in reaching the state's climate change goals. For example, ERPA expenditures grew about $6.5 million in 2023-24, in part to implement legislation, such as SB X1-2, SB 1158, and SB 1112.

To address this structural deficit, the Governor's Budget includes trailer bill that would, beginning January 1, 2025: (1) adjust the surcharge cap to $0.00066 per kWh; (2) tie the surcharge cap to the Consumer Price Index; and (3) apply the ERPA surcharge to BTM energy consumption.

If approved, the administration expects the revenues to ERPA to increase by $9.8 million from extending the surcharge to BTM. About $4.5 million of this revenue will come from the approximately 1.66 million residential BTM customers who, on average, would see a monthly bill increase of about 23 cents per month. About $2 million will come from non-residential locations with solar generation and $3.4 million will come from utility scale generation.

The administration is not proposing to increase the surcharge until ERPA dips below a prudent reserve—which according to the department, is approximately $20 million. Each year, the CEC will forecast the impact of projected expenditures (including the cost of new mandates, salary increases, etc.) on the fund balance. If those projections show the ERPA fund balance would drop below the prudent reserve in the upcoming year, the CEC would propose a surcharge increase for adoption at a November Commission business meeting sufficient to maintain the reserve – consistent with Revenue and Taxation Code section 40016(b).

LAO Comments.

Surcharge Not Likely to Reach Cap Anytime Soon. The administration has indicated that, should the proposal be adopted, it would not proceed with raising the ERPA surcharge all the way to the new cap immediately. Rather, CEC states that its annual process for considering adjustments to the surcharge would be to (1) forecast its projected, allowable ERPA expenditures as approved in the most recent budget act; (2) evaluate whether those projections show that the ERPA fund balance would drop below a $20 million reserve (the administration's identified "prudent reserve"); if so, (3) the CEC would propose a surcharge increase sufficient to cover the associated expenditures; and (4) CEC commissioners would hold a vote on the proposed increase at their November business meeting. Under this practice, the surcharge increase is not likely to hit the maximum cap for several years. This is because the current cap of $0.0003 per kWh is nearly, but not entirely, sufficient to cover ERPA's current expenditures, so CEC will not have justification to adjust the surcharge up to the maximum allowable cap unless the Legislature authorizes significant and unanticipated new near-term spending from ERPA.

Existing Law Places Checks on ERPA Expenditures… Because ERPA is not continuously appropriated, in general, the administration must submit a budget change proposal for legislative approval should it wish to add new expenditures and increase its spending authority from the fund (for example, to add staff to implement new activities). Moreover, CEC is unable to use ERPA revenues for any spending beyond its statutorily required duties and obligations. These guardrails provide some limitations on how CEC can use ERPA and the rate at which it can increase its spending. Without significant increases in spending authority from the Legislature, CEC will not have justification to significantly increase the ERPA surcharge, even if a higher cap technically provides it with more room to do so. This can provide the Legislature with some comfort that even if it approves the Governor's proposal to notably increase the cap, through helping to control ERPA expenditures, it also can help control surcharges for ratepayers.

The requirement that CEC commissioners approve ERPA increases also provides an opportunity for the Legislature (and stakeholders) to weigh-in through public comment prior to them raising the surcharge.

…But Legislature Will Want to Carefully Monitor Growth in and Effectiveness of Expenditures. The Governor's proposal would give CEC authority to raise ERPA revenues if the added expenses fulfill CEC's statutorily required obligations and fall within the fund's statutory spending level as authorized by the annual budget act. The Legislature will want to be diligent about monitoring how CEC is using the revenues, whether the activities the fund is supporting seem justified, and how quickly the activities are expanding and expenditures are growing. As part of this oversight, monitoring how quickly the surcharge rate charged by CEC is growing over the next several years also will be important. Particularly given that any increases to the surcharge will have impacts for ratepayers—albeit minor ones, as discussed next—the Legislature will want to make sure ERPA spending is well-justified, cost-effective, and helping to meet state goals and fulfill statutory obligations.

Cost Increase to Customers Would Be Minor, but Still Worthy of Scrutiny. Any proposal that increases electricity rates should be considered carefully. California's electricity rates have increased at a rate far surpassing inflation in recent years, with rates charged by the state's investor-owned utilities increasing by nearly 90 percent over the past decade. Lower-income households spend a larger share of their income on energy costs as compared to higher-income households. In addition, meeting the state's climate goals will be dependent on increasing electricity usage and moving away from fossil fuels, and customers may be reluctant to make electrification transitions should associated prices be too high. The Governor's proposal will increase electricity rates, and as such bears particular scrutiny. However, even with this in mind, the proposed increase for the average residential customer will be minor, resulting in additional costs for most households totaling only a few cents each month. Given the importance of making sure CEC is well-positioned to help the state meet its aggressive clean energy goals, these minor increases seem justified and not overly burdensome.

Extending Surcharge to BTM Solar and Incorporating Inflationary Adjustments Are Reasonable. As described above, the growth of BTM solar has eroded ERPA revenues while expenses have continued to grow. A strong policy rationale exists for extending the surcharge to these customers so they pay their "fair share" of supporting CEC's statutorily required activities. The resulting charges would be modest, adding an estimated 23 cents per month to bills for the typical household BTM solar customer. In addition, tying the surcharge to inflation is a sensible strategy to ensure future revenue is sufficient to accommodate normal growth in baseline costs. This also will help ensure that inflationary changes will not be responsible for reestablishing a structural deficit. Adding this annual adjustment also will limit the need for repeated action by the Legislature in future years.

LAO Recommendation.

Approve Governor's Proposal, but Monitor Necessity and Effectiveness of Both Existing and Future ERPA Spending. The Governor's proposal is a reasonable approach to addressing the structural deficit in ERPA, which is projected to go insolvent in 2027-28 absent legislative action. Moreover, the resulting impacts on ratepayers will be minor and CEC is unlikely to have justification for making notable increases to the surcharge in the near term. We recommend the Legislature adopt the Governor's proposal, but constrain expenditure growth (and the resulting impacts to the surcharge applied to ratepayers) by continuing to closely monitor both future requests for increases to ERPA spending, as well as the need for and cost-effectiveness of existing expenditures. This can help ensure the funds are being used for essential and worthwhile activities and avoid levying undue or rapidly increasing charges on ratepayers.

Staff Comments. During the prior year's budget process, the administration proposed a very similar proposal to raise the surcharge for ERPA as part of the May Revision. Although it is important to maintain the fiscal health of the account to fund the CEC, any increase to electricity costs should be thoroughly assessed, given the high energy costs California residents face. In particular, the Legislature will want to consider the differing factors that impact ERPA solvency.

For example, the department projects ERPA to become insolvent in 2027-28—however, this assumes the revenues stay stagnant at $77 million, and does not take into account potential increases in the revenue due to greater electrification of buildings, vehicles, and equipment in the state. The CEC projects retail electricity sales to grow annually at about 1.68 percent. Other factors are also uncertain, such as the growth of BTM and CEC expenditures in the next several years, which could determine the timeframe for ERPA solvency. For example, the Governor's Budget does not include any implementation of legislation from the prior year, including those that would have been funded from ERPA. However, this could change as the budget process proceeds and as the budget condition evolves in the coming fiscal years. The Legislature may want to consider these factors in assessing which approach would be the most appropriate to ensure long-term sustainability of the account.

Staff Recommendation. Hold Open.

8660 PUBLIC UTILITIES COMMISSION

Issue 11: Broadband Package Budget Solutions & Ongoing Implementation of Broadband for All

Governor's Proposal. The Governor's Budget includes a delay of $100 million General Fund from 2024-25 to 2026-27 for last-mile infrastructure grants at the CPUC. The Budget also includes a reduction of $250 million General Fund ($150 million in 2024-25 and $100 million in 2025-26) for the Broadband Loan Loss Reserve Fund.

In addition, the Governor's Budget includes $9,929,000 ongoing from the Public Utilities Commission Utilities Reimbursement Account (PUCURA) to fund 46 existing positions and four new permanent positions to continue implementing broadband programs.

Background. The 2021-22 budget included $6 billion over three years on broadband infrastructure. This plan included $2 billion for Last-Mile Projects and $750 million for the Broadband Loan Loss Reserve Fund. The Last-Mile Projects program provides grants to ISPs, public entities, and other organizations to fund last-mile infrastructure projects that connect unserved and underserved communities and households to middle-mile infrastructure. The Broadband Loan Loss Reserve Fund provides local government entities and nonprofit organizations with grants to help them finance broadband deployment projects. Both programs are implemented by the CPUC.

To implement these new broadband infrastructure programs, the 2021-22 budget also provided CPUC limited-term funding for 46 permanent positions and four limited-term positions. The limited-term funding availability was only budgeted for three fiscal year periods (2021-22, 2022-23, and 2023-24). At the time, the funding and positions were provided on a limited-term basis because these programs were new—CPUC would return with a request to establish permanent funding once they had a better assessment of the ongoing workload.

Since then, funding for broadband infrastructure has expanded, particularly at the federal level. For example, the federal government is currently implementing the Broadband Equity Access and Deployment (BEAD) program, which is expected to provide funding over the next decade. (However, BEAD funding will include some set aside for program implementation, but CPUC will only receive those funds once the state application is approved by the federal government.) In addition, the state funding for broadband infrastructure programs at the CPUC and California Department of Technology is proposed to be spread across the next several years.

Concurrently, to help address the budget deficit, the administration proposes to delay $100 million for the Last-Mile Projects and reduce $250 million for the Broadband Loan Loss Reserve Fund. This would amend the funding for both programs as follows:

- Last-Mile Projects: $100 million in 2024-25, $200 million in 2025-26, $250 million in 2026-27
- Broadband Loan Loss Reserve Fund: $150 million in 2024-25, $175 million in 2025-26

According to the department, these proposed budget solutions will have some programmatic impacts. The delay in funding for Last-Mile Projects will shift the availability of the funding, but not impact the first-year plans for implementation. The reduction of the Broadband Loan Loss Reserve Fund may impact the number of local agencies, Tribes, and nonprofits served as well as the amount of funds these entities could possibly leverage to coordinate with the federal Broadband Equity Access and Deployment (BEAD) program applications.

As of January 2024, neither the Last-Mile Projects nor the Broadband Loan Loss Reserve Fund have awarded funding yet. CPUC staff recommended the Last-Mile Projects funding be delivered within six months of close of the objection period, which closed in December 2023. The department plans on releasing the first applications for the Broadband Loan Loss Reserve Fund in March 2024, and the award for these applications would be targeted for the second quarter of 2024.

LAO Assessment.

California Faces Serious Budget Problem in 2024-25, Significant Future Budget Deficits in 2025-26 and 2026-27. In our overview publication, we describe the serious budget problem facing the state in 2024-25 as well as the significant future budget deficits that are projected over 2025-26 and 2026-27. Our most recent deficit update suggests even further downside risk in 2024-25. Therefore, our assessment of the broadband infrastructure proposals in the Governor's budget considers not only the merit of the proposals, but also the fiscal pressure facing the state. Moreover, our assessment applies the recommendations from our overview publication to these proposals—namely, applying a very high bar for all discretionary spending proposals and maximizing one-time spending reductions.

Substantial Amount of General Fund Appropriated for Broadband Infrastructure Remains Unencumbered and Unexpended. Out of the $2.3 billion General Fund appropriated through 2023-24 across the middle-mile network ($1.2 billion), last-mile project grants ($900 million), and LLRF ($175 million), approximately $740 million is encumbered and only $30 million has been expended. Therefore, nearly $1.5 billion in General Fund appropriated for state broadband infrastructure remains unencumbered and unexpended. Figure below provides a summary of all the broadband infrastructure appropriations with encumbrance and expenditure estimates as of late 2023/early 2024.

Broadband Infrastructure Appropriations, Encumbrances, and Expenditures To Date

(In Millions)

Program or Project	Funding Status	Funding Source		
		GF	FF	TF
Middle-Mile Network	Appropriated	$1,187	$2,436	$3,623
	Encumbered	737[a]	2,354[b]	3,091
	Expended	30	932	962
Last-Mile Project Grants[c]	Appropriated	$900	$550	$1,450
	Encumbered	—	—	—
	Expended	—	—	—
LLRF	Appropriated	$175	—	$175
	Encumbered	—	—	—
	Expended	—	—	—

Program or Project	Funding Status	Funding Source		
		GF	FF	TF
All Programs and Projects	Appropriated	$2,262	$2,986[c]	$5,248
	Encumbered	737	2,354	3,091
	Expended	30	932	962

[a]Difference of $2 million between GF encumbrance amount in Figure 3—Middle-Mile Network Projects With Encumbered Funding—and amount in this figure likely due to rounding.

[b]Difference of $208 million between FF encumbrance amount in Figure 3—Middle-Mile Network Projects With Encumbered Funding—and amount in this figure likely due to reporting funding for network electronics as encumbered in most recent quarterly ARP state fiscal recovery fund report.

[c]Last-mile project appropriation, encumbrance, and expenditure amounts do not include $50 million GF in Local Agency Technical Assistance funding. Most of this funding is encumbered and in the process of being expended.

GF = General Fund; FF = federal funds; TF = total funds; LLRF = Loan Loss Reserve Fund; and ARP = American Rescue Plan.

Legislative Oversight Crucial as Broadband Infrastructure Programs and Projects Move to Implementation. Many of the federal and state broadband infrastructure programs and projects—especially the state's middle-mile network and Federal Funding Account (FFA) grant program along with the federal BEAD program—are finishing planning activities and moving into implementation. Billions of dollars, some of which are federal funds subject to specific encumbrance and expenditure deadlines, will be encumbered and expended over the next few fiscal years. (All federal American Rescue Plan (ARP) fiscal relief funds must be encumbered by the end of 2024 and expended by the end of 2026.) To achieve the goals of SB 156 and subsequent broadband infrastructure legislation, the Legislature's oversight of the administration's implementation of these programs and projects will be critical to their success. As part of our assessment and recommendations, we provide several different opportunities for the Legislature to perform this oversight role.

Last-Mile Project Grant Proposals

Proposed Delay of FFA Grant Program Funding Likely Unsustainable in 2026-27. The proposed delay of $100 million General Fund of FFA grant program funding from 2024-25 to 2026-27 in the Governor's budget represents a relatively small solution to the serious budget problem in 2024-25. Furthermore, both the administration and our office are forecasting a nearly $30 billion budget deficit in 2026-27, which means the delayed funding is unsustainable under current revenue and expenditure projections. Therefore, based on these projections, this delay in FFA grant program funding could be viewed reasonably as a reduction.

Federal BEAD Program Funding Will Be Made Available in 2024-25. CPUC anticipates the state will receive at least 20 percent of its federal BEAD program allocation of $1.86 billion (about $370 million) in May 2024 when the National Telecommunications and Information Administration (NTIA) approves its second initial proposal volume. This amount of additional federal funding would exceed the amount of General Fund support proposed for delay in the Governor's budget. Moreover, if NTIA also approves CPUC's request to make available to the state its entire BEAD program allocation, $1.86 billion in additional federal funding could be allocated for last-mile project grants before the end of 2024-25. This amount far exceeds all of the proposed and scheduled General Fund appropriations for FFA grant program awards, which total $550 million from 2024-25 to 2026-27. Any reductions in these proposed and scheduled appropriations could help address the immediate budget problem in 2024-25 and the significant future budget deficits in 2025-26 and 2026-27.

Federal BEAD Program Non-Supplantation Language Does Not Preclude Prospective General Fund Reductions. Federal BEAD program documentation does include language that requires states and other program funding recipients to use their allocations to supplement, not supplant, amounts otherwise made available for last-mile project grants. However, based on our review of this non-supplantation language, reductions in proposed and scheduled General Fund appropriations from 2024-25 to 2026-27 would not be deemed supplantation because these funds have not yet been appropriated by the Legislature.

Legislative Oversight of How Federal BEAD Program and FFA Grant Program Work Together Is Necessary. In addition to the need for the Legislature to consider last-mile project grant funding from the General Fund within the context of the budget problem and future budget deficits, the Legislature also could provide additional oversight of how the federal BEAD program and the FFA grant program complement one another. While the BEAD program requirements and rules are largely set by NTIA, CPUC can administer the FFA grant program based on the program requirements and rules set through its rulemaking procedures (with the partial exception of the $550 million in federal ARP fiscal relief funds).

Moreover, while the federal ARP fiscal relief funds must be encumbered by the end of 2024 and expended by the end of 2026, these deadlines do not apply to $900 million General Fund in appropriations for the FFA grant program. How these two programs complement one another to distribute last-mile project funding to unserved and underserved areas and households in the state is one key area for legislative oversight during the budget process, particularly if additional reductions in one-time spending are needed to address the budget problem.

Anticipated Budget Control Section Process Limits Legislative Oversight. The Legislature also might consider whether the budget control section process CPUC expects to use to receive and expend the federal BEAD program allocation is appropriate for this amount of federal funds. We find that this process limits legislative oversight, as CPUC will not be required to submit a budget proposal to the Legislature for consideration and deliberation during the budget process. Furthermore, the legislative notification required by the budget control section only occurs after the Department of Finance approves CPUC's proposed use of the funds. Given that the federal BEAD program allocation is not unanticipated and that at least 20 percent of the state allocation will be made available to the state in May 2024 when the budget process is still underway, the Legislature could consider an alternative approach to this process through provisional budget bill language or trailer bill language.

Loan Loss Reserve Fund Proposals

Proposed Reductions in LLRF Reasonable. Given the serious budget problem, we find the reductions to the LLRF that are proposed in the Governor's budget to be a reasonable start. As shown in Figure 7, none of the appropriated LLRF is encumbered or has been expended. A $250 million General Fund reduction to the LLRF over two fiscal years, however, does not maximize one-time spending reductions as we recommend in our budget overview publication.

Additional Reductions or Elimination of LLRF Also Worthy of Consideration. Given the significant projected budget deficits across the three years for which LLRF funding is appropriated, consideration of additional reductions or even the elimination of the LLRF is warranted. CPUC does anticipate some demand for the LLRF in March, but this demand has yet to be demonstrated because rule-making for the program only recently concluded in November 2023. Furthermore, LLRF awards are not grants and will depend on applicants applying for and securing financing for their own broadband infrastructure projects. Some applicants might instead receive last-mile project grant funding from the FFA, federal BEAD program, or other CASF program accounts which might negate the applicants' need for credit enhancement offered by LLRF. To address the budget problem and/or preserve funding for other broadband programs and projects, the Legislature could consider additional reductions of LLRF appropriations and/or redirection of funding to the state's middle-mile network and/or FFA grant program.

Ongoing Implementation of Broadband for All Proposal

No Concerns With CPUC's Ongoing Implementation of Broadband for All Proposal. We have no concerns with CPUC's request to make permanent limited-term funding for 50 positions that support CPUC's broadband-related efforts. Several of the broadband programs and projects led by CPUC have long or ongoing implementation periods and will require permanent staff.

LAO Recommendations.

Consider Provisional Budget Bill Language or Trailer Bill Language as Alternative to Budget Control Section Process. We recommend the Legislature consider adopting provisional budget bill language or trailer bill language clarifying the appropriation and allocation of federal BEAD program funds once received. The language also could request specific information from CPUC as the state entity administering the funds, such as any conditions placed on the funding by NTIA and any required changes by NTIA to state-administered BEAD program processes.

Consider Other Budget Solutions Using Planned Appropriations, Unencumbered and Unspent Funds. We recommend the Legislature consider other General Fund budget solutions using some of the remaining broadband infrastructure funding available. These solutions include:

- ***Reductions in Last-Mile Project Funding.*** Additional federal BEAD program funds of up to $1.86 billion will be made available to the state in 2024-25. Reductions in proposed or scheduled appropriations of up to $550 million General Fund in last-mile project funding from 2024-25 through 2026-27 would help with the budget problem and projected future budget deficits.

- ***Reductions in or Elimination of LLRF.*** Additional reductions to, or the complete elimination of, the LLRF would maximize one-time General Fund spending reductions already begun in the proposed Governor's budget. Up to $500 million General Fund from 2023-24 to 2025-26 could be made available to close budget deficits.

Approve Other Proposals as Budgeted. As we have no concerns with them, we recommend the Legislature approve the following other proposals:

- CPUC's CASF Local Assistance Budget Authority Augmentation proposal.
- CPUC's Ongoing Implementation of Broadband for All proposal.

Staff Recommendation. Hold Open.

Issue 12: Intervenor Compensation Programs Claims Support

Governor's Proposal. The Governor's Budget includes $280,000 ongoing from various special funds for two Associate Governmental Program Analyst (AGPA) positions to support the Intervenor Compensation (Icomp) program.

Background. The Icomp program reimburses certain groups, ranging from community-based to business, for their substantial contribution and participating in the CPUC's regulatory decision making process. The program is largely funded by ratepayers with a small portion funded by utility user fees. Public Utilities Code Section 1804(e) requires the CPUC to resolve and pay Icomp program claims within 75-days of filing. For claims not resolved within the 75-day statutory period, the intervenors accrue interest for payments that they eventually receive.

Historically, the CPUC has not been able to meet the 75-day deadline. As of February 2024, the department has 124 unresolved Icomp program claims, and 110 claims have already waited for 75 days or longer. However, this is an improvement from prior years.

The CPUC resolved more claims than it received in 2023 and continued to reduce the total number of unresolved claims. At the start of 2023, the CPUC had 209 pending ICOMP claims. In 2023, the CPUC received an additional 115 total claims. Recent Legislative approval authorizing the CPUC to hire and dedicate additional resources to ICOMP claims helped the CPUC to resolve 182 ICOMP claims in 2023, reducing the total number of ICOMP claims by 67. This is the most claims the CPUC has resolved in a single year in program history. This is an acceleration from 2022 when 147 claims were resolved.

In the 2022-23 budget, CPUC received four new permanent positions and limited-term funding for two AGPA positions for Icomp program claims support. Since then, CPUC has been able to hire for the four permanent positions, but has not been successful with hiring for the limited-term positions. The department requests to make these positions permanent, to more easily recruit and hire, and ultimately, to help address the Icomp program claims workload so that intervenors are more promptly reimbursed.

LAO Comments. The six positions provided in 2022-23 more than doubled the number of positions working on IComp claims, but issues remain: (1) CPUC has been unable to fill the two AGPA positions and cites their temporary nature as the primary barrier to recruitment, and (2) while the number of claims awaiting processing has been reduced with the new positions, a substantial backlog remains and CPUC still is not processing all claims within the statutorily 75-day required time line.

The two AGPA positions are supported primarily through ratepayer-funded special funds and therefore should be considered carefully due to California's high and growing electricity rates. However, the IComp program has led to ratepayer savings far surpassing the cost of a handful of positions, as the program allows intervening parties to advocate for policies that better serve ratepayers. Moreover, some intervening parties have indicated they will not be able to participate as robustly in CPUC processes if IComp delays continue at the current level.

CPUC states that this request to convert the two temporary AGPA positions to permanent status will help it fill these positions. This, in turn, would help CPUC improve its IComp outcomes, as claims processing rates have improved with the four permanent positions CPUC brought on board over the past two years. CPUC indicates that it believes these additional positions will help the commission attain compliance with the 75-day time line but acknowledges some uncertainties. Given the existing claims backlog and CPUC's continued failure to meet the statutorily required time line for processing claims, it will be important for the Legislature to monitor whether these requested resources are sufficient to achieve intended outcomes.

LAO Recommendation. We recommend that the Legislature approve the requested position authority, but require that CPUC report back during the 2025 spring budget hearings regarding whether it has resolved the claims backlog and is regularly processing claims within the statutorily required 75-day time period. Should intended outcomes not be achieved even with the additional positions, we recommend the Legislature consider providing additional resources for the IComp program in future years so CPUC can meet its statutory requirements.

Staff Comments. In recent months, CPUC has improved the rate at which Icomp claims has been resolved—however a backlog persists, and 110 out of the 124 unresolved claims have already waited for 75 days or longer. Although the statute requires these claims to be resolved within 75 days, there is no enforcement nor is there a penalty. The interest accrued to intervenors is not reflective of interest intervenors have to pay from a line of credit while waiting for the claim to be resolved. This has resulted in financial difficulties and cash flow issues for some intervenors. CPUC reports that the requested positions will help address the backlog, but it is not clear whether it will be sufficient and when the backlog will be eliminated.

In the past, some stakeholders have requested CPUC to immediately reassign 20 staff members, or as many staff as needed for a 30-day period, or longer to remove the backlog of claims. The Legislature will want to consider what level of resources will be adequate to ensure CPUC can follow the statutory requirement of resolving all claims within 75 days, and whether additional oversight or reporting is needed.

Staff Recommendation. Hold Open.

Issue 13: Ongoing Support for Clean Energy Resiliency

Governor's Proposal. The Governor's Budget includes $3,640,000 ongoing from the Public Utilities Commission Utilities Reimbursement Account (PUCURA) for 16 positions and resources to continue implementing SB 100 (De León, Chapter 312, Statutes of 2018).

Background. In the 2021-22 budget, the CPUC requested limited-term funding of $13,704,000 across three years, for 18 positions to implement SB 100. Because this program was so new, the department originally requested limited-term funding, acknowledging at the time supplemental funding may be requested in the 2024-25 budget cycle.

The last several years have provided the department a better understanding of the workload associated with implementing SB 100, and requests the following 16 positions:

- Energy Division (ED)
    - One (1.0) Program and Project Supervisor (PPS)
    - Five (5.0) Public Utilities Regulatory Analyst (PURA) V
    - One (1.0) PURA IV
    - Three (3.0) PURA III
    - One (1.0) Senior Utilities Engineer (Specialist) (SUE)

- Legal Division
    - Two (2.0) Attorney V (1 Advocacy and 1 Advisory)
    - Two (2.0) Attorney IV (1 Advocacy and 1 Advisory)
- Information Technology Services Division (ITSD)
    - One (1.0) Information Technology Specialist II (ITS II)

All of these positions with the exception of two in the Legal Division were funded in the original 2021-22 proposal. The two positions in the Legal Division—ALJ position and the Attorney III position—warranted ongoing funding due to workload levels. In addition, this proposal further differs from the original 2021-22 proposal in that there is no request for ongoing contract budget.

The majority of the positions are under the Energy Division, across the Integrated Resource Plan (IRP); Demand Response (DR); Grid Planning, Energy Storage; Resource Adequacy and Procurement Oversight (Electric Market Design); and Energy Resource Modeling (ERM) sections. More specifically, these positions support the planning and procurement processes and tools to meet the renewable energy procurement requirements and the goal of 100 percent clean energy, to implement SB 100.

The remaining positions are in Legal and Information Technology Services Divisions. The Legal Division positions advise staff and decision makers and represent ratepayers in Commission proceedings, particularly related to procurement and renewable energy. The one position in the IT division will support data collection and analytical work related to SB 100 reports and other relevant activities.

Staff Recommendation. Hold Open.