California State Assembly

Agenda

Assembly Budget Subcommittee No. 4
on Climate Crisis, Resources, Energy, and Transportation

Assemblymember Steve Bennett, Chair

Wednesday, March 13, 2024
9:30 A.M. – State Capitol, Room 447

Items To Be Heard

Non-Presentation Items: Staff have suggested the following items do not receive a formal presentation from the Administration in order to focus time on the most substantial proposals. Members of the Subcommittee may ask questions or make comments on these proposals at the time designated by the Subchair or request a presentation by the Administration at the discretion of the Subchair. Members of the public are encouraged to provide public comment on these items at the designated time.

Non-Presentation Items

Public Comment will be taken in person after the completion of all panels and any discussion from the Members of the Subcommittee.

Items To Be Heard

3360 California Energy Commission (CEC)
8660 California Public Utilities Commission (CPUC)
3860 Department of Water Resources (DWR)

Issue 1: General Fund Solutions and Implementation Update

The Governor's Budget requests the following:

Cuts

California Energy Commission

- $475 million from Climate Innovation Program with $100 million from 2024-25, $225 million in 2025-26, and $150 million in 2026-27.
- $40 million from Carbon Removal Innovation Program in 2023-24.
- $18.8 million from Food Production Investment Program in 2023-24.
- $22 million from Industrial Decarbonization Program in 2023-24.
- $283 million from Equitable Building Decarbonization Program with $160 million from 2024-25, $73 million in 2025-26, and $50 million in 2026-27.
- $35 million from Hydrogen Grants in 2023-24.
- $6.4 million from California Electric Homes Program in 2023-24.

California Public Utilities Commission

- $20 million from Capacity Building Grant Program in 2023-24.
- $250 million from Broadband Loan Loss Reserve with $150 million from 2024-25 and $100 million in 2025-26.

Delays

Department of Water Resources

- $55 million from Strategic Reliability Reserve from 2024-25 to 2025-26.
- $200 million from Oroville Pump Storage with $90 million in 2024-25 and $110 million in 2025-26 to $100 million in 2026-27 and $100 million in 2027-2028.

California Energy Commission

- $50 million from the Distributed Electricity Backup Assets in 2023-24 to $25 million in 2025-26 and 2026-27.
- $800 million from the Clean Energy Reliable Investment Plan (SB 486), with $400 million from 2024-25 and 2025-26 to $300 million in 2026-27 and $500 million in 2027-28.

California Public Utilities Commission

- $100 million from Broadband Last Mile from 2024-25 to $100 million in 2026-27.

- $200 million from Residential Solar and Storage Program, with $75 million from 2024-25 and $125 million from 2025-26 to $100 million in 2026-27 and $100 million in 2027-28.

Fund Shifts

California Energy Commission

- $87 million General Fund in 2023-24 from Equitable Building Decarbonization Program to Greenhouse Gas Reduction Fund (GGRF).
- $56.9 million General Fund in 2023-24 from Incentives for Long Duration Storage to Greenhouse Gas Reduction Fund (GGRF).

Background:

Non Climate Package Appropriations

The following one-time, discretionary appropriations were made in past years' budgets outside of the climate package. Members of this subcommittee may wish to consider asking questions regarding implementation status and could consider cutting these appropriations to help address the deficit to the extent that funds remain.

California Energy Commission

2023

- $4 million to do transmission planning.
- $1 million for administrative overhead.
- $19 million for the Demand Side Grid Support program.
- $10 million for Building Energy Benchmarking Program.
- $10 million for technical assistance for federal tax credits.

2022

- $20 million GGRF for all electric school HVAC systems under the CalSHAPE program.

2021

- $20 million to provide education and technical assistance to local governments seeking to improve their permitting processes for technologies that reduce greenhouse gas emissions from homes.
- $1.5 million general fund for energy emergency planning.
- $13.2 million for offshore wind planning.
- $6.2 million for SB 100 interagency planning and local government grants.

California Public Utilities Commission

2023

- $33 million to subsidize community solar under AB 2316 (Ward, 2022).

2021
- $10 million for Supplementary funding for Flex-Alert.
- $13.8 million for SB 100 interagency planning.

Department of Water Resources

2023
- $32 million for a central procurement function planning activities.

2022
- $30.3 million to support the operational costs for generators.
- $1.4 billion loan to keep Diablo Canyon Power Plant open, with $600 million in 2022-23, $400 million in 2023-24, and $400 million in 2024-25.

Go-Biz

2023
- $11 million for permitting and interconnection best practices support.

Panel

- David Evans, Finance Budget Analyst, Department of Finance
- Steve Wells, Principal Program Budget Analyst, Department of Finance
- Liz Gill, Reliability Analysis Branch Manager, California Energy Commission
- Rachel Peterson, Executive Director, California Public Utilities Commission
- Simon Baker, Director of Distributed Energy Resources, Natural Gas & Retail Rates, California Public Utilities Commission
- Sarah Cornett (they/them), Fiscal & Policy Analyst, Legislative Analyst’s Office

LAO Comments

Recent Budget Agreements Included $7.9 Billion Over Several Years for Energy Programs. The 2021-22 and 2022-23 budgets included plans to provide a combined $7.9 billion over several years to different departments for an energy package. As shown in Figure 8, funded activities focused primarily on three categories—reliability, clean energy, and ratepayer relief. (In addition to programs shown in the figure, the recent agreements included $1 billion for CERIP implementation and a Climate Innovation program, both of which are discussed in the “Other Recent Augmentations” section of this report.) On net, the 2023-24 budget agreement reduced total multiyear funding by $944 million. Major reductions included $549 million from the California Arrearage Payment Program at the Department of Community Services and Development, $270 million from the Residential Solar and Storage Program at the California Public Utilities Commission (CPUC), $105 million from the Distributed Energy Backup Assets (DEBA) program at CEC ($100 million of which was redirected to the Investments in Strategic Reliability Assets program at DWR for no net budget savings), and $50 million from the program providing incentives for long-duration storage. In addition, the 2023-24 adjustments to the energy package included numerous funding delays as well as shifts totaling about $1 billion from the General Fund to GGRF.

Governor's Proposed Changes to Energy Package

General Fund Unless Otherwise Noted (In Millions) **Figure 8**

Program	Department	Original Multiyear Total[a]	Revised Multiyear Total[b]	Proposed Reductions	Proposed Multiyear Total
Investments in Strategic Reliability Assets	DWR	$2,370	$2,470[f]	—[d]	$2,470
California Arrearage Payment Program	CSD	1,200	651	—	651
Equitable Building Decarbonization	CEC	922	922[c]	-$283[e]	639
Residential Solar and Storage	CPUC	900	630[c]	—[d]	630
Distributed Electricity Backup Assets	CEC	700	595[f]	—[d]	595
Long duration storage	CEC	380	330[c]	—[e]	330
Demand Side Grid Support	CEC	295	295	—	295
Transmission Financing	IBank	250	225	—	225
Oroville pump storage	DWR	240	240	—[d]	240
Equitable Building Decarbonization—TECH Initiative	CPUC	145	145[c]	—	145
Carbon removal innovation	CEC	100	75	-40	35
Industrial decarbonization	CEC	100	90[c]	-22	68
Hydrogen grants	CEC	100	100	-35	65
Food Production Investment Program	CEC	75	65[c]	-19	46
Offshore wind infrastructure	CEC	45	45	—	45
Equitable Building Decarbonization—Refrigerants	CARB	40	40	—	40
Capacity building grants	CPUC	30	30	-20	10
Energy modeling	CEC	7	7	—	7
DOE grid resilience match	CEC	5	5	—	5
Distributed energy workload	CPUC	5[g]	5[g]	—	5[g]
Hydrogen Hub	GO-Biz	5	5	—	5
Energy data infrastructure and analysis	CEC	5	5	—	5
AB 525 implementation	Various	4[h]	4[h]	—	4[h]
Support for reliability	DWR	3	3	—	3
Totals		**$7,926**	**$6,982**	**-$419**	**$6,563**

DWR = Department of Water Resources; CSD = Department of Community Services and Development; CEC = California Energy Commission, CPUC = California Public Utilities Commission; IBank = California Infrastructure and Economic Development Bank; CARB = California Air Resources Board; DOE = Department of Energy; and GO-Biz = California Governor's Office of Business and Economic Development

Governor's Proposal: Reduces $419 Million, Delays $505 Million, and Shifts $144 Million to GGRF. Also shown in Figure 8, the Governor's budget proposes to reduce net multiyear spending for energy activities by $419 million relative to the 2023-24 budget package. (This would retain 83 percent of the original intended amount.) The proposal also includes funding delays for four programs totaling $505 million. Finally, the Governor shifts $144 million for two programs from the General Fund to GGRF (Equitable Building Decarbonization and incentives for long-duration storage). Major proposed program changes include:

- ***Funding Delays for Four Programs.*** The proposal delays funding for (1) Residential Solar and Storage (instead of $75 million in 2024-25 and $125 million in 2025-26, it would provide $100 million in both 2026-27 and 2027-28), (2) a pump storage project at the Oroville Dam complex (instead of $90 million in 2024-25 and $110 million in 2025-26, it would provide $100 million in both 2026-27 and 2027-28), (3) Investments in Strategic Reliability Assets (delays $55 million from 2024-25 to 2025-26), and (4) DEBA (reverts $50 million from 2023-24 and instead provides $25 million in both 2025-26 and 2026-27).

- ***Equitable Building Decarbonization.*** The budget proposes reducing overall funding for this CEC program by $283 million, retaining $639 million, or 69 percent, of the original allocation. This program is intended to support energy upgrades for low- and middle-income households and still is being developed by CEC. The reduction would result in fewer direct install incentives. (The Governor also proposes to shift $87 million for this program from General Fund to GGRF in 2024-25, which would have no programmatic effect.)

- ***Carbon Removal Innovation Program.*** This proposal would reduce this program by $40 million, adding to the $25 million reduction that was adopted in 2023-24. There is no further funding proposed for this program beyond the $35 million retained in 2022-23 (representing 35 percent of the original allocation).

- ***Industrial Decarbonization.*** The budget would reduce funding for this new CEC program that provides incentives for technologies that reduce emissions at industrial operations by $22 million, retaining $68 million from its original planned allocation of $100 million. The proposal would reduce the number of state-funded projects, but the program plans to leverage $90 million in federal Department of Energy (DOE) funds, which would help offset the reduction.

- ***Hydrogen Grants.*** The proposed reduction of $35 million would retain $65 million of the original amount for CEC to provide these grants. The administration noted this program is a good candidate for reductions due to more than $1 billion newly coming to California from DOE to support hydrogen energy development through the Alliance for Renewable Clean Hydrogen Energy Systems (ARCHES) initiative.

- ***Food Production Investment Program.*** This proposed reduction of $19 million would be in addition to $10 million reduced from the program in 2023-24. Relative to the original package, the budget would retain $46 million, or 62 percent, for this program. CEC expects it would support 10 to 14 fewer projects as a result of the proposed reduction.

- ***Capacity Building Grants.*** The original package provided $30 million across 2021-22 and 2022-23 to provide capacity grants to tribes and community-based organizations to participate in CPUC decision-making processes. CPUC has not yet spent this funding and the Governor proposes to reduce it by $20 million. To accommodate this reduction, CPUC would decrease its grant funding allocations by approximately 70 percent and forgo a planned technical assistance contract.

LAO Comments: Legislature Could Consider Alternative and/or Additional Reductions. In light of the state budget condition, the Legislature has several options for generating General Fund savings through making additional and/or alternative reductions from the energy package. Based on the best available data on remaining funds, the Legislature could consider reducing the following programs (all amounts from the General Fund unless otherwise noted).

- ***Hydrogen Grants (Additional $65 Million).*** The Legislature could consider a further reduction or elimination of the program's funding—beyond the $35 million proposed by the Governor—due to the significant federal funding (more than $1 billion) newly available for hydrogen development in California through ARCHES. None of this funding has yet been committed.

- ***Industrial Decarbonization (Additional $60 Million).*** The Legislature could consider a further reduction or elimination of the program's funding beyond the $22 million proposed by the Governor. As noted above, federal funds are also available to support the goals of this program. This program has not yet begun dispersing funding.

- ***Food Production (Additional $35 Million).*** The Legislature could consider further reductions beyond the $19 million the Governor proposes for this program, which has only committed a small portion of its funding. However, if the Legislature wants to make additional reductions, it may have to take early action, as the administration plans to collect proposals later this spring. The funds the Governor proposes retaining for the program are from GGRF, not General Fund, but the Legislature could instead eliminate General Fund for a different program and redirect this GGRF to offset those reductions in order to achieve additional savings.

- ***Transmission Financing ($225 Million).*** Previous budgets appropriated $225 million to the California Infrastructure and Economic Development Bank to boost new electricity transmission in the state. The administration has not yet dispersed these funds, though it plans to do so later this spring. The Legislature could consider making reductions or eliminating this funding, but it may have to take early action. Additionally, federal energy funds the state is receiving to support grid reliability may be able to help offset reductions to this program.

- ***DEBA ($543 Million).*** As of this writing, data from the administration indicate this program (which is intended to provide incentive funding to promote more efficient backup energy resources) has $543 million from previously appropriated funds remaining in its balance. CEC indicates that it expects to release additional solicitations this spring. Given the large size of this allocation and that CEC has only spent a total of $2 million (on administrative costs) thus far, it seems a reasonable candidate for capturing additional savings. Depending on the level of savings needed, the Legislature could prioritize equity by making reductions to the portion of program funding not explicitly directed to disadvantaged communities (roughly half of the funding). Given CEC's plans to proceed with new grant solicitations this spring, the Legislature may have to consider early action if it wants to make reductions.

Other Recent Augmentations

Recent Budget Agreements Also Included One-Time Funding for Activities That Were Not Captured in the Thematic Packages. Outside of the thematic packages highlighted in this report, recent budgets also provided or planned to provide one-time funding for a variety of climate and resources-related activities. Figure 16 shows several of these non-package augmentations totaling $2.7 billion, all from the General Fund. (The figure does not include a comprehensive list of all funding provided in recent budgets for environmental programs outside of the thematic packages, but rather just those the Governor is now proposing to modify as described below.) The largest of these augmentations include $1 billion planned over three years to implement CERIP, $500 million over three years to clean up brownfield sites, and $477 million mostly over two years for a new Climate Innovation Program intended to support California companies in advancing climate technologies. (The 2023-24 budget package reduced originally planned funding for the Climate Innovation Program from $525 million to $477 million. That is the only revision that has been made thus far to originally planned funding for the programs reflected in the figure.)

Governor's Proposed Changes to Other Recent Augmentations

General Fund (In Millions) **Figure 16**

Program	Department	Revised Multiyear Total[a]	Proposed Reductions	Proposed Multiyear Total
Clean Energy Reliability Investment Plan (SB 846)	CEC	$1,000	—[b]	$1,000
Climate Innovation Program	CEC	477[d]	-$475	2
Diablo Canyon Land Conservation and Economic Development (SB 846)	Various	160	—[e]	160
California Electric Homes Program	CEC	75	-6	69

[d]The 2023-24 budget reduced the original amount from $525 million to $477 million.

SB 846 = Chapter 239 of 2022 (Senate Bill 846, Dodd); CEC = California Energy Commission;

Governor's Proposal: Reduces $578 Million and Delays $1.1 Billion to Later Years. To achieve General Fund savings, the Governor's budget proposes an overall spending reduction totaling $578 million across the various activities shown in the figure, thereby retaining $2 billion, or 77 percent, of the revised 2023-24 amounts. The proposal also includes several significant funding delays, totaling $1.1 billion. This figure displays proposed reductions and resulting multiyear funding levels. Some key changes include:

- ***CERIP—Delay.*** Chapter 239 of 2022 (SB 846, Dodd) included a plan to provide a total of $1 billion to implement CERIP—$100 million in 2023-24, $400 million in 2024-25, and $400 million in 2025-26. The budget proposes to delay $800 million of this planned funding. Specifically, it would maintain $100 million each in 2023-24 and 2025-26, and provide $300 million in 2026-27 and $500 million in 2027-28. The overall funding level would stay the same but stretch over a longer period of time.

- ***Climate Innovation Program—Reduction.*** The 2023-24 budget provided $2 million in 2022-23 and planned to provide $475 million over 2024-25 and 2025-26 for the Climate Innovation Program. The Governor's budget proposes to reduce all $475 million in future spending, retaining just $2 million.

- ***Diablo Canyon Land Conservation and Economic Development Plan—Delay.*** Chapter 239 required CNRA to lead planning efforts for how to manage the conservation of Diablo Canyon lands and local economic development as the nearby nuclear power plant is decommissioned. Chapter 239 included intent language to provide $10 million in 2022-23 and $150 million in 2024-25 to support the plan. The budget proposes to keep the same overall funding level, but delay the $150 million in 2024-25 and instead provide $50 million in 2025-26, $50 million in 2026-27, and $50 million in 2027-28.

LAO Comments: Legislature Could Consider Alternative and/or Additional Reductions. To the extent the Legislature needs to find alternative and/or additional solutions to those chosen by the administration, it has some options among the non-package augmentations. First, the Legislature could consider reducing rather than delaying some or all of the funding the Governor proposes shifting to a future year. Second, the Legislature could look at uncommitted balances in other non-package augmentations that the Governor has not targeted for solutions. Below the LAO provides examples within both categories.

- ***Could Reduce, Rather Than Delay, Funding for Several Programs.*** The Legislature could reduce a portion or all of the funding proposed for delay in:

    - CEC's CERIP implementation: $800 million.

    - Diablo Canyon Land Conservation and Economic Development Plan implementation: $150 million.

- ***Could Revert Uncommitted Funding From Non-Package Augmentations:*** Based on our review of expenditure data, the following amounts of funding provided in recent budgets remain uncommitted at the time of this writing:

- DWR—CERIP***:*** $32 million that was provided in 2023-24 for central procurement remains uncommitted (the Legislature could provide funding at a later date when there is more certainty about what is needed).

- GO-Biz—CERIP: $11 million that was provided in 2023-24 remains uncommitted and GO-Biz has not yet solicited proposals.

Staff Comments

Over the 2021 and 2022 budgets, the budget adopted almost $10 billion for various energy proposals to increase reliability, reduce emissions and advance clean energy, and increase affordability. These programs were largely adopted to address projected energy shortages due to supply chain issues during COVID 19, drought significantly reducing hydroelectric availability, wildfires impacting an interstate transmission line, extreme heat waves, and a short rotating blackout.

Many of these programs were not historically funded through the budget. Some are typically covered by ratepayers or were new programs for the state, including through backstop reliability tools that functioned for decades independently of the budget. Many of these proposals were adopted before the federal government invested heavily into similar programs.

The Subcommittee may wish to ask the administration for:

- An update on expected reliability challenges including:

  - How many net new resources (megawatts (MW) or percentage) have come online since roughly summer 2022 and how the Infrastructure Strike Team is contributing to the pace of new resources?

  - How much has hydroelectric generation increased since summer 2022?

  - How many resources have been available for use in summer 2023, will be available for use in summer 2024, and at what cost?

  - What the strategy is for continuing the pace of new resource development after the 2025 when the Strategic Reliability Reserve resources begin to fall away based on funds levels appropriated to date?

- An implementation update on the funds already appropriated.

  - Which programs are already implemented?

  - How much money has been committed?

  - How many MW of energy do you anticipate these programs will provide this summer?

- Besides the deficit in general, is there a compelling reason for any of the proposed solutions?

- Given the stated urgency to provide backup power to address projected energy shortfalls and the Legislature approving requests for exemptions from existing laws (Administrative Procedure Act, etc.), why are so many of these reliability programs not fully implemented yet, let alone for previous summers?

- What federal funds are you anticipating that could backfill some of these cuts?

    - Do any require a state match?

- What progress has the CEC and CPUC, as well as utilities and CCAs, made towards the goal adopted by the CEC in 2023 for 5,400 to 7,000 megawatts of load shift flexibility by 2030?

    - What is being done today to achieve that and how much load flexibility will be created in Summer 2024 as a result?

    - How are existing Demand Response programs being integrated into this goal?

    - How many megawatts (or % increase) of demand response and resource adequacy have been added since summer 2022?

- What is the status of the Administration's plan for state resources needed for the permitting of offshore wind resources and how much funding does the Administration anticipate requiring?

- What are your departments doing to advance microgrids?

    - Do you see any barriers?

DWR

- When do you expect PG&E to start paying back the $1.4 billion loan for Diablo Canyon and when you expect them to finish paying off the funds?

- For the Once Through Cooling natural gas plants in the Strategic Reliability Reserve, how long will the plants need to be turned on before/in preparation for emergency use?

    - What do you anticipate the emissions of these waiting periods to be?

    - Do you have a rough estimate of how many days per year these would run?

    - When do you anticipate these plants to shut down?

        - Do you foresee them staying online past the strategic reliability reserve program ending?

- Can you provide on central procurement including use of the $32 million appropriated in 2023?

    - How much of those funds have you expended and plan to expend in the budget year, and for what purposes?

CEC

- Can you provide an implementation update on the hydrogen grant program?

    - What do you intend to fund?

    - When do you anticipate accepting and approving awards?

- When do you anticipate accepting and approving awards for the offshore wind port infrastructure upgrades?

- What is the status of your work on land use conflicts and how is this contributing to accelerated deployment of new, renewable, wholesale resources?

- How many projects have applied to use the opt-in siting process created at the Administration’s request in 2022 and what is the status of each application?

- Has the CEC worked with publicly owned utilities to produce a minimum planning reserve margin recommendation for those publicly owned utilities in the California Independent System Operator, as required by law, and what is that recommendation?

- Has the CEC received, or do you expect to receive in the near term, contributions to the Voluntary Offshore Wind and Coastal Resources Protection Fund?

- How much additional electric resource capacity is available, or will be available, from long-duration resources funded by the Long Duration Energy Storage Program?

CPUC

- What efforts are you taking to increase reliability of the electric grid including increasing energy supplies, reducing Public Safety Power Shutoffs, and distribution outages?

- What efforts are you taking to increase affordability?

- How are you improving the functionality and reliability of your Demand Response programs?

Staff Recommendation: Hold Open.

3360 California Energy Commission

Issue 2: Energy Resources Programs Account (ERPA) Structural Deficit Relief Trailer Bill Language

The Governor's budget requests trailer bill language to raise the statutory cap on the ERPA surcharge (from $0.0003 per kWh to $0.00066 per kWh), tie the statutory cap to the Consumer Price Index (CPI), and extend the surcharge to behind-the-meter (BTM) electricity consumption in order to address the structural deficit in the fund.

The language can be found here: https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/1036.

Background:

This tax on California electric bills costs the average residential customer $2 annually. At the current rate, the average residential ratepayer in California pays about 16 cents per month. Larger customers pay the same rate but pay more based on volume.

By law, the CEC can adjust the rate, not to exceed the cap, at a publicly noticed business meeting in November of any year.

Despite CEC management's actions to reduce ERPA spending, a structural deficit remains.

The 2024-25 Budget includes total expenditures of $95.7 million from ERPA in 2024-25, and ERPA's fund balance is projected to decrease steadily.

In addition, BTM rooftop solar, wind, and non-utility generation are exempt from the ERPA surcharge. As BTM capacity grows, ERPA revenues decline correspondingly. The Senate Office of Research 2021 report, *Growth of Behind-the-Meter Electricity Generation: Impacts to State Budget Revenue* indicates that BTM electricity is forecast to grow from about 7 percent to 17 percent of total electricity consumed. Meanwhile, retail electricity sales are only anticipated to increase by no more than two percent annually between 2022 and 2030.

Panel

- Damien Mimnaugh, Chief Financial Officer, California Energy Commission
- Rob Cook, Director, Administrative Services Division, California Energy Commission
- David Evans, Finance Budget Analyst, Department of Finance
- Steve Wells, Principal Program Budget Analyst, Department of Finance
- Sarah Cornett (they/them), Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments

Background

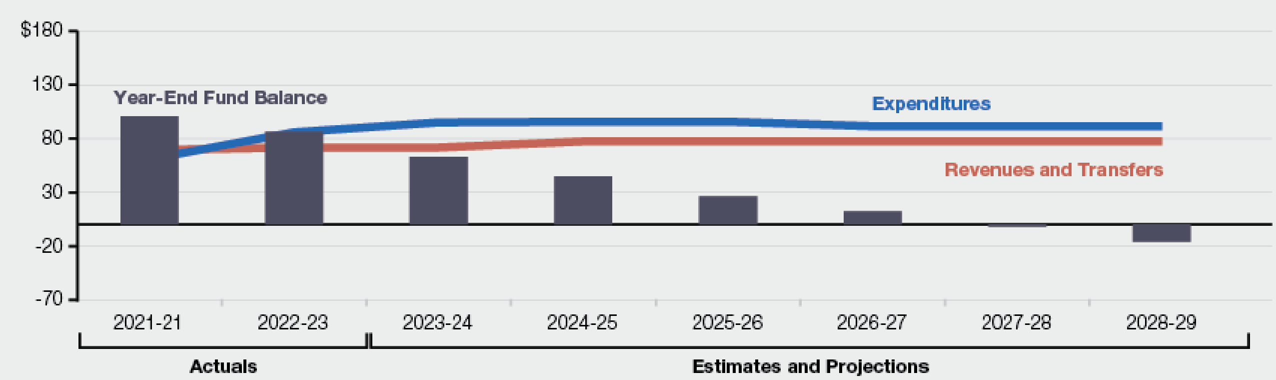
Main Operating Account for the California Energy Commission (CEC). The state uses ERPA funds to support various energy programs and projects, including CEC's operations. ERPA is funded through a surcharge on retail electricity sales, originally set at $0.0001 per kilowatt hour (kWh) back in 1974. It was then raised to $0.0002 sometime between 1984 and 2002. Subsequently, Chapter 1033 of 2002 (AB 3009, Committee on Budget) raised the maximum allowable surcharge from $0.0002 per kWh to $0.0003 per kWh and gave CEC the authority to adjust rates up to that statutory cap. CEC set the surcharge at the cap of $0.0003 per kWh in 2018. The ERPA surcharge currently costs the average residential ratepayer about 16 cents per month, or $2 annually. It generated about $72 million in revenue in 2022-23 and similar amounts in recent prior years.

ERPA Projected to Go Insolvent in 2027-28. As shown in Figure 6, ERPA is in a structural deficit, with its ongoing revenues failing to keep pace with its increasing expenditures. This imbalance is primarily resulting from: (1) the continued rise of expenditures due to salary and benefit costs for existing staff as well as growing costs to implement new chaptered legislation each year, (2) CEC being constrained by the current statutory cap from setting the surcharge at a level that would generate revenues that keep pace with inflation and statutorily required expenditures, and (3) the current exemption of behind-the-meter (BTM) solar generation from paying into ERPA. The growth of BTM solar in recent years has depressed ERPA revenues as numerous customers who formerly purchased traditional retail electricity (which carried with it an associated ERPA surcharge) have made the transition to solar panels (and therefore are now exempt from paying the surcharge). As shown in the figure, the fund's reserves have helped keep it solvent since the structural deficit materialized and are projected to continue doing so for the next few years, but the administration estimates these balances will be exhausted by 2027-28.

Figure 6

ERPA Facing Insolvency by 2027-28

(In Millions)



ERPA = Energy Resources Program Account.

Administration Projects Increased Electricity Sales Will Be Insufficient to Cover Deficit. Residential electricity consumption is expected to increase over the next several years due to widespread adoption of electric vehicles and greater home electrification. However, CEC projects this increase (which it estimates will total 1.68 percent annually between 2022 and 2035) still will not generate enough additional revenue for ERPA to cover its structural deficit at the current surcharge rate.

Administration Has Proposed Raising ERPA Surcharge Each of the Past Two Years. The administration has proposed increasing the statutory cap for the ERPA surcharge as part of the budget process twice in the past two years—in April 2022 and May 2023. These proposals ultimately were rejected by the Legislature.

Governor's Proposal

Increases the ERPA Surcharge Cap and Authorizes Future Inflationary Increases. The Governor proposes to more than double the current surcharge cap, increasing it to $0.00066 per kWh. This would give CEC the ability to raise the ERPA surcharge up to this amount, beginning January 1, 2025. The administration notes that the new proposed cap is equal to indexing the original surcharge ($0.0001) to inflation in the years since its creation. Beginning January 1, 2026, and annually thereafter, the surcharge rate cap would be adjusted in an amount equal to the CPI. If and when CEC sets the surcharge at the new statutory cap, it would more than double current ERPA revenues (not including inflationary adjustments). At the current rate of electricity usage, surcharges set at the proposed new cap amount for current users would generate about $150 million annually and cost an average household about 32 cents per month.

Extends Charge to BTM Solar Owners. The Governor also proposes extending the ERPA surcharge to BTM solar customers based on how much energy their systems generate, beginning January 1, 2025. The administration estimates this would provide about $9.8 million in additional ERPA revenues based on the current surcharge rate (and therefore more than twice that amount if and when the surcharge were to reach the proposed new statutory cap, not including inflationary adjustments). About $4.5 million of this new revenue would come from applying the surcharge to about 1.7 million existing residential BTM solar customers in the state. On average, these customers would experience a monthly bill increase of about 23 cents per month. The remaining revenue would come from applying the surcharge to nonresidential locations with solar generation and nonutility generation facilities. To enable CEC to apply this charge, the Governor's proposal would update the Revenue and Taxation code to require electric utilities to use a specified methodology to calculate the amount of kWh of electricity generated by a solar energy system.

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.

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. The LAO recommends 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

The Legislature has rejected this proposal numerous times in previous years. Partly due to a hope that electricity sales would increase enough to cover the structural deficit and partly because expenditures were able to be shifted to other fund sources. With the General Fund deficit and the Energy Commission’s projection that electric retail sales will only increase 1.68% annually between 2022 and 2035 (partly as a result to the increase in behind the meter resources and energy efficiency measures adopted by the Commission), staff sees few options to resolve the structural deficit besides adopting the proposal or laying off staff at the Energy Commission and reducing their legislatively mandated responsibilities.

If the Subcommittee decides not to adopt this proposal (or otherwise address the structural deficit), Subcommittee members may wish to ask the administration:

- What additional steps will the Commission take to reduce staff, expenditures, or responsibilities?

Staff Recommendation: Hold Open.

8660 California Public Utilities Commission

Issue 3: Broadband General Fund Solutions, Ongoing Implementation of Broadband for All, and California Advanced Services Fund Local Assistance Budget Authority Augmentation

The Governor's budget requests:

- $100 million delay to last mile infrastructure grants through the CASF FFA from 2024-25 to 2026-27. This delay would leave $100 million General Fund appropriated in 2024-25 for last-mile project grants.

- $250 million cut to Loan Loss Reserve Fund with $150 million in 2024-2025 and $100 million in 2025-2026.

- Ongoing budget authority of $9,383,000 to continue to fund forty-six (46.0) previously established positions and $546,000 for four (4.0) positions from the Public Utilities Commission Utilities Reimbursement Account (PUCURA, Fund 0462) to continue implementing Chapter 112, Statutes of 2021 (Senate Bill (SB) 156).

- To increase the local assistance budget authority from the California Advanced Services Fund program to $136.211 million for fiscal year 2024-25 and ongoing. Additionally, the CPUC requests budget bill language which makes expenditure authority contingent on the CPUC collecting sufficient revenue. This reflects an increase of $63.6 million for fiscal year 2024-25 per Pub. Util. Code section 281, codified by Assembly Bill 14 (Stats. 2021, Ch. 685, Sec. 2, effective October 8, 2021) and Senate Bill 4 (Stats. 2021, Ch. 671, Sec. 2, effective October 8, 2021).

Panel

- David Evans, Finance Budget Analyst, Department of Finance
- Steve Wells, Principal Program Budget Analyst, Department of Finance
- Rachel Peterson, Executive Director, California Public Utilities Commission
- Rob Osborn, Director, Communications Division, California Public Utilities Commission
- Brian Metzker, Principal Fiscal and Policy Analyst, Legislative Analyst's Office.

LAO Comments

The LAO has a full report on broadband covering the CPUC's programs and CDT's: https://lao.ca.gov/Publications/Detail/4867.

- ***Last-Mile Project Grants.*** The state is providing grants to ISPs, public entities, nonprofit organizations, and others for last-mile broadband infrastructure projects. These grants are awarded by CPUC through several California Advanced Services Fund (CASF) program accounts (described in a nearby box) as well as the Federal Funding Account (FFA).

- ***CASF Program Accounts.*** CASF program accounts are funded by a surcharge rate on revenues collected by telecommunications companies from end-users of intrastate telecommunications services. State law allows CPUC to collect up to $150 million in surcharge revenues each year until December 31, 2032. Projects that intend to serve unserved households (that is, those without access to broadband as defined by the FCC) are eligible for CASF program account grants. Projects that intend to serve priority unserved households—that is, unserved households with no Internet access or with Internet access at or below a 10 Mbps download speed and 1 Mbps upload speed—often receive grant awards before projects serving other unserved households. Based on CASF program account definitions and eligibility criteria, the number of eligible priority unserved households in California is about 545,000 and the number of remaining eligible unserved households is about 360,000.

- ***FFA.*** Senate Bill 156 originally created the FFA to receive federal American Rescue Plan (ARP) fiscal relief funds allocated for last-mile broadband infrastructure projects. However, as the LAO describes in more detail later in the brief, the FFA is now mostly supported by the General Fund. Unserved households are eligible for FFA program grants, with the FFA program rules further defining unserved households as those in areas without a reliable cable or fiber connection to a broadband provider. (Technologies such as fixed wireless and satellite internet services are examples of broadband offerings that do not require a direct cable or fiber connection.) Based on FFA definitions and eligibility criteria, the number of eligible unserved households in California is around 1 million.

- ***Loan Loss Reserve Fund (LLRF).*** The LLRF will provide local government entities, nonprofit organizations, and tribes with grants to help them obtain financing for last-mile projects through, for example, establishing and funding reserves and paying the costs of debt issuance for broadband infrastructure projects.

Broadband Infrastructure Spending Plan as of the 2023-24 Budget Act *(In Millions)* Figure 1

		Funding Source		
Program or Project	**Fiscal Year**	**GF**	**FF**	**TF**
Last-Mile Projects Grants	Prior Years	$647[d]	$550[e]	$1,197
	2023-24	253	—	253
	2024-25	200	—	200
	2025-26	200	—	200

	2026-27	150	—	150
Subtotals		**($1,450)**	**($550)**	**($2,000)**
Loan Loss Reserve Fund (LLRF)	Prior Years	—	—	—
	2023-24	$175	—	$175
	2024-25	300	—	300
	2025-26	275	—	275
	2026-27	—	—	—
Subtotals		**($750)**	**(—)**	**($750)**

[d]Pursuant to Control Section 11.96 of the *2022-23 Budget Act*, the Department of Finance shifted $522 million for last-mile projects from ARP fiscal relief funds to GF in 2021-22.

[e]The remaining $550 million in FF for last-mile project grants in 2021-22 is the state's allocation from the ARP's Coronavirus Capital Projects Fund.

GF = General Fund; FF = federal funds; TF = total funds; LLRF = Loan Loss Reserve Fund; ARP = American Rescue Plan; SB = Senate Bill; and IIJA = Infrastructure Investment and Jobs Act.

Last-Mile Project Grants

CPUC Continues to Award Grants Through CASF Grant Programs. In 2023, CPUC CASF grant programs received 74 applications requesting $527 million. However, CPUC's expenditure authority for CASF grant programs in 2023 (net of state operations costs) was $72.6 million, so only some grant applications could be funded. Other factors, such as application deadlines and review time, also may have limited the number of grants awarded. As a result, in 2023, CPUC awarded $39.1 million from its five CASF grant programs: $23.3 million from the Broadband Adoption Account, $2.5 million from the Broadband Infrastructure Account (including its Line Extension Program), $2 million from the Broadband Public Housing Account, $10.3 million from the Rural and Urban Regional Broadband Consortia Grant Account, and $1 million from the Tribal Technical Assistance Account.

CPUC Received Nearly 500 FFA Applications Requesting About $4.5 Billion in Funding. CPUC closed the first FFA grant application round on September 29, 2023 after receiving 484 applications requesting a total of $4.55 billion. CPUC also received 896 objections against these grant applications, as well as applicants' responses to those objections, by December 20, 2023. (Objections against FFA grant applications are written comments submitted by other parties that identify, for example, factual errors in an application or requirements in policy and/or statute for consideration alongside the application.) CPUC, in coordination with CDT, will review these applications and objections over the next six months and expect to make grant awards by the end of June 2024. Figure 4 provides a summary of the FFA grant applications by applicant including the number of applications submitted, the estimated total cost of all projects for which grant funds were requested, and the total amount of grant funding requested (including as a percentage of the total amount requested by all applicants).

Figure 4

Nearly 500 FFA Grant Applications Totaling More Than $4.5 Billion

Applicants	Number of Applications Submitted	Estimated Total Project Costs (In Millions)	Total Funding Amount Requested (In Millions)	Percent of Total Funding Amount Requested[a]
AT&T	250	$2,614	$1,437	32%
Golden State Connect Authority	37	1,251	818	18
Comcast	36	633	559	12
Cox	20	397	391	9
Frontier	23	226	170	4
Fort Bidwell Indian Community	1	87	86	2
Gateway Cities Council of Governments	1	79	78	2
Plumas-Sierra Telecommunications	11	75	75	2
Round Valley Indian Tribes	1	90	75	2
El Dorado County	4	66	66	1
Spectrum	22	85	64	1
AV Broadband Cooperative	1	155	45	1
City of Sacramento	1	41	39	1
AVX Networks	1	36	36	1
County of Los Angeles	1	85	35	1
Ranch WIFI	2	30	30	1
County of Placer	2	33	30	1
Karuk Tribe	1	454	29	1
The City of Huntington Park	1	25	25	1
Plenary Broadband Infrastructure Crenshaw	1	71	25	1
Hankins Information Technology	2	25	25	1
All Other Applicants[b]	64	483	412	9
Totals	**483**	**$7,041**	**$4,550**	

[a]The percentages of total funding amount requested may not add up to 100 percent due to rounding.

[b]Includes all other applicants with requested amounts representing less than one percent of the total amount requested

Loan Loss Reserve Fund (LLRF)

First LLRF Application Round Expected to Open in March. CPUC expects to open the first application round of the LLRF in March, followed by funding cycles of equal amounts opening every three months thereafter, and make its first awards sometime in the first half of 2024-25. Awards will be in the form of a debt service reserve—that is, a cash reserve of funds to make debt service payments if a project's cash flow is delayed or disrupted—guaranteed by a CPUC reserve fund. This debt service reserve guarantee is intended to function as a form of credit enhancement for the eligible debts associated with a financed broadband infrastructure project.

Status of Federal Broadband Programs

BEAD Program

NTIA Notified California of $1.86 Billion Program Allocation in June 2023. On June 26, 2023, NTIA announced that California will receive $1.86 billion in federal funds from the BEAD program. To receive this additional federal funding, CPUC was required to submit to NTIA both the state's Five-Year Action Plan—that is, a plan establishing the state's broadband goals and priorities over the next five years with a comprehensive needs assessment—and initial proposal describing the competitive process for last-mile broadband infrastructure project grants.

CPUC Submitted Five-Year Action Plan to NTIA in August 2023. Using the $5 million award received in November 2022 from the state's initial BEAD program allocation of $100 million, CPUC completed its draft of the state's Five-Year Action Plan on July 17, 2023. CPUC received over 500 pages of comments during the public comment period that ended August 11, 2023. CPUC then submitted the state's final Five-Year Action Plan to NTIA on August 28, 2023.

CPUC Submitted Initial Proposal to NTIA in December 2023. CPUC completed its draft of the state's initial proposal for the BEAD program on November 7, 2023. CPUC received several dozen comments during the public comment period that ended December 7, 2023. CPUC then submitted the state's initial proposal as two volumes (based on federal guidance) on December 27, 2023.

NTIA Approval of State's Second Initial Proposal Volume Will Make Available at Least 20 Percent of State's Allocation… CPUC expects NTIA to approve the first volume of the state's initial proposal by the end of February 2024 and the second volume in May 2024. Approval of the first volume will allow CPUC to conduct the challenge process that is required by the BEAD program. This process allows ISPs, local governments, or nonprofit organizations to challenge a determination made by CPUC that households or other locations are unserved or underserved. Successful challenges are submitted to NTIA for its review and approval. Approval of the second initial proposal volume will make available at least the first 20 percent of the state's BEAD program allocation.

…But Some of State's Remaining Allocation Also Could Be Made Available. However, CPUC also requested (based on federal guidance) that NTIA make available to the state its entire program allocation, but condition some amount of funding on NTIA's approval of the state's final proposal. BEAD program rules require CPUC to submit the state's final proposal one year after the state's second initial proposal volume is approved, so any remaining funding conditions could be removed as early as May 2025.

CPUC Anticipates Use of Budget Control Section for BEAD Program Funding. It is our understanding from CPUC that any funding from the state's BEAD program allocation will be received and made available for expenditure using a control section instead of a budget proposal. Specifically, Control Section 28.00 gives the administration flexibility to expend unanticipated federal funds or other nonstate funds during the current year. The Department of Finance could approve a Control Section 28.00 application from CPUC to receive and expend the state's BEAD program allocation, pending notification of the Legislature.

Broadband Infrastructure Spending Plan as of the Governor's 2024-25 Budget *(In Millions)* ***Figure 5***

		Funding Source			
Program or Project	**Fiscal Year**	**GF**	**FF**	**TF**	
Last-Mile Project Grants[b]	Prior Years	$647	$550[c]	$1,197	
	2023-24	253	—	$253	
	2024-25	100[d]	—	$100	Delay
	2025-26	200	—	$200	
	2026-27	250[d]	—	250	Delay
Subtotals		**($1,450)**	**($550)**	**($2,000)**	
LLRF	Prior Years	—	—	—	
	2023-24	$175	—	$175	
	2024-25	150	—	150	Reduction
	2025-26	175	—	175	Reduction
	2026-27	—	—	—	
Subtotals		**($500)**	**(—)**	**($500)**	Reduction

[c]Last-mile project FF amounts do not include $1.86 billion in additional last-mile project funding from the IIJA, some of which could be allocated to the state starting in 2023-24.

GF = General Fund; FF = federal funds; TF = total funds; LLRF = Loan Loss Reserve Fund; SB = Senate Bill; and IIJA = Infrastructure Investment and Jobs Act.

Overall Considerations

California Faces Serious Budget Problem in 2024-25, Significant Future Budget Deficits in 2025-26 and 2026-27. In the overview publication, the LAO describes 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 7 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) Figure 7*

		Funding Source		
Program or Project	**Funding Status**	**GF**	**FF**	**TF**
Last-Mile Project Grants[c]	Appropriated	$900	$550	$1,450
	Encumbered	—	—	—
	Expended	—	—	—
LLRF	Appropriated	$175	—	$175
	Encumbered	—	—	—
	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 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 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, the LAO provides 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 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. The LAO finds 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.

LLRF Proposals

Proposed Reductions in LLRF Reasonable. Given the serious budget problem, the LAO finds 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 the LAO recommends in their 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.

Recommendations

Consider Provisional Budget Bill Language or Trailer Bill Language as Alternative to Budget Control Section Process. The LAO recommends 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. The LAO recommends 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 the LAO has no concerns with them, the LAO recommends 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 Comments

The CPUC's Broadband activities were recently moved into this subcommittee's jurisdiction. Over the past few budgets, the Legislature has adopted a $6.6 billion broadband package (with funding to the CPUC and CDT) to provide affordable, reliable internet access to all Californians. CPUC handles last mile projects that connect to individuals' homes (although many of their programs allow funding to also build out to middle mile projects if needed) and CDT funding builds middle mile infrastructure (much like the transmission infrastructure in electricity). The Assembly Budget Subcommittee No. 5 on State Administration handles CDT and is reviewing a proposal for $1.5 billion of additional middle mile funding, while the Governor's budget proposes cuts and delays to the CPUC's last mile projects.

Of the $2 billion dollar one-time funding within the CPUC's Federal Funding Account (FFA) for last-mile broadband projects, the federal funding portions (~$550 million) must be awarded by the end of this year and exhausted by December 31, 2026. However, the general fund portion of the account is not subject to the same federal deadline and the CPUC has not committed to a timeline for utilizing the funds.

The Subcommittee may wish to ask the following:

- How much demand do you anticipate for the Loan Loss Reserve Funds?

  - Why are you proposing to cut these funds given the expected demand and ability to also fund middle mile projects?

- When does the CPUC anticipate awarding the General Fund for last mile projects?

- The statutory requirement [PUC 281 (n)(3)] to hold FFA funds by county expires as of September 2024, after which the CPUC will have the flexibility to use the funds anywhere in the state. Given the delays with the FFA, will that change the plans for administering the FFA program?

- Does the CPUC plan to utilize the requested staff to administer the federal BEAD program, or should the Legislature expect another funding request for that program in the future?

Staff recommends that the Subcommittee consider their openness to cutting the loan loss reserve program when this projects funds last and middle mile projects and could potentially be returned to the General Fund or used to securitize additional projects since they are not solely grants.

Staff also recommends approving the 46 staff positions as three-year limited-term positions since the funding is one-time, in order to assess the ongoing workload expectations in the future.

Staff Recommendation: Hold open.

Issue 4: California Lifeline – State Operations and Local Assistance: Fall Estimate

The Governor's budget requests $345,961,000 for fiscal year 2024-25 from the Universal LifeLine Telephone Service Trust Administrative Committee Fund to provide low-income California households with basic, high-quality wireless and wireline services at affordable rates in accordance with the Public Utilities Code section 871 et seq.

Specifically, the budget requests:

- $318,147,000 for local assistance budget to reimburse claims from participating service providers that offer discounted phone service to program participants.
- $27,814,000 for state operations budget to administer the Program.

Background:

The above request would represent an overall budget decrease of $73.7 million or 17.6 percent from the amounts appropriated in the 2023 Budget Act for California LifeLine.

The California LifeLine program provides affordable wireline and wireless phone service to approximately 1.1 million low-income customers. In September 1983, the California Legislature enacted the Moore Universal Telephone Service Act (Moore Act) to ensure the availability of affordable "basic local telephone service" to all qualifying low-income households. In 1984, CPUC Decision (D.) 84-04-053 established California LifeLine (formerly known as the Universal LifeLine Telephone Service Program) to lower the cost of eligible households' monthly phone bills. The CPUC administers the program in accordance with the Moore Act and the Federal Communications Commission's (FCC) Federal Lifeline program regulations. The introduction of wireless service in 2014 has increased service providers and participants in the Program.

In 2005, the CPUC transferred the enrollment functions from the telephone corporations to a Third-Party Administrator (TPA). Under the CPUC's oversight and supervision, the TPA handles the application, enrollment, and renewal processes and determines if an applicant is eligible to enroll in California LifeLine. Through the TPA, California administers over 4.6 million annual eligibility determinations for federal and state subsidies.

California LifeLine reimburses telephone service providers for the administrative costs and discounts offered to participants on their monthly service charge, connection and conversion charges, and taxes and surcharges associated with the monthly service charge. The service provider applies a discount to the participant's bill and submits monthly claims to the CPUC for reimbursements from the discounts granted to participants. Participating service providers receive an administrative support subsidy and may recover implementation costs on a limited basis.

Applicants may qualify for California LifeLine in two ways: (1) through enrollment in an eligible public assistance program (program-based eligibility); or, (2) meeting an income threshold (income-based eligibility). Under program-based eligibility, households may qualify for the

California LifeLine discounts if they provide supporting documentation that at least one household member is enrolled in one or more eligible public assistance programs such as Medicaid/Medi-Cal, Supplemental Security Income, CalFresh, etc.

There are 13 wireless telephone service providers authorized by the CPUC to participate in the Program, offering more market choices to consumers. Today, a low-income eligible household has the option to subscribe to either wireline or wireless service plans that include voice, text, and data at discounted and affordable rates.

Enrollment has been declining and currently stands at 1,118,849.

Panel

- David Evans, Finance Budget Analyst, Department of Finance
- Steve Wells, Principal Program Budget Analyst, Department of Finance
- Rachel Peterson, Executive Director, California Public Utilities Commission
- Rob Osborn, Director, Communications Division, California Public Utilities Commission
- Sarah Cornett (they/them), Fiscal & Policy Analyst, Legislative Analyst's Office

Staff Comments

The Lifeline program is primarily intended to provide affordable telephone service, however many households also struggle with affordable broadband. As of July 31, 2023 approximately 1.1 million California households participated in the program, of which approximately 931,000 participants utilized the program for wireless service that comes with a monthly data allowance. In comparison, the Affordable Connectivity Program (ACP), which provides subsidies for standalone home broadband service had approximately 3,000,000 participating households in California. Unfortunately, federal funding for that program is expiring as of May 2024 and the participating households will be unenrolled. While this may have no impact to the Lifeline program, the relative enrollment figures for the Lifeline program compared to ACP raises the question whether the current structure of the Lifeline program is meeting the needs of low-income California households.

The Subcommittee may wish to ask the following question:

- Is the CPUC considering how to best leverage the Lifeline program in light of the ACP expiring, which had much higher participation?

Staff Recommendation: Hold Open pending a May Revision update.

Non-Presentation Items: Staff have suggested the following items do not receive a formal presentation from the Administration in order to focus time on the most substantial proposals. Members of the Subcommittee may ask questions or make comments on these proposals at the time designated by the Subchair or request a presentation by the Administration at the discretion of the Subchair. Members of the public are encouraged to provide public comment on these items at the designated time.

Non-Presentation Items

3355 Office of Energy Infrastructure Safety

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

The Governor's budget requests $3,151,000 in fiscal year 2024-25 and ongoing ($3,021,000 Public Utilities Commission Utilities Reimbursement Account (PUCURA) and $130,000 Safe Energy Infrastructure and Excavation Fund (SEIEF)) for 1.0 Information Technology Specialist II, and $2.5 million in ongoing contract funding.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

3360 California Energy Commission

Issue 2: 2023 California Vehicle Survey Supplemental Funding

The Governor's budget requests $200,000 in reimbursement authority to allow CEC to receive funding from Caltrans to support CEC's California Vehicle Survey.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

Issue 3: Technical Assistance Support for Building Standards

The Governor's budget requests $497,000 annually from the Cost of Implementation Account in 2024-25 and 3.0 positions ongoing to provide technical assistance to ensure local building departments, municipalities, and building design professionals understand and can effectively comply with California's Energy Code (Title 24, Part 6).

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

8660 California Public Utilities Commission

Issue 4: Autonomous Vehicle Transportation Regulation

The Governor's budget requests $210,000 in ongoing budget authority for one (1.0) position funded by the Public Utilities Commission Transportation Reimbursement Account (PUCTRA, Fund 0461) to advance the development and implementation of regulations for autonomous vehicle passenger services.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

Issue 5: Gas Transmission Pipeline Safety Staffing

The Governor's budget requests $550,000 in ongoing budget authority for two and a half (2.5) Utilities Engineer positions from the Public Utilities Commission Utilities Reimbursement Account (PUCURA, Fund 0462) to ensure gas operators comply with recent federal gas transmission pipeline safety mandates.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

Issue 6: IT Asset Tracking and Management System

The Governor's budget requests $300,000 in ongoing budget authority from various special funds (Distributed Administration) for the ongoing maintenance and operation costs to sustain an Information Technology hardware/software asset management system.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

Issue 7: Permanent Position Technical Adjustment

The Governor's budget requests permanent position authority for fourteen (14.0) temporary blanket positions for which CPUC was approved permanent and ongoing funding from various budget change proposals from fiscal year 2018-19.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

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

The Governor's budget requests reauthorization of $2,800,000 from the Public Utilities Commission Utilities Reimbursement Account for an active legal services contract to provide advice and representation on corporate and utility restructuring, finance, securitization, and bankruptcy matters.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

Issue 9: Intervenor Compensation Program Claims Support

The Governor's budget requests $280,000 in ongoing budget authority for two (2.0) Associate Governmental Program Analyst positions from various special funds (Distributed Administration) to provide Intervenor Compensation program claims support in the Administrative Law Judge Division.

LAO Comments

Proposal. CPUC is requesting $280,000 in ongoing budget authority for two existing Associate Governmental Program Analysts (AGPA) positions from various CPUC special funds. CPUC received position authority for four new permanent positions and limited-term funding for two AGPA positions in the 2022-23 budget package—the 2024-25 proposal would permanently extend the funding and authority for the latter two positions to provide continued claims support for the IComp program.

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.

Recommendation. The LAO recommends 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, the LAO recommends the Legislature consider providing additional resources for the IComp program in future years so CPUC can meet its statutory requirements.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

Issue 10: Ongoing Support for Clean Energy Resiliency

The Governor's budget requests $3,640,000 in ongoing budget authority for sixteen (16.0) positions and support from the Public Utilities Commission Utilities Reimbursement Account for the ongoing workload related to Chapter 312, Statutes of 2018 (Senate Bill (SB) 100). "The 100 Percent Clean Energy Act of 2018."

This makes permanent positions that were approved as limited-term in 2021.

Staff Recommendation: Approve as budgeted when the Subcommittee takes action.

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