

May 12, 2023

Honorable Nancy Skinner, Chair
Senate Budget and Fiscal Review Committee

Attention: Elisa Wynne, Staff Director

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Christian Griffith, Chief Consultant

Amendment to and Addition of Various Budget Bill Items, Support and Local Assistance, California Department of Corrections and Rehabilitation

Adult Population Adjustment—The May Revision reflects an estimated average daily adult incarcerated population of 92,882 in fiscal year 2023-24, which is 514 fewer than projected in the Governor's Budget. The projected parolee average daily population is 44,272 in 2023-24, which is a decrease of 3,456 compared to the Governor's Budget projection. It is requested that the following items be amended for this purpose:

- Item 5225-001-0001 be decreased by \$47,777,000 and 243.7 positions one-time, and \$48,879,000 and 253.8 positions ongoing
- Item 5225-002-0001 be increased by \$25,516,000 and 37.7 positions one-time and increased by \$15,897,000 and decreased by 17.6 positions ongoing
- Item 5225-008-0001 be decreased by \$287,000 and increased by 0.5 positions one-time and \$402,000 ongoing
- Item 5225-009-0001 be increased by \$2,639,000 and 13.6 positions one-time and \$2,610,000 and 13.6 positions ongoing
- Item 5225-001-0917 be decreased by \$123,000 ongoing

This reflects a net reduction of \$20,032,00 and 191.9 positions one-time and \$30,897,000 and 257.8 positions ongoing, comprised of a reduction of \$19,909,000 General Fund one-time and \$30,774,000 ongoing and \$123,000 Inmate Welfare Fund ongoing.

California Correctional Center Closure Update—It is requested that Item 5225-001-0001 be decreased by \$1,025,000 and 4.7 positions in 2023-24, and \$1,026,000 and 4.7 positions ongoing, and Item 5225-002-0001 be decreased by \$215,000 ongoing to reflect additional savings associated with the closure of the California Correctional Center.

California City Correctional Facility Closure Update—It is requested that Item 5225-001-0001 be decreased by \$2,066,000 and 2.2 positions one-time, and \$4,464,000 and 6.5 positions ongoing, Item 5225-002-0001 be increased by \$10,414,000 and 58 positions one-time, and \$13,991,000 and 88.6 positions ongoing, and Item 5225-008-0001 be decreased by \$174,000 and 1.2 positions one-time, and \$636,000 and 4 positions ongoing, to reflect an update to the savings associated with the closure of the California City Correctional Facility.

Facility Deactivations—It is requested that Item 5225-001-0001 be decreased by \$22,904,000 and 1 position in 2023-24, \$2,361,000 and 1 position in 2024-25, \$2,401,000 and 1 position in 2025-26, \$3,996,000 and 1 position in 2026-27, and \$4,046,000 and 1 position in 2027-28, and Item 5225-002-0001 be decreased by \$744,000 one-time and \$824,000 ongoing for savings associated with previously appropriated budget change proposals associated with the deactivation of specified facilities within six prisons.

San Quentin Rehabilitation Center Funding Transfer from Support to Capital Outlay—It is requested that Item 5225-001-0001 be decreased by \$20 million one-time in 2023-24. This funding was added as a placeholder in the Governor's Budget and the adjustment is required to remove the funding from State Operations and transfer it to Capital Outlay. More details about the proposed May Revision funding for this project can be found in the Capital Outlay Finance Letter.

Division of Juvenile Justice Closure Update—It is requested that the following items be amended to effectuate technical adjustments associated with the closure of the Division of Juvenile Justice (DJJ) on June 30, 2023:

- Item 5225-001-0001 be decreased by \$2,814,000 and 74.5 positions one-time, and by \$598,000 and 49.9 positions ongoing and reimbursements be increased by 8 positions in 2023-24
- Item 5225-005-0001 be decreased by \$357,000 one-time
- Item 5225-008-0001 be increased by \$1,950,000 ongoing
- Item 5225-009-0001 be decreased by \$1,352,000 and 6 positions ongoing
- Item 5225-011-0001 be increased by 47.8 positions one-time and 48.9 positions ongoing
- Item 5225-023-0001 be added in the amount of \$6,402,000 and 39 positions one-time
- Decrease positions associated with the California State Lottery Education Fund by 1 position ongoing
- Item 5225-001-0890 be decreased by \$334,000 one-time

This results in a net increase of \$3,495,000 and 13.3 positions one-time in 2023-24 and does not result in any ongoing increase in funding or positions. This proposal is intended to correctly align funding with the appropriate budget item and program and eliminate funding for DJJ in the out-years.

eDiscovery Ongoing Needs—It is requested that Item 5225-001-0001 be increased by \$391,000 one-time in 2023-24, and decreased by \$2,839,000 ongoing, to align the resources available for the eDiscovery project with refined cost estimates. When fully implemented, this project will provide the department with a more automated eDiscovery process and support timely identification and storage of digital evidence.

BIS to S/4HANA Budget Bill Language—It is requested that provisional language be added to Item 5225-001-0001 to support the Department in beginning the process of migrating its current SAP to the S/4HANA platform (see Attachment 1).

Contract Medical Unallocated Adjustments—It is requested that Item 5225-002-0001 be increased by \$39,751,000 ongoing, and reimbursements be decreased by \$12,060,000 ongoing, to address a projected deficit in the budget for Contract Medical services, which supports the provision of specialty care services for patients in prisons and community settings.

Expansion of Tele-Mental Health Services—It is requested that Item 5225-002-0001 be increased by \$10,959,000 and 85 positions in 2023-24 and \$17,318,000 and 144 positions beginning in 2024-25 to expand the use of tele-mental health within the Statewide Mental Health Program to include psychology and social work disciplines in addition to psychiatry. This will equip the Department with more tools to deliver quality mental health care to patients while also increasing its ability to recruit and retain clinicians.

California Advancing and Innovating Medi-Cal (CalAIM) Justice-Involved Initiative – Medi-Cal Billing System—It is requested that Item 5225-002-0001 be increased by \$207,000 and 12 positions one-time in 2023-24, \$4,454,000 one-time in 2024-25, and \$3,722,000 one-time in 2025-26. It is also requested that reimbursements be increased by \$3,100,000 one-time in 2023-24. These adjustments are needed for the Department to develop an information technology-based Medi-Cal billing system to support the implementation of CalAIM. Additionally, it is requested that provisional language be added to Item 5225-002-0001 to recognize potential grant funding that will become available to the Department in 2023-24 (see Attachment 2).

Comprehensive Employee Health Program Update—It is requested that Item 5225-002-0001 be decreased by \$7,736,000 and 70 positions ongoing to right-size the Department's Employee Health Program included in the Governor's Budget.

Board of Parole Hearings Budget Augmentation to Support Core Functions—It is requested that Item 5225-009-0001 be increased by \$4,212,000 and 1 position one-time and \$2,623,000 and 1 position ongoing to address attorney fees, additional Americans with Disabilities Act and mental health related workload, attorney training and monitoring, and the Board's Information Technology System maintenance contract.

SB 1008 Free Calling Reduction—It is requested that Item 5225-014-0001 be decreased by \$1,875,000 ongoing to reflect refined estimates associated with the implementation of Chapter 827, Statutes of 2022 (SB 1008), which requires CDCR to provide access to free voice calling to incarcerated individuals. These adjustments are based on the incorporation of actual free voice calling data since the beginning of the year and adjusted contract rates.

COVID-19 Prevention and Response Activities—It is requested that Item 5225-021-0001 be decreased by \$44,974,000 one-time. This adjustment reflects updated estimates for expenditures for COVID-19 prevention and mitigation activities in 2023-24, bringing the total request for 2023-24 to \$96.9 million General Fund.

Technical Adjustment to Shift Reversion of 2021 Balances—It is requested that Item 5225-496, be added to revert the unexpended balance of \$30 million one-time to reduce the amount provided for Deferred Maintenance in the 2021 Budget Act. The Governor's Budget reverted these funds in statewide Control Section 4.06. This is a technical adjustment to provide transparency at the department level by shifting the reversions from the stateside control section to the applicable departmental budget.

Technical Adjustment to Shift the Reduction of 2023-24 Appropriations—It is requested that Item 5225-005-0001 be decreased by \$30.9 million in 2023-24 and 2024-25 to reduce the amount provided for COVID-19 Workers' Compensation (Senate Bill 1159). The Governor's Budget reduced various items of appropriation in the 2023-24 fiscal year in Control Sections 4.07. This is a technical adjustment to provide transparency at the department level by shifting the reductions from the statewide control section to items of appropriation in the applicable departmental budgets.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Allison Hewitt or Cynthia Mendonza, Principal Program Budget Analysts, at (916) 445-8913.

JOE STEPHENSHAW

Director

By:

/s/ Erika Li

ERIKA LI

Chief Deputy Director

Attachment

cc: On following page

cc: Honorable Anthony J. Portantino, Chair, Senate Appropriations Committee
Attention: Mark McKenzie, Staff Director
Honorable Roger W. Niello, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Kirk Feely, Fiscal Director
Honorable Chris R. Holden, Chair, Assembly Appropriations Committee
Attention: Jay Dickenson, Chief Consultant
Honorable Vince Fong, Vice Chair, Assembly Budget Committee
Attention: Joseph Shinstock, Fiscal Director
Honorable Maria Elena Durazo, Chair, Senate Budget and Fiscal Review Subcommittee
No. 5
Honorable Mia Bonta, Chair, Assembly Budget Subcommittee No. 5
Gabriel Petek, Legislative Analyst
Christopher W. Woods, Senate President pro Tempore's Office
Jason Sisney, Assembly Speaker's Office
Paul Dress, Caucus Co-Chief of Staff, Assembly Republican Leader's Office
Katja Townsend, Capitol Director, Assembly Republican Leader's Office
Jeffrey Macomber, Secretary, California Department of Corrections and Rehabilitation
Tammy Foss, Undersecretary, Operations, California Department of Corrections and
Rehabilitation
Jennifer Barretto, Undersecretary, Administration, California Department of Corrections
and Rehabilitation
Diana Toche, Undersecretary, Health Care Services, California Department of Corrections
and Rehabilitation
Stacy Lopez, Director, Division of Administrative Services, California Department of
Corrections and Rehabilitation
Sarah Larson, Assistant Secretary, Legislative Affairs, California Department of Corrections
and Rehabilitation
Madelynn McClain, Deputy Director, Fiscal Services – Division of Administrative Services,
California Department of Corrections and Rehabilitation
Clark Kelso, Receiver, California Department of Corrections and Rehabilitation
Lara Saich, Director, Health Care Policy and Administration, California Department of
Corrections and Rehabilitation
Duane Reeder, Deputy Director, Fiscal Management Section, California Department of
Corrections and Rehabilitation

Add Provision 8 to Item 5225-001-0001:

8. Of the amount appropriated in Schedule (1) of this item, \$8,146,000 shall be available for the California Department of Corrections and Rehabilitation to begin the process of upgrading from its current SAP to S/4 HANA. Upon completion of a fit gap analysis by FISCAL, the Department shall provide written notification to the chairpersons of the budget committees in both houses of the Legislature, the Joint Legislative Budget Committee, and the Legislative Analyst's Office, including a summary of the analysis and revised cost estimate, to the extent the fit gap analysis results in a lesser amount of funding being needed to support the migration to S/4 HANA. No later than 30 days after notification, upon order of the Department of Finance, this item shall be reduced in accordance with the revised cost estimate.

Add Provision 8 to Item 5225-002-0001:

8. Of the amount available in Schedule (1) of this item, \$207,000 is available for development of a Medi-Cal billing solution in conjunction with implementation of the California Advancing and Innovating Medi-Cal initiative. Upon order of the Department of Finance, this amount may be adjusted in accordance with the resources received through the Providing Access and Transforming Health (PATH) initiative administered by the Department of Health Care Services. The amount available in Schedule (6) of this item may also be adjusted, consistent with Control Section 28.50, to account for resources received through PATH.

5225-496 – Reversion, California Department of Corrections and Rehabilitation. As of June 30, 2023, the balances specified below, of the appropriations provided in the following citations shall revert to the balances in the funds from which the appropriations were made.

0001—General Fund

(1) Item 5225-001-0001, Budget Act of 2021 (Chs. 21 and 69, Stats. 2022). Up to \$30,000,000 appropriated for Deferred Maintenance.



May 12, 2023

Honorable Nancy Skinner, Chair
Senate Budget and Fiscal Review Committee

Attention: Elisa Wynne, Staff Director

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Christian Griffith, Chief Consultant

Amendment to Budget Bill Item 5225-301-0001 and Addition of Budget Bill Items 5225-301-0660 and 5225-491, and Statutory Changes, Capital Outlay, Department of Corrections and Rehabilitation

San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center—It is requested that Item 5225-301-0660 be added in the amount of \$360,551,000 one-time to provide funding for the pre-construction and progressive design-build phases of a one-of-a-kind facility focused on rehabilitation, education, and workforce development, pursuant to the vision and recommendation of a multidisciplinary Advisory Council created by the Governor (see Attachment 1). The new facility will support the California Model and will provide a centralized location for the expansion of rehabilitative programs.

As part of this proposal, it is requested that statutory changes (see Attachment 2) be adopted to rename San Quentin State Prison to San Quentin Rehabilitation Center, allow CDCR to use the Progressive Design-Build project delivery method, and exempt this project from the State Historic Preservation requirements and the California Environmental Quality Act. This language is necessary to complete project construction by 2025.

San Quentin Rehabilitation Center, San Quentin: Improvement Projects—It is requested that Item 5225-301-0001 be increased by \$20,000,000 one-time to provide funding for the preliminary plans, working drawings, and construction phases for various facility improvements at the San Quentin Rehabilitation Center, pursuant to the vision and recommendation of a multidisciplinary Advisory Council referenced above (see Attachment 3). Similar to the project above, this will provide campus improvements in support of the California Model. This \$20 million was included in the Governor's Budget and a corresponding reduction of \$20 million is identified in a separate May Revision Finance Letter for 5225-001-0001.

As part of this proposal, it is requested that the exemptions outlined above are also applied to this project to meet the 2025 deadline (see Attachment 2).

Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant Reappropriation—It is requested that Item 5225-491 be added to reappropriate Item 5225-301-0001, Budget Act of 2020 in the amount of \$849,000 from the working drawings phase of this project (see Attachment 4).

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Koreen van Ravenhorst, Principal Program Budget Analyst, at (916) 916-445-9694.

JOE STEPHENSHAW

Director

By:

/s/ Erika Li

ERIKA LI

Chief Deputy Director

Attachment

cc: On following page

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Paul Dress, Caucus Co-Chief of Staff, Assembly Republican Leader's Office
Katja Townsend, Capitol Director, Assembly Republican Leader's Office
David Lewis, Director, Facility Planning, Construction, and Management, Department of
Corrections and Rehabilitation
Michelle Weaver, Associate Director, Facility Planning, Construction, and Management,
Department of Corrections and Rehabilitation
Mike Potter, Chief, Facility Planning, Construction, and Management, Department of
Corrections and Rehabilitation

5225-301-0660—For capital outlay, Department of Corrections and Rehabilitation, payable from the Public Buildings Construction Fund.....360,551,000

Schedule:

- (1) 0011473-San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center.....360,551,000
 - (a) Pre-construction21,132,000
 - (b) Progressive design-build339,419,000

Provisions:

1. Notwithstanding any other law, the Department of Corrections and Rehabilitations may, after selection of the design-build entity for the project, enter into one or more contracts with the design-build entity for the demolition of Building 38 component and construction of the new educational and vocational center component of the project identified in Schedule (1).
2. Notwithstanding any other law, the Department of Finance and the State Public Works Board's approval of the guaranteed maximum price for the demolition of Building 38 component of the project and the guaranteed maximum price for the new educational and vocational center component of the project may occur on different schedules. The funds appropriated in Schedule (1) for the progressive design-build phase of the project may be expended on each component upon the Department of Finance and the State Public Works Board's approval of each components' respective guaranteed maximum price.
3. The Department of Corrections and Rehabilitation and the State Public Works Board are authorized to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale and issuance of bonds in accordance with the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3 of Title 2 of the Government Code) or otherwise effectuate the financing of the scheduled project.

Prison Name Change

The following changes to the Penal Code are needed to change the name of the California State Prison at San Quentin to San Quentin Rehabilitation Center.

Article 2 of the Penal Code is amended to read:

“Penal Code – PART 3, TITLE 1, CHAPTER 1

ARTICLE 2. ~~California State Prison at~~ San Quentin Rehabilitation Center [2020 - 2022]

2020.

There is and shall continue to be a State prison to be known as the ~~California State Prison at~~ San Quentin Rehabilitation Center. Any reference to California State Prison at San Quentin shall be a reference to San Quentin Rehabilitation Center.

2021.

The ~~California State Prison at~~ San Quentin Rehabilitation Center shall be located at San Quentin, in Marin County, California.

2022.

The primary purpose of the ~~California State Prison at~~ San Quentin Rehabilitation Center shall be to provide humane confinement, rehabilitation and education programming, restorative justice, industrial and other training, treatment, and care to persons confined therein.

Penal Code – Part 3, Title 7, Chapter 1

5002.

- (a) The department shall succeed to and is hereby vested with all of the powers and duties exercised and performed by the following departments, boards, bureaus, commissions, and officers when such powers and duties are not otherwise vested by law:
 - (1) The Department of Penology.
 - (2) The State Board of Prison Directors.
 - (3) The Bureau of Paroles.
 - (4) The warden and the clerk of the ~~California State Prison at~~ San Quentin Rehabilitation Center.
 - (5) The warden and the clerk of the California State Prison at Folsom.
 - (6) The warden of and the clerk of the California Institution for Men.
 - (7) The California Crime Commission.
- (b) Whenever any designation of any of the departments, boards, bureaus, commissions, or officers mentioned in subdivision (a) is contained in any provision of law and this designation is expressly made to refer to the Department of Corrections, the Board of Corrections or the Board of Prison Terms, then the Department of Corrections, the Board of Corrections or the

- Board of Prison Terms, to whichever one the designation is made to refer, shall exercise the power or perform the duty heretofore exercised or performed by the particular departments, boards, bureaus, or officers mentioned in subdivision (a).
- (c) The powers and duties of the State Board of Prison Directors and of the clerks of the state prisons and the California Institution for Men are transferred to and shall be exercised and performed by the Department of Corrections, except as may be otherwise expressly provided by law.
 - (d) The powers and duties of wardens of the state prisons and the California Institution for Men, presently or hereafter, expressly vested by law in them shall be exercised by them but such exercise shall be subject to the supervision and control of the Director of Corrections. All powers and duties not expressly vested in the wardens are transferred to and shall be exercised and performed by the Department of Corrections. When the designation of warden is expressly made to refer to the Department of Corrections, the department shall exercise the power and perform the duty heretofore exercised or performed by the warden.
 - (e) The Board of Prison Terms shall succeed to and is hereby vested with all of the powers and duties exercised and performed by the following boards when such powers and duties are not otherwise vested by law:
 - (1) The Board of Prison Terms and Paroles.
 - (2) The Advisory Pardon Board.
 - (3) The Adult Authority.
 - (4) The Women's Board of Terms and Paroles.
 - (5) The Community Release Board.

5003.

The department has jurisdiction over the following prisons and institutions:

- (a) The ~~California State Prison at San Quentin~~ Rehabilitation Center.
- (b) The California State Prison at Folsom.
- (c) The California Institution for Men.
- (d) The California Institution for Women.
- (e) The Deuel Vocational Institution.
- (f) The California Medical Facility.
- (g) The Correctional Training Facility.
- (h) The California Men's Colony.
- (i) The California Correctional Institution at Tehachapi.
- (j) The California Rehabilitation Center.
- (k) The California Correctional Center at Susanville.
- (l) The Sierra Correctional Center.
- (m) The Richard J. Donovan Correctional Facility at Rock Mountain.
- (n) Mule Creek State Prison.
- (o) Northern California Women's Facility.
- (p) Pelican Bay State Prison.
- (q) Avenal State Prison.

- (r) California State Prison—King's County at Corcoran.
- (s) Chuckawalla Valley State Prison.
- (t) Those other institutions and prison facilities as the Department of Corrections or the Director of Corrections may be authorized by law to establish, including, but not limited to, prisons in Madera, Kern, Imperial, and Los Angeles Counties.

5006.

- (a)
 - (1) All moneys now held for the benefit of inmates currently housed in Department of Corrections and Rehabilitation facilities including those known as the Inmate Canteen Fund of the California Institution for Men; the Inmate Welfare Fund of the California Institution for Women; the Trust Contingent Fund of the California State Prison at Folsom; the S.P.L. Commissary, Canteen Account, Hobby Association, Camp Account, Library Fund, News Agency of the ~~California State Prison at San Quentin~~ Rehabilitation Center, the Prisoners' Fund; and the Prisoners' Employment Fund, shall be deposited in the Inmate Welfare Fund of the Department of Corrections and Rehabilitation, in the State Treasury, which is hereby created. The money in the fund shall be used solely for the benefit and welfare of inmates of prisons and institutions under the jurisdiction of the Department of Corrections and Rehabilitation, including the following:
 - (A) The establishment, maintenance, employment of personnel for, and purchase of items for sale to inmates at canteens maintained at the state institutions.
 - (B) The establishment, maintenance, employment of personnel, and necessary expenses in connection with the operation of the hobby shops at institutions under the jurisdiction of the department.
 - (C) Educational programs, hobby and recreational programs, which may include physical education activities and hobby craft classes, inmate family visiting services, leisure-time activities, and assistance with obtaining photo identification from the Department of Motor Vehicles.
 - (D) Funding for innovative programming by not-for-profit organizations offering programs that have demonstrated success and focus on offender responsibility and restorative justice principles. All funding used for this purpose shall go directly to the not-for-profit organizations and shall not be used for department staff or administration of the programming.
 - (2) The warden of each institution, in collaboration with at least two representatives from local or state advocacy groups for inmates and two members of either the men's or women's advisory council or similar group within each institution, shall meet at least biannually to

determine how the money in the fund shall be used to benefit the inmates of the respective institution. It is the intent of the Legislature that the funds only be expended on services other than those that the department is required to provide to inmates.

- (b) There shall be deposited in the Inmate Welfare Fund all net proceeds from the operation of canteens and hobby shops and any moneys that may be assigned to the state prison by prisoners for deposit in the fund. The moneys in the fund shall constitute a trust held by the Secretary of the Department of Corrections and Rehabilitation for the benefit and welfare, as herein defined, of all of the inmates of institutions and prisons under the jurisdiction of the department.
- (c) The Department of Finance shall conduct a biennial audit of the Inmate Welfare Fund to include an audit report which shall summarize expenditures from the fund by major categories. At the end of each intervening fiscal year, a statement of operations shall be prepared that shall contain the same information as would be provided in the biennial audit. At least one copy of any statement of operations or audit report shall be placed in each library maintained by the Department of Corrections and Rehabilitation and shall be available there to any inmate."

Progressive Design-Build Authority

The following changes to the Public Contract Code are needed to allow California Department of Corrections and Rehabilitation to use Progressive Design-Build for the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center.

Article 6.5.1. (Section 10199 -10199.8) of the Public Contract Code is added to read:

Article 6.5.1. San Quentin Progressive Design-Build Contracting [10199 – 10199.7]
10199.

For purposes of this article, the following definitions shall apply:

- (a) "Best value" means a value determined by evaluation of objective criteria may include, but are not limited to, cost factors, price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the department and meeting the objectives of the project, or a tradeoff between cost and other specified factors.
- (b) "Construction subcontract" means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications

- produced by the design-build team.
- (c) "Department" means the Department of Corrections and Rehabilitation.
 - (d) "Design-build entity" means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.
 - (e) "Design-build project" means the San Quentin Rehabilitation Center: Demolition of Building 38 and Construction of New Educational and Vocational Center project authorized in the 2023 Budget Act, which includes the demolition of Building 38 and the design and construction of a new educational and vocational center, using the progressive design-build construction procurement process described in this article.
 - (f) "Design-build team" means the design-build entity itself and the individuals and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all civil, geotechnical, electrical, mechanical, and plumbing contractors.
 - (g) "Director" means the Secretary of the California Department of Corrections and Rehabilitation or their designee.
 - (h) "Guaranteed maximum price" means the maximum payment amount agreed upon by the department and the design-build entity for the design-build entity to finish all remaining design, preconstruction, and construction activities sufficient to complete and close out the demolition of Building 38 or the remainder of the design-build project.
 - (i) "Progressive design-build" means a project delivery process in which the design, preconstruction services and construction of a project are procured, in one or more stages, from a single design-build entity that is selected through a qualifications-based selection at the earliest feasible stage of the project. However, the progressive design-build model offers flexibility to retain a different entity for the construction phase of the project, should the parties be unable to agree, after a specified portion of the design phase is complete, on a guaranteed maximum price for the construction phase.
 - (j) "Qualifications-based selection" means the process by which the department solicits for services from the design-build entities and that best value is the basis of award.

10199.1.

- (a) Notwithstanding any other law, the director may procure progressive design-build contracts for the design-build project.
- (b) The director shall develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for the department relating to the

solicitation of a design-build project, to submit a statement of qualifications, a proposal, or both as a design-build entity, or to join a design-build team.

10199.2.

The procurement process for progressive design-build project shall progress as follows:

- (a) The department shall determine the scope and estimated price of the project. The determination may include, but need not be limited to, the size, type, and desired design character of the project and any other information deemed necessary to describe adequately the department's needs.
- (b) The department shall prepare and issue a request for qualifications. The request for qualifications shall include, but is not limited to, the following elements:
 - (1) Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the department to evaluate qualifications, the procedure for final selection of the design-build entity, and any other information deemed necessary by the department to inform interested parties of the contracting opportunity.
 - (2) Significant factors that the department reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The department may require that a cost estimate, including the detailed basis for the estimate, be included in the design-build entities' responses and consider those costs in evaluating the statements of qualifications.
 - (3) The relative importance or the weight assigned to each of the factors identified in the request for qualifications.
 - (4) A request for statements of qualifications with a template for the statement that is prepared by the department. The department shall require all of the following information in the statement and indicate, in the template, that the following information is required:
 - (A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the entity's shareholders, partners, or members known at the time of the statement of qualification submission who will perform work on the project.
 - (B) Evidence that the members of the design-build team have completed, or have demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to

complete the project.

- (C) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.
- (D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.
- (E) Information concerning workers' compensation experience history and a worker safety program.
- (F) If the proposed design-build entity is a corporation, limited liability company, partnership, joint venture, or other legal entity, a copy of the organizational documents or agreement committing to form the organization.
- (G) An acceptable safety record. A proposer's safety record shall be deemed acceptable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the proposer is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.
- (H) A full disclosure regarding each of the following, if applicable:
 - (i) Any serious or willful violation of Part 1 (Commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against any member of the design-build entity.
 - (ii) Any debarment, disqualification, or removal from a federal, state, or local government public works project.
 - (iii) Any instance in which the design-build entity, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.
 - (iv) Any instance in which the design-build entity, or its owners, officers, or managing employees defaulted on a construction contract.
 - (v) Any violations of the Contractors' State License Law as described in Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, including alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or federal Insurance Contribution Act

withholding requirements settled against any member of the design-build entity.

(vi) Any bankruptcy or receivership of any member of the design-build entity, including, but not limited to, information concerning any work completed by a surety.

(vii) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid under this article, in which the claim, settlement, or judgment exceeded fifty thousand dollars (\$50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.

- (5) The information provided by a design-build entity in response to a request for qualifications shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

(c)

- (1) Following the deadline for submission of a statement of qualifications, the department shall review the submissions. The department may evaluate submissions based solely upon the information provided in each design-build entity's statement of qualifications. The department may also interview some or all of the design-build entities to further evaluate their qualifications for the project. The department may also hold discussions or negotiations with design-build entities using the process described in the department's request for qualifications.
- (2) For each request for qualification, the department shall generate a final list of qualified design-build entities that participated in the request for qualifications prior to entering into negotiations for the contract or contracts to which the request for qualifications applies.
- (3) If submissions in response to a request for qualifications provide sufficient information to determine which qualified design-build entity has offered the best value to the public, the department may enter into negotiations with the entity concerning contract terms and award a contract or contracts for design and preconstruction services for the demolition of Building 38 and the remainder of the design-build project to that entity. Such contract or contracts shall provide for the subsequent negotiation of terms governing the construction phase of the demolition of Building 38 and the remainder of the design-build project. If the department is unable to negotiate a satisfactory contract or contracts with that entity for design and preconstruction services, the department may undertake negotiations with another qualified design-build entity that participated in the request for qualifications process.

- (4) If additional information is necessary to determine which qualified design-build entity offers the best value to the public, the department may prepare a further request for proposals, based on the documents prepared as described in subdivision (a) that invites qualified design-build entities identified pursuant to subdivision (c)(2) to submit competitive sealed proposals in the manner prescribed by the department.
- (d) Notwithstanding any other provision of this code, upon issuance of a contract award, the department shall publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the contract award and the contract file shall provide sufficient information to satisfy an external audit.

10199.3.

- (a) The design-build entity shall provide payment and performance bonds for the project in the form and in the amount required by the director, which are issued by a California admitted surety. The amount of the payment bond shall not be less than the amount of the performance bond.
- (b) The design-build contract shall require errors and omissions insurance coverage for the design elements of the project.
- (c) The department shall develop a standard form of payment and performance bond for its design-build project.

10199.4.

- (a) After selecting a design-build entity for the design and preconstruction phase, the department may enter into a contract or contracts and direct the design-build entity to begin design and preconstruction activities sufficient to establish a separate guaranteed maximum price for the demolition of Building 38 and the remainder of the design-build project.
 - (1) Subject to Section 13332.19 of the Government Code, upon agreement of the guaranteed maximum price for the demolition of Building 38 or the remainder of the design-build project, the department, at its sole and absolute discretion, may amend its contract or contracts with the design-build entity or enter into a new contract or contracts, and direct the design-build entity to complete the remaining design, preconstruction, and construction activities sufficient to complete and close out the demolition of Building 38 or the remainder of the design-build project, and may add funds not exceeding the guaranteed maximum price to the contract for these activities. Neither amendment of the existing contract or contracts nor entering into a new contract or contracts with the design-build entity shall require any additional competitive

process. Nothing provided herein shall require the department to amend an existing contract or enter into a new contract for remaining design, preconstruction, or construction activities.

- (2) If the cost for completing all remaining design, preconstruction, and construction activities sufficient to complete and close out the project exceed the guaranteed maximum price, the costs exceeding the guaranteed maximum price shall be the responsibility of the design-build entity. If the cost for these activities are less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the cost and the guaranteed maximum price. These amounts shall revert to the fund from which the appropriation was made.
- (b) If the department and the design-build entity do not reach agreement on a guaranteed maximum price for the demolition of Building 38 or the remainder of the design-build project, or the department otherwise elects not to amend the design-build entity's contract or contracts to complete the demolition of Building 38 or the remainder of the design-build project, the department may solicit proposals to complete the demolition of Building 38 or the remainder of the design-build project from firms that submitted statements of qualifications pursuant to Section 10199.2. The department may also, upon written determination that it is in the best interest of the state to do so, formally solicit proposals from other design-build entities to complete the demolition of Building 38 or the remainder of the design-build project or complete such work using other delivery methods. Subject to Section 13332.19 of the Government Code, contract award shall be made on a best value basis.

10199.5.

- (a) In the request for qualifications or request for proposals, the department may identify specific types of subcontractors that shall be included in the design-build entity's statement of qualifications. All construction subcontractors that are identified in the statement of qualifications shall be afforded the protections of Chapter 4 (commencing with Section 4100) of Part 1.
- (b) Following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications or proposal, the design-build entity shall proceed as follows in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work.
 - (1) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the department, including a fixed date and time on which qualifications statements, bids, or proposals will be due.
 - (2) Establish reasonable qualification criteria and standards.

- (3) Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing.
- (c) Subcontractors awarded construction subcontracts under this subdivision shall be afforded all the protections of Chapter 4 (commencing with Section 4100) of Part 1.

10199.6.

Nothing in this article affects, expands, alters, or limits any rights or remedies otherwise available at law.

State Historic Preservation Exemption

The following changes to the Public Resource Code are needed to allow California Department of Corrections and Rehabilitation to expedite the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center and San Quentin Rehabilitation Center, San Quentin: Improvement Projects.

Section 5029.7 of the Public Resource Code is added to read:

5029.7.

- (a) Subdivision (f) of Section 5024 shall not apply to the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects authorized in the 2023 Budget Act, or any actions or approvals related to those projects.
- (b) Section 5024.5 shall not apply to any actions related to the demolition, design, or construction of the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects authorized in the 2023 Budget Act.

California Environment Quality Act Exemption

The following changes to the Public Resource Code are needed to allow California Department of Corrections and Rehabilitation to expedite the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center and San Quentin Rehabilitation Center, San Quentin: Improvement Projects. Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Project located on the grounds of the San Quentin Rehabilitation Center.

Section 21099 of the Public Resource Code is added to read:

21099.

This division does not apply to the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects located on the grounds of the San Quentin Rehabilitation Center.

"5225-301-0001—For capital outlay, Department of Corrections and Rehabilitation..... ~~81,749,000~~ 107,225,000

Schedule:

- (1) 0000322-California Correctional Institution, Tehachapi: Health Care Facility Improvement Program1,000
 - (a) Construction.....1,000
- (2) 0000337-California Men's Colony, San Luis Obispo: Health Care Facility Improvement Program.....1,000
 - (a) Construction1,000
- (3) 0000344-California State Prison, Corcoran: Health Care Facility Improvement Program.....1,000
 - (a) Construction1,000
- (4) 0000350-California State Prison Solano, Vacaville: Health Care Facility Improvement Program.....1,100,000
 - (a) Construction1,100,000
- (5) 0000351-California Substance Abuse Treatment Facility and State Prison, Corcoran: Health Care Facility Improvement Program A.....1,000
 - (a) Construction1,000
- (6) 0000353-Central California Women's Facility, Chowchilla: Health Care Facility Improvement Program2,507,000
 - (a) Construction2,507,000
- (7) 0000390-North Kern State Prison, Delano: Health Care Facility Improvement Program.....2,299,000
 - (a) Construction2,299,000
- (8) 0000403-Valley State Prison, Chowchilla: Health Care Facility Improvement Program.....1,000
 - (a) Construction1,000
- (9) 0000404-Wasco State Prison, Wasco: Health Care Facility Improvement Program.....2,906,000
 - (a) Construction2,906,000
- (10) 0000660-Pleasant Valley State Prison, Coalinga: Health Care Facility Improvement Program1,232,000
 - (a) Construction1,232,000
- (11) 0001372-Pelican Bay State Prison, Crescent City: Fire Suppression Upgrade.....35,036,000
 - (a) Construction35,036,000
- (12) 0004989-Valley State Prison, Chowchilla: Arsenic and Manganese Removal Water Treatment Plant.....34,203,000
 - (a) Construction34,203,000

(13)	0009720-California State Prison, Corcoran: Correctional Treatment Center Individual Exercise Yards.....	1,536,000
	(a) Construction.....	1,536,000
(14)	0009721-California State Prison, Corcoran: Radio Tower and Equipment Vault.....	925,000
	(a) Working drawings.....	925,000
(15)	<u>0011472-San Quentin Rehabilitation Center, San Quentin: Improvement Projects.....</u>	<u>20,000,000</u>
	<u>(a) Preliminary plans.....</u>	<u>19,998,000</u>
	<u>(b) Working drawings.....</u>	<u>1,000</u>
	<u>(c) Construction.....</u>	<u>1,000</u>

Provisions:

1. Notwithstanding any other law, the Director of Finance may, pursuant to a request by the Department of Corrections and Rehabilitation, authorize the augmentation of the amounts appropriated for expenditure on projects identified in Schedules (1) through (10) by making a transfer from any such project to another project identified in Schedules (1) through (10).
2. Notwithstanding any other law, the Department of Corrections and Rehabilitations may award one or more contracts for each of the various components of the project identified in Schedule (15), including the demolition component and construction component.
3. For the project identified in Schedule (15), the approvals of preliminary plans and working drawings by the Department of Finance and the State Public Works Board pursuant to Section 13332.11 of the Government Code for each project component may occur on different schedules. The funds appropriated in Schedule (15) for working drawings and construction may be expended on a component of the project upon approval of preliminary plans by the Department of Finance and the State Public Works Board for the component.
4. Notwithstanding any other law, Department of Corrections and Rehabilitation may use Inmate Ward Labor for the project in Schedule (15) without the State Public Works Board approval.
5. Notwithstanding any other law, the Director of Finance may, pursuant to a request by the Department of Corrections and Rehabilitation, authorize the augmentation of the amounts appropriated for the phases identified in Schedule (15) by making a transfer from any such phase to another phase identified in Schedule (15).

6. For the project identified in Schedule (15), section 7003 of the Penal Code shall not apply. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to approval of preliminary plans for the project identified in Schedule (15) by the State Public Works Board."

5225-491—Reappropriation, Department of Corrections and Rehabilitation. The balances of the appropriations provided, or the specified dollar amount, if provided, in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in those appropriations. The balances of the appropriations provided shall be available for encumbrance or expenditure until June 30, 2026:

0001—General Fund

- (1) Up to \$849,000 in Item 5225-301-0001, Budget Act of 2020 (Ch.7, Stats. 2020), as partially reappropriated by Item 5225-491, Budget Act of 2022 (Chs. 43, 45, and 249, Stats. 2022), as follows:
 - (15) 0004989-Valley State Prison, Chowchilla: Arsenic Removal Water Treatment Plant
 - (a) Working drawings



May 12, 2023

Honorable Nancy Skinner, Chair
Senate Budget and Fiscal Review Committee

Attention: Elisa Wynne, Staff Director

Honorable Phil Ting, Chair
Assembly Budget Committee

Attention: Christian Griffith, Chief Consultant

Amendments to and addition of Various Budget Bill Items, Support, Board of State and Community Corrections

Post Release Community Supervision Population—It is requested that Item 5227-106-0001 be increased by \$1,107,000 one-time to adjust the amount provided to county probation departments to supervise offenders on Post Release Community Supervision. The adjustment reflects a revised estimate of the temporary increase in the number of offenders expected to be released to Post Release Community Supervision as a result of the Public Safety and Rehabilitation Act of 2016 (Proposition 57).

Technical Adjustment to Shift the Reduction of 2023-24 Appropriations—It is requested that Item 5227-116-2023 be decreased by \$50 million one-time for the Public Defender Indigent Defense Pilot Program due to declining General Fund revenues. This still allows funding for two full years of the grant program and funding for the program evaluation, as planned. The Governor's Budget reverted these funds in statewide Control Section 4.07. This is a technical adjustment to provide transparency at the department/agency level by shifting the reversions from the statewide control section to the applicable departmental budget.

Local Law Enforcement Gun Buyback Program Grants Reduction—It is requested that the original unexpended local assistance appropriation of \$25 million in Item 5227-120-0001, Budget Act of 2022, be reverted from the Board of State and Community Corrections. The May Revision proposes reallocating these funds to the Office of Emergency Services in 2023-24. The funds will be used for the intended purpose of supporting gun buyback programs to reduce gun violence. The Office of Emergency Services will consult local entities in the awarding of grants and disburse grants by January 1, 2024.

Missing and Murdered Indigenous Persons—It is requested that Item 5227-122-0001 be added in the amount of \$12 million one-time General Fund in 2023-24, with provisional language, to fund a competitive grant program to assist tribes in locating, identifying, and preventing missing Indigenous persons, consistent with the provisions of the 2022

Budget Act (see Attachment 1). Additionally, it is requested that these funds be made available for encumbrance or expenditure for three years, until June 30, 2026

Transitional Housing Services for Additional Youth—It is requested that Item 5227-401 be added, with provisional language, to allow funds included in Item 527-124-0001, Budget Act of 2022 to be used for transitional housing services to youth returned to local custody following to closure of the Division of Juvenile Justice who are subsequently released by the juvenile court (see Attachment 2)

Medication-Assisted Treatment Grant Program, Reappropriation—It is requested that Item 5227-493 be added to reappropriate \$500,000 General Fund in Item 5227-001-0001, Budget Act of 2022, for encumbrance or expenditure through June 30, 2027, to administer the Medication-Assisted Treatment Grant Program allocated through Control Section 19.56(d)(6)(C) (see Attachment 3).

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please contact Cynthia Mendonza, Principal Program Budget Analyst, at (916) 445-8913.

JOE STEPHENSHAW

Director

By:

/s/ Erika Li

ERIKA LI

Chief Deputy Director

Attachment

cc: Honorable Anthony J. Portantino, Chair, Senate Appropriations Committee
Attention: Mark McKenzie, Staff Director
Honorable Roger W. Niello, Vice Chair, Senate Budget and Fiscal Review Committee
Attention: Kirk Feely, Fiscal Director
Honorable Chris R. Holden, Chair, Assembly Appropriations Committee
Attention: Jay Dickenson, Chief Consultant
Honorable Vince Fong, Vice Chair, Assembly Budget Committee
Attention: Joseph Shinstock, Fiscal Director
Honorable Maria Elena Durazo, Chair, Senate Budget and Fiscal Review Subcommittee
No. 5
Honorable Mia Bonta, Chair, Assembly Budget Subcommittee No. 5
Gabriel Petek, Legislative Analyst
Christopher W. Woods, Senate President pro Tempore's Office
Jason Sisney, Assembly Speaker's Office
Paul Dress, Caucus Co-Chief of Staff, Assembly Republican Leader's Office
Katja Townsend, Capitol Director, Assembly Republican Leader's Office
Kathleen T. Howard, Executive Director, Board of State and Community Corrections

5227-122-0001—For local assistance, Board of State and Community
Corrections.....12,000,000

Schedule:

(1) 4945-Corrections Planning and Grant Programs12,000,000

Provisions:

1. These funds shall be awarded by the Board of State and Community Corrections as competitive grants to federally-recognized Indian tribes in California to support efforts to identify, collect case-level data, publicize, and investigate cases involving missing and murdered indigenous people.
2. Grants should focus on activities including, but not limited to, developing culturally based prevention strategies, strengthening responses to Human Trafficking, and improving cooperation and communication on jurisdictional issues between state, local, federal, and tribal law enforcement.
3. Of the amount identified in this item, up to 5 percent shall be available to the Board of State and Community Corrections for transfer to Schedule (1) of Item 5227-001-0001 for costs to administer the grant programs. Funds transferred pursuant to this provision are available for encumbrance or expenditure until June 30, 2027.
4. Funds appropriated in this item are available for encumbrance and expenditure until June 30, 2026.

5227-401—In addition to the conditions specified in Provisions 1 and 3 of Item 5227-124-0001, Budget Act of 2022, funding appropriated in that item may be used to serve youth who are at risk of homeless who have been returned to local custody from the Division of Juvenile Justice pursuant to Chapter 337, Statutes of 2020 (SB 823) and Chapter 18, Statutes of 2021 (SB 92), and who are subsequently released by the juvenile court on or after July 1, 2023.

5227-493 – Reappropriation, Board of State and Corrections. The amount specified in the following citations are reappropriated for the purposes provided for in those appropriations \$ and shall be available for encumbrance or expenditure until June 30, 2027.

0001—General Fund

(1) \$500,000 in Item 5227-001-0001, Budget Act of 2022. This amount is reappropriated for the purposes of administering the Medication-Assisted Treatment Grant Program