

**AGENDA****ASSEMBLY BUDGET SUBCOMMITTEE NO. 3  
ON CLIMATE CRISIS, RESOURCES, ENERGY, AND TRANSPORTATION****ASSEMBLYMEMBER RICHARD BLOOM, CHAIR****WEDNESDAY, MAY 11, 2022  
9:30 A.M. – STATE CAPITOL, ROOM 444****NON-PRESENTATION CALENDAR**

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### ***Public Comment***

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*The public may attend this hearing in person or participate by phone. Any member of the public attending this hearing is strongly encouraged to wear a mask at all times while in the building location. This hearing can be viewed via live stream on the Assembly's website at <https://assembly.ca.gov/todaysevents>.*

*We encourage the public to provide written testimony before the hearing. Please send your written testimony to: [BudgetSub3@asm.ca.gov](mailto:BudgetSub3@asm.ca.gov). Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.*

*A moderated telephone line will be available to assist with public participation. The public may provide comment by calling the following toll-free number: **877-692-8957 / Access Code: 131 54 44.***

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## NON-PRESENTATION ITEMS

### VARIOUS

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#### ISSUE 1: BUDGET CONTROL SECTION 20.00: REAPPROPRIATIONS AND REVERSIONS (SFL)

A Spring Finance Letter requests that Control Section 20.00 be added to restructure the reappropriation and reversion process for specified bonds and non-governmental cost funds.

According to the Administration, this process will streamline workload for numerous departments and the Legislature by reducing the amount of technical budget bill language required for inclusion into the annual Budget Act, while still providing transparency and notification to the Legislature.

#### BACKGROUND

Currently, the Legislature must approve any extension of the encumbrance or expenditure period of bond funds for projects that are not complete. In addition, the Legislature must approve any proposed reversion of unliquidated bond funds. Every year, the Budget Act includes a lengthy list of projects that need additional time to be completed and funds that need to be reverted.

The Administration is proposing to change the process to allow the Director of Finance to authorize an extension, up to three years, or a reversion of unspent funds after providing a written 30-day notification to the Joint Legislative Budget Committee (JLBC) and the appropriate fiscal committees and subcommittees in both houses of the Legislature.

Any adjustments that request new appropriations, reductions to budget year appropriations, or request to adjust the purpose of an existing appropriation will still require a Budget Change Proposal and be submitted to the Legislature for consideration and approval.

The new control section would create an administrative approval process for following funds:

#### Natural Resources and Environmental Protection

- River Parkway Subaccount
- Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund
- Flood Protection Corridor Subaccount
- Urban Stream Restoration Subaccount
- Bay-Delta Multipurpose Water Management Subaccount
- California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund
- Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002
- Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006

- Water Quality, Supply, and Infrastructure Improvement Fund of 2014
- California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Fund

### Higher Education

- 2004 Higher Education Capital Outlay Bond Fund
- 2006 California Community College Capital Outlay Bond Fund
- 2016 California Community College Capital Outlay Bond Fund

### General Government

- Public Buildings Construction Fund
- Public Buildings Construction Fund Subaccount

### LAO COMMENTS

**Governor Proposes New Bond Reappropriation and Reversion Process Through Control Section 20.00.** The administration proposes to add control section language to the annual budget act that would allow the Department of Finance (DOF) to extend the encumbrance and liquidation deadlines for and revert various bond and non-governmental cost funds upon providing the JLBC with a 30-day notification. The funds proposed to be covered by this process include, for example, lease revenue bonds, as well as a number of General Obligation bond funds. (Currently, the administration must submit a budget change proposal through the traditional budget process to request reappropriations and reversions associated with such funds). According to DOF, this proposal is intended to reduce the amount of technical workload associated with making reappropriation and reversion requests. DOF further indicates that its intent is to retain transparency by including a spreadsheet with certain key information about the requested extensions and reversions (such as relevant dates and dollar amounts) along with the JLBC notification, and to limit its use of this new authority to technical actions that would not be expected to raise concerns. Under the proposed language, notifications could be submitted at any time during the year. However, DOF indicates that it anticipates submitting the majority of proposed extensions and reversions as part of two submissions per year, likely one in January/February and one in April/May.

**Proposal Has Some Merit, But Recommend Modifications to Increase Legislative Oversight.** The Legislative Analyst's Office (LAO) finds the concept of streamlining the process for the administration to request technical, non-controversial reappropriations/extensions and reversions of certain bond and non-governmental funds to be reasonable. However, in general, the JLBC process can make it more challenging for the Legislature to perform its oversight role than the traditional budget process. Accordingly, ensuring that the administration limits its use to cases that are indeed technical and non-controversial will be important, and any revised process should provide the Legislature with the time and information necessary to facilitate its review. The LAO recommends that the Legislature consider modifying the proposed language in the following areas:

- **Types of Projects Covered.** The LAO recommends that the Legislature consider adding additional limitations on this new authority to ensure that it only applies to

projects and programs for which the Legislature is comfortable that a JLBC process would provide adequate oversight. For example, the Legislature could consider excluding certain bond-funded projects from this process if there are concerns that these projects may require additional oversight. For example, greater oversight of prison projects that are not on track to be completed in the timeline initially presented to the Legislature could be warranted. This is because inmate population projections indicate that the state could be in a position to close around four additional prisons (beyond the one prison already identified by the administration for closure) within the next several years and it would not be cost-effective to reappropriate funds to continue projects at prisons that could be closed. Accordingly, the Legislature may wish to consider excluding the California Department of Corrections and Rehabilitation's (CDCR's) prison projects from this process to preserve its current oversight of prison infrastructure projects. Alternatively or additionally, the Legislature could consider excluding bond-funded projects that meet certain criteria from this process. For example, the Legislature could exclude lease-revenue funded projects that (1) are above a certain dollar threshold if it is concerned about applying the proposed process to very large legislatively-established projects or programs (such as CDCR's Health Care Facility Improvement Program, which totaled over \$1 billion in lease revenue bonds) or (2) have already received one or more previous reappropriations/extensions due to concerns about projects that have continuously experienced lengthy delays.

- **Timing.** It is more difficult for the Legislature to adequately review JLBC notifications that are received during periods of peak budget workload. Accordingly, recommend the Legislature consider adding language to the proposed control section requiring corresponding JLBC notifications to be submitted prior to May 1<sup>st</sup> each year. If the administration would like to request additional funding extensions or reversions after May 1<sup>st</sup>, it could do so through a traditional budget request.
- **Information Provided.** According to the conversations between LAO and DOF, the administration intends to provide a spreadsheet with certain key information on the proposed extensions along with the JLBC notification in order to facilitate legislative review. In order to memorialize DOF's intent for the benefit of future policymakers, the LAO recommends that the Legislature add language to the control section requiring that this information be provided as part of the notification.

#### STAFF COMMENTS

Consistent with the LAO's recommendation, staff recommends adopting the proposal with modifications including excluding CDCR projects, requiring key information in order to vet the proposals, and submitting proposals prior to May 1 each year. Additionally, staff recommends excluding reversions.

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**Staff Recommendation: Hold Open.**

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**3790 DEPARTMENT OF PARKS AND RECREATION**

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**ISSUE 2: PARK ENCUMBRANCE AND LIQUIDATION EXTENSIONS**

Staff recommends adopting 33 encumbrance and liquidation extensions for local park projects.

The list of projects can be found on the Assembly Budget Subcommittee Number 3's website.

**Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.**

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**2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION**

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**ISSUE 3 : FI\$CAL ONBOARDING PLANNING**

Through a Spring Finance Letter, the Governor's budget requests a one-time increase of \$1,609,000 from the State Highway Account to support 10 administrative services positions in the Division of Accounting and Division of Information Technology for Caltrans. These resources will support the increased workload for preliminary planning activities required in preparation for Caltrans on-boarding to the FI\$Cal System.

**BACKGROUND**

Caltrans implemented a commercial off-the-shelf enterprise resource planning system, CGI Advantage v3.7, in July 2010. As a result of this approved enterprise financial management system effort, Caltrans was deferred from the System with the understanding that Caltrans would seek approval from the Department of FISCAL (FI\$Cal) when Caltrans needed to upgrade its software.

FI\$Cal conducted a functional business fit/gap analysis in May 2020 and issued its conclusion in October 2020. Although the fit/gap analysis identified gaps between the System and Caltrans' business needs, FI\$Cal informed Caltrans in February 2021 that it believes the gaps could be mitigated and Caltrans would on-board to the System.

**STAFF COMMENTS**

According to Caltrans these resources are needed to initiate the preliminary planning stage. The preliminary planning stage will include, but is not limited to, a thorough review of the Caltrans Master Department Workplan (MDW) provided by FI\$Cal to determine a comprehensive on-boarding schedule and the resources needed beyond 2022-23 through the projected 'go-live' date. In addition, the resources requested will support increased workload related to an in-depth

review of the fit/gap analysis, documenting the “as-is’ business processes, interface and conversion assessments, and Fiscal Learning Center (FLC) training for Caltrans.

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**Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.**

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## **2720 CALIFORNIA HIGHWAY PATROL**

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### **ISSUE 4: EMERGENCY 911 AND DISPATCH AUDIO LOGGING SYSTEM REPLACEMENT**

Through a Spring Finance letter, the Governor’s budget includes \$21 million over six fiscal years (\$7.949 million in 2022-23, \$6.166 million in 2023-24, \$1.945 million in 2024-25, \$2.003 million in 2025-26, \$2.063 million in 2026-27, and \$0.874 million in 2027-28) from the Motor Vehicle Account to replace obsolete 9-1-1 and public safety radio communications audio logging systems currently in use at the CHP’s 24 communications centers. The request includes a disaster recovery system to meet continuity of operations requirements.

#### **BACKGROUND**

The CHP is responsible for 24 Communication Centers (CCs) throughout the state. The 24 CCs serve the public and allied agencies statewide as primary public safety answering points, responding to 9-1-1 emergency calls and radio transmissions. All CCs are equipped with a primary-redundant audio logging system to capture 9-1-1 and mission critical telephone calls and radio transmissions between CHP dispatchers/operators, the public, CHP field personnel, and allied agencies.

California Penal Code Section 13730 requires each law enforcement agency to have a system to record domestic violence-related calls for assistance made to the Department, including whether weapons are involved, or the incident involved strangulation or suffocation. The use of a 9-1-1 and public safety radio communications audio logging recording system which captures every call, irrespective of the number dialed (emergency vs non-emergency), ensures adherence to this statute.

The current audio logging systems were procured beginning in 2014-15. The useful life expectancy of these systems is five to seven years. The current system is at its end-of-life, and end-of-support as of December 31, 2023, at which time the vendor will cease to support the current system.

Additionally, the Administration has indicated that the existing 9-1-1 and public safety radio communications audio logging system does not meet the required disaster recovery standards set forth by the Department and its Information Security Office. The proposed replacement system is likely to have increased functionality and allow the CHP to better manage its audio

logs for investigation and evidentiary purposes. The replacement audio logging system will also meet the CHP's disaster recovery requirements.

**STAFF COMMENTS**

Staff has no concerns with this proposal and recommends approval.

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**Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.**

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**ISSUE 5: SANTA ANA CAPITAL OUTLAY AND TRAILER BILL LANGUAGE**

Through a Spring Finance Letter, the California Highway Patrol (CHP) requests trailer bill language to allow the Santa Ana Area Office Replacement project to proceed as a Build to Suit Lease.

**BACKGROUND**

This project was originally funded in 2017 but was suspended in 2019 as constraints within the Motor Vehicle Account precluded using that fund for California Highway Patrol (CHP) area office projects.

This request will restore the authority and allow the project to resume. The current 7,983 square-foot Santa Ana Area office was opened in 1968 and has 128 staff assigned. Since the facility's opening, numerous changes have occurred which have rendered the facility ineffective for operational needs. These changes include additional staff resources as well as new space requirements arising from new CHP policies and legislative requirements. Further, based on a structural evaluation performed by the Department of General Services in 2009, this building has a rating of six on the seven-point seismic scale, indicating a significant risk of major damage in a severe earthquake.

A draft of the proposed trailer bill language reads as follows:

Proposed Government Code section 14669.23:

(a) The Department of General Services, with the consent of the Department of the California Highway Patrol, may enter into a lease-purchase agreement, or lease with an option to purchase agreement, for a build-to-suit office facility to replace the California Highway Patrol area office in Santa Ana in the County of Orange. The new facility shall be located in the California Highway Patrol's Santa Ana service area on approximately five acres and shall be designed and built to standards prescribed in the Essential Services Buildings Seismic Safety Act of 1986 (Chapter 2 (commencing with Section 16000) of Division 12.5 of the Health and Safety Code). This replacement facility project shall have oversight, testing, and inspection in a manner consistent



with state infrastructure projects. The facility shall be anticipated to contain approximately 41,000 square feet of office space together with ancillary improvements to include, but not be limited to, an automotive service area, a fuel island, a truck and bus citation clearance area, a communications tower with radio vault, public parking for the main building, and secured parking for patrol vehicles.

(b) Any lease and all related agreements authorized by this section are subject to Department of Finance approval, the legislative notice requirements prescribed in Section 13332.10, and the Property Acquisition Law (Part 11 (commencing with Section 15850)).

#### STAFF COMMENTS

Staff has no concerns.

**Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.**

## 2660 CALIFORNIA TRANSPORTATION COMMISSION

### ISSUE 6: TRANSPORTATION EQUITY WORKLOAD

Through a Spring Finance Letter, the Governor's budget includes an increase in its budgetary authority in the amount of \$218,000 (\$116,000 State Highway Account and \$102,000 Public Transportation Account) for one full-time permanent position to respond to increased workload focused on transportation equity.

#### BACKGROUND

In response to strong state and federal policy direction around increasing equity in transportation policy, the Commission has embraced a substantial increase in its workload associated with improving transportation equity and community engagement practices and outcomes throughout California. The increased workload consists of five main work streams:

- Development and Implementation of a Racial Equity Statement
- Development and Operation of an Equity Advisory Roundtable
- Conducting Statewide Listening Sessions
- Formation and Operation of an Equity Advisory Committee
- Updating Project Funding Guidelines to Ensure Equitable Project Outcomes

With limited existing resources, the Commission began implementation of these five new permanent work streams in 2020–2021.

According to the Administration, to meet the demands of this new workload, a single Supervising Transportation Planner position would perform the essential duties of leading and managing these five new and ongoing work streams including the following:

- Lead the implementation, update, and continuous refinement of the Racial Equity Statement and associated activities.
- Lead the formation and operations of the Equity Advisory Roundtable including managing membership, coordinating and facilitating all meetings, leading policy discussions and supporting the development of Roundtable recommendations to the Commission.
- Co-Lead the Statewide Equity Listening Sessions with Caltrans and the California State Transportation Agency.
- Lead the Formation and Operation of an Interagency Equity Advisory Committee. Manage permanent committee operations including coordinating meetings, setting policy agendas and topics, facilitating complex interagency policy discussions, and supporting the development of recommendations to the Commission, Caltrans, and the California State Transportation Agency on statewide equity initiatives for transportation plans and funding programs.
- Updating Project Funding Guidelines to Ensure Equitable Outcomes. Serve as the transportation equity subject matter expert at the Commission to support policy development for all Commission administered transportation funding programs including but not limited to: the Statewide Transportation Improvement Program, the State Highway Operations and Protection Program, the Solutions for Congested Corridors Program, the Trade Corridor Enhancement Program, and the Local Partnership Program.

<b>STAFF COMMENTS</b>
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Staff has no concerns with this proposal and recommends approval at a future hearing.

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**Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.**

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## ITEMS TO BE HEARD

### VARIOUS

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#### ISSUE 1: FUNDING FOR NATURE BASED SOLUTIONS

The Governor's May Revision requests to allocate \$768 million in General Fund for the previously agreed to Nature-Based Solutions set aside in 2022-23 and 2023-24 to support implementation of the 30x30 Pathways, and Natural and Working Lands Climate Smart Strategies, and to execute on the Governor's nature-based solution agenda as called for in Executive Order N-82-20.

This also includes seven positions at the Wildlife Conservation Board.

#### PANEL

- Amanda Hansen, Deputy Secretary for Climate, California Natural Resources Agency
- Jen Norris, Deputy Secretary for Biodiversity and Habitat, California Natural Resources Agency
- Lizzie Urie, Staff Finance Budget Analyst, Department of Finance,
- Krystal Acierto, Principal Program Budget Analyst, Department of Finance
- Helen Kerstein, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

#### BACKGROUND

In last year's budget, the Legislature and the administration agreed to set aside at least \$768 million for nature based solutions to climate change, as a part of the three year climate resilience package. SB 155 (Chapter 258, Statutes of 2021) outlined eligible projects including:

- Activities that support implementation of the state's 30 by 30 goal to conserve 30 percent of lands and coastal waters by 2030 and support their long-term protection.
- Protection of California's fish and wildlife resources in response to changing climate conditions and the highly variable habitat needs of fish and wildlife.
- Restoration and stewardship projects that restore or manage the land to improve its resilience to climate impacts and natural disasters and support carbon neutrality, including through controlling or eradicating invasive plants and species, as well as the protection of lakes, streams, and rivers.
- Development and implementation of natural community conservation plans, habitat conservation plans, and regional conservation investment strategies.
- Activities that support healthy urban streams and rivers, including, but not limited to, the Los Angeles River and Parkway and the Guadalupe River.
- Acquisitions, including in-fee, conservation easements, and long-term management.
- Floodplain restoration projects that provide multiple benefits, including migratory bird habitat, and salmon, steelhead trout, splittail, and other native species recovery.
- Intertidal wetland, tidal marsh, and wetland habitat protection or restoration projects.

- Activities to accelerate climate smart management of California's natural and working lands, including, but not limited to, efforts to scale nature-based climate solutions in climate vulnerable communities, increase landscape health and connectivity, scale climate smart agriculture, and support workforce training for high road nature-based careers.
- Projects that are adjacent and accessible to urban populations and disadvantaged communities.
- This section does not apply to projects for which natural resource restoration or conservation is a secondary purpose, or to projects that include restoration solely for purposes of meeting regulatory requirements.

Since then, the administration has held a stakeholder process to develop the 30 by 30 strategy to conserve 30% of our land and oceans. California is currently at 24% of lands (leaving 6 million acres to go) and 16% of coastal waters (leaving 500,000 acres to go).

The Administration's proposal is as follows:

Investment Category	Department	Program	2022-23	2023-24	Total
Nature-Based Solutions Programs	Wildlife Conservation Board	Forest Conservation Program			
		Oak Woodlands Conservation Program			
		California Desert Conservation Program			
		Rangeland, Grazing Land and Grassland Protection Program	\$200	45	\$245
		California Riparian Habitat Conservation Program			
		Natural and Working Lands Climate Adaptation and Resiliency Program			
	Department of Fish & Wildlife Delta Conservancy	Nature-Based Solutions Wetlands Restoration Program	\$54	\$0	\$54
			\$36	\$0	\$36
	Department of Conservation	Multibenefit Land Repurposing Program	\$0	\$20	\$20
	Department of Food & Agriculture	Healthy Soils Program	\$0	\$10	\$10
	CALFIRE	Wildland Grazing (Wildfire Prevention Grant Program)	\$5	\$5	\$10
Supporting Regional Action	State Conservancies*	Support for Nature-Based Solutions	\$60	\$60	\$120
	Department of Fish & Wildlife	Wildlife Corridors	\$50	\$0	\$50
		Natural Community Conservation Program Planning and Land Acquisition	\$36	\$0	\$36
	Department of Conservation	Climate Smart Land Management Program	\$14	\$6	\$20
	Wildlife Conservation Board	Resource Conservation Investments Strategies	\$2	\$3	\$5
Expanding Educational and Economic Opportunities for Youth Climate Leaders	Conservation Corps	Local and Tribal Nature-Based Solutions Corps	\$35	\$17	\$52
Partnering with California Native American Tribes	Natural Resources Agency	Tribal Nature-Based Solutions Program	\$100	\$0	\$100
Additional Strategic Investments	CalRecycle	Compost Permitting Pilot Program	\$0.5	\$7	\$7.5
	Natural Resources Agency	Nature-Based Solutions Partnerships and Improvements	\$0.25	\$1.75	\$2.0
	Natural Resources Agency	CA Nature Support	\$0.25	\$0.25	\$0.5
Total			\$593	\$175	\$768

*State Conservancies Breakout	2022-23	2023-24	Total
Santa Monica Mountains Conservancy	\$11.1	\$11.1	\$22.2
Sierra Nevada Conservancy	\$11.1	\$11.1	\$22.2
San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	\$11.1	\$11.1	\$22.2
San Diego River Conservancy	\$11.1	\$11.1	\$22.2
Sacramento San Joaquin Delta Conservancy	\$5.25	\$5.25	\$10.5
Tahoe Conservancy	\$5.25	\$5.25	\$10.5
Coachella Valley Mountains Conservancy	\$2.5	\$2.5	\$5
San Joaquin River Conservancy	\$1.3	\$1.3	\$2.6
Baldwin Hills Conservancy	\$1.3	\$1.3	\$2.6
<b>Total</b>	<b>\$60.00</b>	<b>\$60.00</b>	<b>\$120</b>

This includes existing programs such as:

#### **Wildlife Conservation Board (WCB)**

- **Forest Conservation Program:** will fund planning, acquisition, and restoration projects throughout California's forests.
- **Natural and Working Lands Climate Adaptation and Resiliency Program:** will fund projects that build climate resilience of California's natural and working lands through planning, acquisition and restoration projects.
- **California Riparian Habitat Conservation Program:** will support coordinated conservation efforts that protect and restore California's riparian (river) ecosystems through planning, acquisition and restoration projects.
- **Rangeland, Grazing Land and Grassland Protection Program:** will fund projects that prevent the conversion of rangeland, grazing land, and grassland to nonagricultural uses; protect the long-term sustainability of livestock grazing; and support continued wildlife, water quality, watershed and open-space benefits from livestock grazing.
- **Oak Woodlands Conservation Program:** will fund projects that protect and restore oak woodlands through implementation of restoration projects, conservation easements, cost-share and long-term agreements, technical assistance and public education and outreach. The program provides incentives designed to foster the conservation of oak woodlands in a manner that promotes local priorities while sustaining the economic viability of farming and ranching operations.
- **Resource Conservation Investments Strategies:** will support public agencies to develop regional conservation planning documents using the best available science. These documents identify regional conservation priorities and actions that will help vulnerable species by protecting, restoring, creating, and reconnecting their habitats.

#### **Department of Fish and Wildlife (DFW)**

- **Wetland Restoration Program:** will support restoration or enhancement of non-coastal wetlands and watershed ecosystems. \$36 million will be administered by the Delta

Conservancy to support wetland restoration in the Sacramento-San Joaquin Delta through rice-or tule-growing projects that deliver multiple benefits, such as reversing subsidence, reducing dust and erosion, reducing and sequestering greenhouse gases, and advancing economic opportunity through climate smart land management.

- **Natural Community Conservation Planning Program (NCCP):** will support numerous private and public partners that take a broad-based ecosystem approach to planning for the protection and perpetuation of biological diversity. NCCPs identify and provide for the regional protection of plants, animals, and their habitats, while allowing compatible and appropriate economic activity. Working with landowners, environmental organizations, and other interested parties, a local agency oversees the numerous activities that compose the development of an NCCP. CDFW and the U.S. Fish and Wildlife Service provide the necessary support, direction, and guidance to NCCP participants. There are currently 17 approved NCCPs (includes 6 subarea plans) and more than nine NCCPs in various stages of planning (includes two subarea plans), which together cover more than 8 million acres and will provide conservation for nearly 400 special status species and a wide diversity of natural community types throughout California.
- **Wildlife Corridors:** will fund fish and wildlife connectivity planning and implementation projects. This proposal will allow CDFW to prioritize projects that support existing efforts by both WCB and Caltrans. This includes an additional \$10 million for the Liberty Canyon Wallis Annenberg Crossing.

#### Department of Conservation

- **Multibenefit Land Repurposing:** will fund groundwater sustainability projects that reduce groundwater use, repurpose irrigated agricultural land, and provide wildlife habitat.

#### CalFIRE

- **Wildland Grazing:** will fund goat grazing to remove hazardous fuel reduction.

#### Department of Food and Agriculture

- **Healthy Soils:** will provide financial assistance for implementation of conservation management that improve soil health, sequester carbon and reduce greenhouse gas emissions.

This also includes new programs:

#### WCB

- **California Desert Conservation Program:** will fund projects that acquire, preserve, restore, and enhance desert habitat within the California deserts region, in alignment with the goals set forth in AB 1183 (Ramos, 2021).

#### Department of Conservation

- **Climate Smart Land Management Programs:** will expand state support for California's land managers seeking to implement nature-based climate solutions through technical

assistance, capacity building, and training. This new program will deliver on the Natural and Working Lands Climate Smart Strategy, and be implemented through expert organizations representing large geographic regions and/or practitioner networks with demonstrated experience in implementing the goals and practices identified in the Strategy. Of the amount requested, up to 10 percent of these funds will be used by DOC, in partnership with the Governor's Office of Planning and Research, to launch 1-3 pilot regional partnerships that identify opportunities for nature-based climate solution implementation. The pilot will focus on regions with significant potential in the natural and working lands sector to contribute to California's climate goals, and significant planning capacity needs. Funds may also support OPR's development of guidance on integration of nature-based climate solutions into relevant local and regional planning processes.

### California Nature Resources Agency

- **Tribal Nature-Based Solutions Program:** The following include some examples of the nature-based solution priorities that may be funded through this Program; (a) developing a climate and biodiversity tribal monitoring program(s), (b) supporting pathways for California Native Americans to research, develop, and implement traditional knowledge and educate and share with the next generation of tribal traditional practitioners, (c) workforce development, (d) capacity building and technical support to accelerate nature-based solutions and conservation programs, (e) support and explore incentives for tribal participation in conservation programs, (f) increased co-management and access opportunities, and land returns that will deliver climate and biodiversity benefits for California. In coordination with the Tribal Advisor to the Governor, the Secretary of the Natural Resources Agency will establish the Tribal Natural Resources Council to support the Tribal Nature-Based Solutions Program and serve as the advisory board for funding and policy decisions.
- **Nature-Based Solutions Partnerships and Improvements:** will support consultant services to support development of expert recommendations, convenings, and analysis related to, for example: increased understanding of the funding gap to implement needed nature-based climate solutions; opportunities for procurement, incentives, and market mechanisms such as crop insurance to accelerate climate smart land management; greening California's schoolyards; exploring state efficiency improvements; tracking implementation; integrating nature-based solutions into California's built infrastructure investments; and land access and tenure.
- **CA Nature Support:** will create a website with to track progress toward conserving 30% of lands and coastal waters by 2030 and to identify opportunities to conserve lands that meet the 30x30 objectives of protecting biodiversity, increasing access to nature, and addressing climate change.

### California Conservation Corps

- **Tribal Nature-Based Solutions Corps:** will support an average of one crew at each of the 14 local conservation corps and a minimum of four new tribal crews. Funds would support training, support services, and implementation of nature-based solution projects, such as community greenspace expansion; natural and working land restoration; regional



and community-level fuel load reduction; urban tree canopy installation and maintenance; post-wildfire restoration; and compost application and food waste management.

### CalRecycle

- **Compost Permitting Pilot Program:** will fund grants to local governments and project proponents to perform research, feasibility studies, environmental impact reports, and other studies to support siting and permitting of compost facilities.

### LAO COMMENTS

**Package Focused on Meeting Administration's Goals.** The proposed package is intended to help the state achieve the administration's goals and plans, such as the goal to conserve 30 percent of the state's land and coastal waters by 2030 ("30x30"), the Natural and Working Lands Climate Smart Strategies (NWLCCS), and the Governor's Executive Order N-82-20. However, these goals and priorities were established by the Governor and administration, so the Legislature will want to ensure that they are also consistent with its goals and priorities. To the extent that the Legislature has different goals or priorities, it could make sense to fund a different mix of allocations or programs.

**Many Programs Lack Measurable Goals.** The administration has not identified measurable goals—such as the number of acres that will be conserved and/or restored—for many of the programs proposed for funding in the package. Without this type of information, it is difficult for the Legislature to: (1) anticipate the specific outcomes it should expect from providing this funding; (2) determine whether the package includes the most cost-effective mix of programs to achieve the administration's and/or Legislature's intended goals; (3) anticipate how close the package will get the state to meeting the intended goals; and, (4) hold the administration accountable for achieving measurable results as part of its oversight role. The Legislature could consider prioritizing programs for funding that have a plan for achieving measurable goals that are consistent with legislative priorities, particularly those programs that appear to do so in a relatively cost-effective way.

**Some Programs More Appropriate for One-Time Funding Than Others.** Some types of activities that are proposed for funding—such as habitat acquisitions or pilot projects—lend themselves to one-time funding. However, other types of programs—such as wildland grazing—likely would need to be conducted on an ongoing basis in order to be most effective. The Legislature could consider, for example, focusing this funding on programs that are more appropriate for one-time funding.

**Most, but Not All, of Package Exempt From State Appropriations Limit (SAL).** Close to three-quarters of the funding in the proposed package—\$561 million—is slated for programs that the administration is defining as qualified capital outlay and therefore not subject to the SAL. However, the remainder of the package—\$207 million—would be subject to the limit. The Legislature could consider directing a greater share of funding to SAL-excludable purposes.

**Other Potential Funding Sources Could Be Available to Support Package.** The administration proposes to fund the package from the General Fund. However, other sources

could be available to support components of the package. For example, some programs proposed for funding—such as the California Department of Forestry and Fire Protection’s (CalFire’s) Wildfire Prevention program, the Department of Fish and Wildlife’s Wetland Restoration Grant program, and California Department of Food and Agriculture’s Healthy Soils program—have previously received funding from the Greenhouse Gas Reduction Fund (GGRF). Depending on the Legislature’s priorities, it could consider funding some components of the package from GGRF or other sources rather than from the General Fund.

**Potential Overlap in Programs Funded in This and Other Proposals.** In some cases, funding in this package supports the same or similar programs to the funding in other packages or proposals contained in the Governor’s budget. For example, the package includes funding for CalFire’s Wildfire Prevention program, which is also proposed for funding as part of the wildfire resilience package. The Legislature will want to consider the funding provided across all of the proposals and packages to get a full funding picture.

**Lack of Detail on Implementation Plan for Some Components.** In some cases, funding is proposed for new programs with little guidance or detail available on how they will be implemented. For example, the Natural Resources Agency’s Tribal Nature-Based Solutions program could be used for a broad range of activities with the allocation to be determined in consultation with a newly established Tribal Natural Resources Council. Additionally, the Wildlife Conservation Board funding is proposed to support six different programs, but the administration would defer to the board to decide how much funding will be provided to each one. Also, the funding for state conservancies could be used for various activities with only broad proposed statutory guidance directing the conservancies to prioritize projects that support 30x30 or the NWLCSS. To the extent that the Legislature has specific goals or priorities for these programs, it would be important to memorialize that guidance in budget bill or trailer bill language. This would help ensure that legislative goals are achieved with the proposed funding.

**Package Lacks Accountability and Reporting Measures.** The administration has not identified a plan to provide consolidated reporting to the Legislature on the outcomes that are achieved with this funding. Future reporting on outcomes will be important for holding the administration accountable for delivering measurable results, learning what is effective to improve future implementation, and informing possible future spending decisions. Accordingly, regardless of the specifics of the final package that is adopted, the LAO recommends that the Legislature adopt reporting language to require the administration to provide key information on the outcomes it achieves. This will allow the Legislature to compare the outcomes that are ultimately accomplished to the intended goals and priorities discussed above. The LAO notes that this reporting will be particularly important for new or pilot programs, such as the Department of Conservation’s Climate Smart Land Management program.

#### STAFF COMMENTS

As the LAO notes, many of these proposals fund administrative priorities with little detail, including the Nature-Based Solutions Partnerships and Improvements and the Climate Smart Land Management Programs.

Additionally, items in this package would be better suited in another package including the CalFIRE grazing funds, California Conservation Corp crew expansion (not the tribal corps), and the Healthy Soils program.

To better understand this proposal, this Subcommittee may wish to ask:

DFW

- This Subcommittee has been very supportive of investing in wildlife corridors in the past, however, past funding has gone through WCB. What are the benefits of creating a second program for the same purpose at DFW?

CNRA

- What types of activities will be funded by the Tribal Nature-Based Solutions Program?

Conservation Corp

- How till the Tribal Conservation Corp Crews work?

Staff recommends holding this item open to identify Legislative priorities and which one-time investments will be the most impactful to reach our 30 by 30 conservation goal, increase biodiversity, and make California's natural lands more resilient to climate change.

For the Liberty Canyon Wildlife Crossing, staff recommends adopting placeholder budget bill language to reappropriate the balance of Item 2660-003-0001, Budget Act of 2021, to provide funding that may be used for support, capital outlay, or local assistance for the purpose provided in the item provisions.

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**Staff Recommendation: Hold Open.**

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**ISSUE 2: ADDRESSING EXTREME HEAT**

The Governor's May Revision requests to allocate \$300 million in General Fund in 2022-23 and 2023-24 for the previously agreed to extreme heat set aside.

This includes temporary staff authority for the Department of Public Health and Department of Social Services.

**PANEL**

- Amanda Hansen, Deputy Secretary for Climate, California Natural Resources Agency
- Nuin-Tara Key, Deputy Director for Climate Resilience, Office of Planning & Research
- Lizzie Urie, Staff Finance Budget Analyst, Department of Finance
- Krystal Acierto, Principal Program Budget Analyst, Department of Finance
- Eunice Roh, Fiscal & Policy Analyst, Legislative Analyst's Office

**BACKGROUND**

Last year's budget agreement included at least \$300 million for a set aside for solutions to extreme heat as a part of the three year climate resilience package. SB 155 (Chapter 258, Statutes of 2021) outlined eligible programs including:

- Heat resilient infrastructure, built, natural, and social, including, but not limited to, projects that support the installation of cool surfaces, reduce indoor and outdoor school temperatures through nature-based solutions and cool building or cool surface materials, reduce outdoor temperatures along key active transportation corridors in heat-vulnerable communities, or use nature-based solutions and cool surface materials in new and existing low-income residential projects in heat-vulnerable communities.
- Workforce development, training, and apprenticeships that support projects specified above.
- Climate research.
- Increased public awareness of how to prepare and respond to extreme heat.
- Programs that support implementation of California's extreme heat framework.

Since then, the Administration has worked with stakeholders to develop an extreme heat action plan with a long list of recommendations, this proposal funds some of them. This proposal includes:

Plan or Framework Category	Department	Program	2022-23	2023-24	Total
Cool Communities	Strategic Growth Council	Resilience Centers	\$85	\$85	\$170
	CAL FIRE	Green Schoolyards (Urban Forestry)	\$25	\$25	\$50
Protect Vulnerable Populations and Ecosystems	Department of Industrial Relations		\$12.25	\$12.25	\$24.5
	Department of Social Services	Enhanced Protections for Vulnerable Populations	\$2.75	\$5.75	\$8.5
	Department of Public Health		\$3	\$0	\$3
	Department of Pesticide Regulation	Integrated Pest Management Technical Assistance	\$1.1	\$1.6	\$2.7
			\$1.1	\$1.6	\$2.7
	Department of Food and Agriculture	Animal Mortality Management Program	\$0.6	\$0.6	\$1.2
		Origin Inspection Program	\$0.25	\$0.25	\$0.5
Increase Public Awareness	Office of Planning and Research	Community-Based Public Awareness Campaign	\$6	\$14	\$20
Build a Climate Smart Workforce	Workforce Development Board	Extreme Heat High Road Training, Partnerships, and Apprenticeships Programs	\$13	\$4	\$17
Total			\$150	\$150	\$300

Some of these including exiting programs, or programs that are expected to be created this year including:

### Strategic Growth Council (SGC)

- Resilience Centers:** Last year's budget agreed to fund a new program at Strategic Growth Council this year that will fund both planning and implementation grants, to allow communities to build or upgrade community resilience centers. This includes new construction or energy-efficiency upgrades to existing community centers, such as libraries, places of worship, and other community-serving locations, to act as cooling centers in areas of the state that currently or are predicted to experience extreme heatwaves. The Community Resilience Centers model will develop community resilience through provision of shelter at critical times, as well as through the provision of services and programming that build the community infrastructure necessary to respond quickly and effectively in times of crisis. Examples of programming at existing resilience centers that have used a similar model to what SGC proposes include: food distribution to neighborhood residents, COVID-19 mobile testing sites and vaccine clinics, information sharing on preparing for climate disasters, clean water distribution during droughts, Personal Protective Equipment distribution during wildfires and poor air quality days, and workforce development trainings to increase opportunity and upward financial mobility in a changing economy for vulnerable community members.

## CalFire

- **Urban Forestry/Green Schoolyards:** will green school campuses and transportation corridors and scale relevant maintenance training. These funds will be administered to support low-income schools vulnerable to extreme heat through CAL FIRE's Urban and Community Forestry program. The Urban Forestry program already exists, but the focus on schools and transportation corridors is new.

## Department of Food and Agriculture (CDFA)

- **Integrated Pest Management Technical Assistance (and Department of Pesticide Regulation):** will support small, underserved farmers and large, disadvantaged urban centers through Integrated Pest Management technical assistance and outreach, as well as advance California's commitment to sustainable pest management as the state faces a changing climate. Funding was provided in last year's budget for this program.
- **Animal Mortality Management Program:** will provide technical assistance and support investments in pilot projects initiated by collection centers, renderers or composters to handle unexpected animal mortality due to extreme heat, as well as provide origin inspection services to ensure that pests that may thrive under increased heat conditions are excluded from entering the state. The Governor's budget has a separate Budget Change Proposal for this program.
- **Origin Inspection Program:** will invest \$500,000 to enhance and expand the use of origin inspection agreements with partner states to conduct pest inspections and implement safeguards at origin, reducing the risk of introducing pests with the potential to damage California's natural and working lands while streamlining the import of materials into California, and reducing delays at inspection points while maintaining confidence in pest cleanliness.

## Workforce Development Board (CWDB)

- **Extreme Heat High Road Training, Partnerships, and Apprenticeships Programs (H RTP):** CWDB administers grants for H RTPs, defined in state law as an initiative or project that models strategies for developing industry-based, worker-focused training partnerships, including labor-management partnerships. To date, CWDB has funded 32 sector-specific H RTP projects and 10 HRCC projects in industries ranging from electric bus manufacturing, to tree trimming, to health care. Each H RTP is industry and region specific. CWDB will work with existing H RTPs, such as those in construction, smart grid, and battery storage, to integrate extreme heat response. CWDB will also work with new industries identified by state agency partners such as urban forestry, drought resistant landscaping, building weatherization, passive building certifications, green infrastructure, and others. The 2019 Budget Act included \$30 million Greenhouse Gas Reduction Fund for CWDB's two primary high road workforce development programs: \$10 million for High Road Construction Careers and \$20 million for H RTPs. The 2021 Budget Act included \$100 million General Fund.

This proposal also proposes new programs including:

#### **Department of Industrial Relations (DIR)**

- **Enhanced Protections for Vulnerable Populations:** will build upon and expand its public awareness campaign, with targeted outreach and education in multiple languages via the Cal/OSHA Training Academy, online Chat Bot, engagement with regional worker organizations, and expansion of Cal/OSHA's call center hours to non-business hours when workers are available. In addition, Cal/OSHA plans strategic enforcement efforts to protect workers from heat-related illness and wildfire smoke hazards. This includes specific department and division-wide initiatives focused on driving prevention through easily accessible information for workers and employers, coupled with targeted enforcement before and during periods of high risk.

#### **Department of Social Services (CDSS)**

- **Enhanced Protections for Vulnerable Populations:** will check temperature for each licensed facility during inspections and investigate any resident/person in care/public complaints related to uncomfortable temperatures during extreme heat events and document the information on its licensed facility transparency website. CDSS is requesting four Limited Term positions to support the following program aspects, including but not limited to: regulation development, quality management and data collection, program implementation and program oversight and evaluation. Additionally, CDSS is requesting contracted resources to support mitigation strategies (e.g., shade, generators, repairs, etc.) for facilities that may not have the resources to prevent heat related illness.

#### **Department of Public Health (CDPH)**

- **Enhanced Protections for Vulnerable Populations:** will provide outreach, oversight, education, and training to surveyors of long-term care facilities about extreme heat and how it affects patient and resident care. Temporary positions will develop performance expectations, assist with development and dissemination of educational materials for surveyor staff and facilities, coordinate with stakeholders on local extreme heat prevention intervention projects, provide highly specialized technical assistance to long-term care facilities, and provide technical assistance and subject matter expertise to onsite surveyors performing monitoring surveys in facilities.

#### **Office of Planning and Research (OPR)**

- **Community-Based Public Awareness Campaign:** will work directly with respective state agencies and subject matter experts across numerous policy areas to develop these initiatives, facilitate coordination and collaboration across state departments, provide grant funding to community based organizations and share community insights with relevant state departments. OPR will utilize this funding to administer this campaign which may include:
  - Working with media specializing in in-language and culturally resonant content;

- The development of shareable communications toolkits and educational materials informed by research and geared toward populations most vulnerable to extreme heat; and,
- The provision of grants to community based organizations to enhance local preparedness.

#### LAO COMMENTS

**Governor's Extreme Heat Package Funds a Variety of Activities...** To address the impacts of extreme heat, the administration proposes a total of \$300 million General Fund in 2022-23 and 2023-24 for various types of activities across multiple state departments, ranging from direct interventions to provide heat relief—such as resilience centers, greening of schoolyards, and support of heat mitigation strategies at residential and child care facilities—to education and outreach activities for vulnerable populations and workplaces. In addition, the package includes proposals to help mitigate the impacts of extreme heat in pest and livestock management, as well as to support workforce development in industries that help address extreme heat issues.

**...However, It Is Unclear Whether Package Is Driven by a Cohesive Strategy.** While some of these individual activities may have merit, it is unclear whether (1) these proposals address the most important concerns associated with extreme heat and (2) this combination of proposals is the most strategic way to address such priorities. This package is intended to align with the administration's recently finalized Extreme Heat Action Plan, which does include several goals, but how effectively the proposed package of activities would meet those goals is unclear. In large part, this is because the administration has not provided a clear strategy and measurable goals—making it difficult to determine whether the proposed package is the best approach to address the most pressing concerns related to extreme heat.

**Legislature Could Consider Increasing Funding for Certain Key Categories of Activities.** Though the package funds a wide range of activities, it is limited in some important areas, such as direct heat reduction interventions and research. The Legislature could consider placing a greater emphasis on these activities.

- **Direct Heat Reduction Interventions.** The package includes three components that directly aim to reduce heat in some environments: (1) \$170 million for the Strategic Growth Council to fund community resilience centers that could include new construction and building upgrades for libraries, places of worship, and other community-serving locations to act as cooling centers in extreme heat events; (2) \$50 million for the California Department of Forestry and Fire Protection to green school campuses and transportation corridors; and, (3) \$8.5 million for the California Department of Social Services to support heat mitigation strategies at residential and child care facilities. However, the package does not include other types of building-level interventions, such as air conditioning installations and energy efficiency retrofits in common settings such as private residences and schools, or community infrastructure modifications, such as sheltered bus stops and parks. These types of interventions could provide direct relief from extreme heat, especially for vulnerable populations who may not be able to modify their surroundings without state assistance.



- **Research.** The package includes some funding for research, such as \$1.2 million for the California Department of Food and Agriculture to fund pilot projects to assess how to handle unexpected animal mortality due to extreme heat. However, additional funding for research might be warranted, because much uncertainty remains about which policy interventions are the most effective ways to reduce the negative impacts of extreme heat. Further research—including pilot programs and evaluations—could help provide more information, such as which activities are the most cost-effective ways to address extreme heat and which programs are best suited at serving the most vulnerable populations. Given that extreme heat is an ongoing issue, the Legislature could use such information to determine which programs to continue or expand funding for in future budgets.

**Some Activities Might Be More Suited for One-Time Funding.** Some types of activities are more appropriate for one-time funding than others, such as infrastructure projects, pilot programs, as well as research and evaluation, because the benefits of these activities remain after funding ends. For example, through the Greening Schoolyards proposal, students, teachers, and community members could continue benefitting from schoolyards and transportation corridors with more trees and shade well beyond the funding period. In contrast, using one-time funds for limited-term staffing and services might be less effective because they would only provide benefits during the funding period. For instance, the proposed enforcement activities under the Division of Occupational Safety and Health likely would need to be conducted on an ongoing basis in order to be most effective.

**Majority of Package Is Excludable From the State Appropriations Limit (SAL).** Funding for both the Resilience Centers and the Greening Schoolyards proposals (totaling \$220 million) are considered excludable from the SAL, because the administration defines these activities as qualified capital outlay. However, the remainder of the package—\$80 million—would be subject to the limit. Given the SAL will continue to constrain the state's budget options this year, the Legislature could consider shifting more funding to SAL-excluded activities.

**Governor's Budget Also Includes Some Other Extreme Heat-Related Proposals.** In addition to this \$300 million package, the Governor's budget includes a few other proposals related to addressing extreme heat. For example, the administration proposed \$10 million for the California Department of Public Health to collect and analyze real-time data of health impacts of climate change, including extreme heat. As another example, the Governor's clean energy package includes \$622.4 million for a program to directly install energy efficient and electric appliances in low- and moderate-income households, which could include energy efficiency retrofits to potentially help mitigate impacts of extreme heat. The LAO also notes that the Legislature approved a climate resilience package in the 2021-22 budget that included an additional \$500 million over three years for extreme heat activities, such as urban greening and forestry programs, community resilience centers, and energy efficiency retrofits. The Legislature will want to consider the funding provided for all relevant heat-related proposals to ensure its approach is strategic, comprehensive, and not duplicative.

**Some Proposals Lack Key Details.** For some components of the package, the LAO is still in the process of gathering information from the administration, such as important details on cost justification, workload estimates, rationale, and implementation. For example, in the California

Workforce Development Board's Extreme Heat High Road Training, Partnerships, and Apprenticeships Programs proposal, it is unclear which industries will be targeted, what the current and anticipated workforce demand is in such industries, and how these programs will be specifically structured to meet the needs in such industries. Before taking action on these proposals, the Legislature will want the administration to provide sufficient information to justify the requested funding and ensure that the activities will be implemented in alignment with legislative priorities.

**Package Lacks Accountability and Reporting Measures.** The proposed package currently does not include a plan to report on the outcomes that are achieved with the funding. Not only would reporting keep the administration accountable to meet the intended goals in addressing extreme heat issues and make it possible for the Legislature to conduct its proper oversight functions, it also could help inform the Legislature on future policy and funding decisions regarding extreme heat strategies, including to assess which approaches have been most effective as well as which programs warrant continuation and additional funding.

#### STAFF COMMENTS

Staff agrees with many of the comments provided by the LAO, including that some of these programs have ongoing cost pressures in order for them to be effective, namely the CDPH, DIR, and CDSS programs. Staff appreciates the work that the Administration has put into developing a comprehensive proposal beyond natural resources to tackle extreme heat to ensure agencies are working together and focusing on workers and long term care facilities. However, this proposal seems to undervalue strategies within the resources area that can be used to actually reduce extreme heat, not just reduce its impacts. Other than the investments in Urban Forestry, each of these proposals is about just reducing the impact of extreme heat, rather than prevention.

Additionally, many of these programs are funded elsewhere in the budget and it is unclear why they are being proposed in this package, namely the CDFA programs and potentially the CWDB program.

To better understand this proposal and the Administration's extreme heat strategy, this Subcommittee may wish to ask:

#### OPR

- Will OPR be the main entity in state government responsible for coordinating the State's extreme heat strategy?
- Why is the Administration not proposing a chief heat officer to coordinate with multiple departments, local governments, and communities? This model has been used in Arizona, Florida, Sierra Leone, Spain, and Greece.
- Why is the Administration not proposing to increase funds to the Community Resilience and Heat Program? It will be a comprehensive program for communities repeatedly impacted by extreme heat to submit proposals to lower urban heat island effects, and mitigate and prevent extreme heat.

CalFIRE

- Why is this urban greening funding directed at schools?
- Why is this proposal not funded with Proposition 98 funding?

CWDB

- What aspects specifically related to construction, smart grid, and battery storage have to do with extreme heat mitigation?

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**Staff Recommendation: Hold Open.**

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**3930 DEPARTMENT OF PESTICIDE REGULATION**

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**ISSUE 3: PESTICIDE USE ENFORCEMENT PROGRAM AND TRAILER BILL**

The Governor's budget requests \$882,000 Department of Pesticide Regulation (DPR) Fund and 3.0 permanent positions in 2022-23, 2023-24, and 2024-25 and \$582,000 DPR Fund in 2025-26 and ongoing to investigate and develop pesticide residue and use enforcement cases. This request includes \$300,000 annually for three years for DPR to hire the Attorney General's Office to represent DPR in civil and criminal pesticide use enforcement actions.

This includes a trailer bill language to add administrative penalty authority, increase statutory penalty caps, and improve pesticide residue enforcement.

**PANEL**

- Julie Henderson, Director, Department of Pesticide Regulation
- Karen Morrison, Acting Chief Deputy, Department of Pesticide Regulation
- Lizzie Urie, Department of Finance, Staff Finance Budget Analyst
- Frank Jimenez, Fiscal & Policy Analyst, Legislative Analyst's Office

**LAO COMMENTS**

**Summary.** In this post, the LAO will assess the Governor's 2022-23 budget proposals to: (1) provide the Department of Pesticide Regulation (DPR) with administrative penalty authority to enforce pesticide use violations; (2) increase several existing pesticide use penalties; (3) enhance DPR's pesticide residue enforcement and penalty authority; (4) increase several existing administrative penalties for pesticide sales and licensing violations; (5) provide funding to DPR for positions to investigate and pursue pesticide use and residue enforcement cases; and, (6) provide funding to DPR for the Attorney General's Office to represent the department in civil and criminal pesticide use enforcement actions. Overall, the LAO finds merit in increasing DPR's statutory authority to enforce pesticide use and residue violations, as well as providing funding to support these efforts. The LAO recommends that the Legislature increase pesticide-related penalties to levels it thinks will effectively deter violations—either by adopting the Governor's proposed penalty levels or through somewhat comparable increases.

**Background**

**DPR Is Responsible for Regulating Pesticides.** While pesticides can protect people and agricultural products from pests, their improper use can be hazardous. DPR is charged with protecting public health and the environment by regulating pesticide sales and use. The department is responsible for evaluating and registering pesticide products at the state level, assessing the health and environmental impacts of pesticides, and encouraging alternative pest management practices through grants and incentives. DPR is responsible for licensing individuals and businesses that sell, consult on, or apply pesticides. The department may levy

administrative penalties of up to \$5,000 on those who violate sales and licensing laws and regulations. The department also oversees local enforcement of pesticide use laws and regulations by County Agricultural Commissioners (CACs) and tests pesticide residues of fresh produce—both of which are discussed in more detail below.

**Most Pesticide Use Enforcement Is Conducted by CACs.** Currently, most of the responsibility for enforcing the lawful use of pesticides lies with CACs. Specifically, state statute tasks CACs with being the primary enforcement agencies for pesticide use laws and regulations, such as illegal application, worker protections, and pesticide drift. (Drift is the movement of pesticide dust or droplets through the air at the time of application or soon after to any site other than the area intended.) DPR uses its statewide authority to oversee, evaluate, and improve local pesticide use enforcement by CACs.

**CACs Have Statutory Authority to Levy Administrative Penalties for Pesticide Use Violations.** CACs have the sole authority to administratively enforce pesticide use violations. (DPR previously was able to levy penalties for certain pesticide use violations, however, that statutory authority expired in 2006.) CACs may levy administrative penalties of up to \$5,000 for each violation. The administrative penalties levied by CACs are governed by DPR regulations that categorize violations according to level of severity. For instance, penalties for serious (Class A) violations—those that cause health, property, or environmental hazards—can reach \$5,000, whereas penalties for moderate (Class B) violations—those that violate laws or regulations—are capped at \$1,000.

**Pesticide Use Violations Also Subject to State Civil and Criminal Penalties and Federal Penalties.** Pesticide users who violate state laws can also face civil and criminal enforcement actions. Civil and criminal cases can be filed by a county district attorney at the request of a CAC or by the state Attorney General's Office at the request of DPR. Civil and criminal proceedings are considered for repetitive, negligent, or intentional violations that have created a hazard to human health or the environment. Civil penalties range from \$1,000 to \$25,000 for each violation, while criminal penalties range from \$500 to \$50,000 per violation, along with potential imprisonment. Additionally, the United States Environmental Protection Agency (U.S. EPA) may independently bring pesticide use enforcement cases upon referral. U.S. EPA can levy penalties of roughly \$9,000 for violations of federal pesticide use requirements, but for serious violations, penalties can be as high as \$50,000 along with potential imprisonment.

**DPR Is Responsible for Pesticide Residue Monitoring.** DPR administers a statewide monitoring program that samples and analyzes domestic and imported fresh produce for pesticide residues. DPR collects samples from various locations such as packing sites, wholesale and retail markets, and farmers markets. Residue monitoring is based on enforcing U.S. EPA tolerances—the maximum amount of a pesticide allowed to remain in or on a food. If illegal residues are found, DPR quarantines and removes the illegal produce from sale. The department can levy administrative penalties of up to \$5,000 for certain pesticide residue violations, such as for selling produce that carries pesticide residue in excess of the permissible tolerance levels.

## Governor's Proposals

As part of the budget for 2022-23, the Governor proposes to: (1) provide DPR with administrative penalty authority to enforce pesticide use violations; (2) increase several existing pesticide use penalties; (3) enhance DPR's pesticide residue enforcement and penalty authority; (4) increase several existing administrative penalties for pesticide sales and licensing violations; (5) provide funding for DPR positions to investigate and pursue pesticide use and residue enforcement cases; and, (6) provide funding for DPR to retain the Attorney General's Office to represent the department in civil and criminal pesticide use enforcement actions. Figure 1 provides an overview of the Governor's proposed changes to pesticide use, residue, and licensing and sales penalties, which is described in more detail below. The Governor also proposes statutory language that would authorize the Director of DPR to adjust all the new penalty levels for inflation in future years.

**(Figure 1.) Governor's Proposed Changes to State Pesticide Penalties**

Penalty Type	Existing	Proposed <sup>a</sup>
<b>Pesticide Use</b>		
DPR administrative	None	Up to \$20,000
CAC administrative	Up to \$5,000	Up to \$15,000
Civil	\$1,000 to \$25,000	\$3,000 to \$75,000
Criminal	\$500 to \$50,000	\$5,000 to \$100,000
<b>Residue</b>		
DPR administrative	Up to \$5,000	Up to \$15,000 <sup>b</sup>
<b>Licensing and Sales</b>		
DPR administrative	Up to \$5,000	Up to \$15,000

<sup>a</sup>The proposed statute would authorize the Director of DPR to adjust all penalty levels for inflation in future years.

<sup>b</sup>Adds new penalties for (1) failing to provide produce sale and distribution information when requested by DPR and (2) distributing/moving quarantined produce.

DPR = Department of Pesticide Regulation and CAC = County Agricultural Commissioner.

**Authorizes DPR to Enforce Administrative Penalties for Serious Pesticide Use Violations.** The Governor proposes budget trailer legislation to provide DPR with the authority to levy administrative penalties of up to \$20,000 for pesticide use violations. The proposal would

change state law to allow DPR—instead of a CAC—to levy administrative penalties for multi-jurisdictional pesticide use violations that have serious human or environmental health impacts. This authority would apply specifically for “priority investigations” that involve multiple counties or a person who is the subject of an investigation in multiple counties. Priority investigations include pesticide incidents that cause serious impacts such as death or illness; contamination of drinking water, air, or land; animal and wildlife mortality; or property damage. DPR also would be able to levy administrative penalties if a CAC and the Director of DPR agree that enforcement by the department would be more appropriate, or if the Director finds that a CAC failed to discharge their duties. Because serious pesticide use violations are relatively rare, the department estimates that its use of this new authority likely would be somewhat infrequent. Specifically, DPR estimates it might levy one administrative penalty every two years.

**Increases Several Existing Pesticide Use Penalties.** As shown in Figure 1, the Governor’s proposed budget trailer legislation also would make several changes to existing pesticide use penalties. First, the proposed legislation would increase CAC administrative penalties to up to \$15,000 for each violation. (Class A violations could result in a fine of up to \$15,000, while lower-level violation penalties would be capped at \$3,000.) Second, the legislation would increase civil penalties to a minimum of \$3,000 and a maximum of \$75,000 for each violation, while criminal penalties would increase to a minimum of \$5,000 and a maximum of \$100,000 per violation. (The Governor does not propose any adjustments to minimum and maximum prison sentences for criminal penalties.)

**Expands DPR Pesticide Residue Enforcement and Penalty Authority.** The Governor’s proposed budget trailer legislation also authorizes DPR to request sales and distribution records for produce grown, processed, shipped, and sold in the state. The legislation would allow DPR to levy new administrative penalties of up to \$15,000 for entities who do not provide this information within 48 hours after being requested. DPR indicates that this information would only be requested after the department identifies that a particular lot of produce carries illegal pesticide residues. Additionally, the proposed legislation would authorize DPR to levy new administrative penalties of up to \$15,000 for entities that distribute and/or move quarantined produce. Lastly, the Governor proposes to increase existing residue penalties—such as for selling produce that carries pesticide residue in excess of allowable tolerance levels—to up to \$15,000.

**Increases Existing Pesticide Sales and Licensing Penalties.** The Governor also proposes to increase several existing DPR administrative penalties for pesticide sales and licensing violations. These include violations such as selling pesticides not registered in the state and acting as a pesticide advisor without a license. Specifically, the Governor proposes to increase these current penalties from a maximum of \$5,000 to up to \$15,000.

**Provides Funding for Positions to Investigate and Pursue Pesticide Use and Residue Enforcement Cases.** The Governor’s budget includes \$582,000 from the DPR Fund (the department’s primary fund source, largely supported by a fee on pesticide sales and other regulatory fees) in 2022-23 and ongoing to support three new enforcement staff positions that would investigate and pursue pesticide use and residue enforcement cases. This workload would include levying DPR administrative penalties and coordinating referrals to the Attorney

General's Office and U.S. EPA. The positions also would be responsible for conducting oversight and supporting CACs, such as through trainings and providing guidance and support on local enforcement cases.

**Provides Funding for DPR to Hire Attorney General's Office for Civil and Criminal Enforcement Cases.** The Governor's budget proposes \$300,000 annually from the DPR Fund over the next three years for the department to hire the Attorney General's Office to represent DPR in civil and criminal pesticide use enforcement actions. The department estimates that it will refer about one pesticide use enforcement case every two years. DPR indicates that hiring the Attorney General's Office to pursue pesticide use violations would be a new activity, so the department is viewing this initiative as a pilot to determine the appropriate level of ongoing resources to request in the future.

## Assessment

**Providing DPR With Authority to Levy Pesticide Use Penalties Is Important Step in Enhancing Statewide Enforcement Efforts.** Given its important role in protecting public health and the environment, the state should have multiple enforcement tools available to ensure statewide compliance of pesticide use laws and regulations. Misapplication of pesticides can result in acute impacts on human health (such as rashes, nausea, and dizziness), as well as negative impacts to the environment (such as air and water contamination and impacted ecosystems). Additionally, some research suggests that some pesticides could be related to chronic health impacts such as cancer and reproductive harm. While serious pesticide use violations do not occur with great frequency, enhancing the state's ability to deter and correct for serious incidents is worthwhile, given the hazards that can result. The LAO therefore finds that providing DPR with the authority to levy administrative penalties would further advance its ability to meet its mission, while at the same time preserving the state's current structure of having CACs serve as the primary local enforcement agencies. The Governor's proposed approach would allow the state to serve as a "backstop" to local enforcement when merited, such as for cases that represent severe violations that stretch across multiple jurisdictions and when a CAC and DPR agree that enforcement by the department would be more appropriate.

**Increased State-Level Enforcement Authority Has Precedent.** Providing DPR with additional pesticide use enforcement authority would not be a unique approach for the state. First, DPR had similar authority from 2000 to 2006 under Chapter 806 of 2000 (SB 1970, Costa), which authorized the department to levy administrative penalties of up to \$5,000 for serious pesticide use violations. (Based on our conversations with the department and stakeholders, it appears that this authority was allowed to sunset due to CAC administrative penalties being increased to up to \$5,000 under Chapter 457 of 2002 [AB 947, Jackson].) Second, other state environmental regulatory departments possess some level of overarching enforcement authority even when local agencies are tasked with being the primary enforcement entities. For instance, the Department of Toxic Substances Control may take enforcement actions against hazardous waste generators that violate state laws and regulations, even though state statute delegates most first-level enforcement responsibilities to local Certified Unified Program Agencies.



**Increasing Pesticide Use Penalties and Adjusting for Inflation Is Reasonable...** The goal of the state's pesticide use penalties should be to deter individuals and businesses from violating state laws and regulations. Successful deterrence is important because it protects public health and the environment by dissuading businesses and individuals from committing violations and persuading violators to take precautions against falling into noncompliance again. Overall, the LAO finds it reasonable to provide some level of increase to existing pesticide use penalties given that many have not been increased in decades—roughly 20 years for CAC administrative penalties and 30 years for most civil and criminal penalties. This means that penalties have not kept pace with inflation and thus have lost some of their relative power to deter violations over time. Statewide data has not shown a significant increase in violations over the past several years—collectively, the CACs have averaged about 600 enforcement actions per year from 2012 through 2019, with the majority being more minor Class B and Class C violations. However, the department indicates that there have been situations where the same violators have been levied penalties on multiple occasions for pesticide drift and worker protection violations, which could indicate that current penalty levels do not fully compel compliance. Increasing maximum penalties could help reduce existing rates of violations and/or prevent future incidents. Additionally, authorizing the Director of DPR to adjust penalty levels for inflation has merit since it would allow penalties to maintain their relative deterrent effects over time.

**...However, Difficult to Determine What Amount of Increase Is Most Appropriate.** The level at which penalties would serve as an effective deterrent for pesticide violations but do not present an excessive burden for violators—particularly for more minor offenses—is not clear cut. If trued up for inflation, CAC administrative penalties and civil and criminal penalties would be roughly 1.5 and 2 times higher than their current levels, respectively. The Governor, however, proposes to increase penalties above the inflation adjustments—3 times their current levels in most cases. According to the department, this is to further deter the most egregious pesticide use violations. For example, this could include cases where improper application leads to pesticide drift causing skin and eye irritations in surrounding communities. The LAO finds this argument to be somewhat compelling, and the levels the Governor proposes seem reasonable. However, moderately lower or higher levels could also achieve the same goal without being ineffective or excessive. Additionally, the LAO finds that the Governor's proposal to set the maximum DPR administrative penalty higher than the maximum CAC administrative penalty makes sense, given these would be applied to the most serious, multijurisdictional pesticide use violations.

**Increasing DPR Pesticide Residue Enforcement and Penalty Authority Could Improve Produce Safety.** The state has a vested interest in ensuring that fresh produce in the state maintains safe levels of pesticide residues and that contaminated produce is properly quarantined and removed from sale when identified. Data from DPR indicate multiple cases in recent years where regulated entities did not provide requested sale and distribution information for contaminated produce in a timely manner (roughly 45 cases annually over the past five years) and where regulated entities distributed and/or moved quarantined produce (roughly three cases annually over the past five years). Currently, the department does not have the authority to enforce these actions other than through resource-intensive court proceedings. Accordingly, the LAO finds it reasonable to provide DPR with the authority to: (1) require entities to provide sale and distribution information; (2) levy administrative penalties for failing to produce such records; and, (3) levy administrative penalties for distributing and/or moving quarantined produce.

Additionally, the LAO finds it reasonable to increase existing residue penalties given that penalties have not been increased in roughly 30 years. These changes could better enable the state to prevent contaminated produce from reaching consumers.

The Governor's approach of setting the new administrative penalties for residue violations at comparable levels to those that CACs levy for pesticide use makes sense. However, as with the proposed increases to pesticide use penalties, while the LAO finds the Governor's proposed levels for new pesticide residue penalties to be reasonable, moderately lower or higher levels could also be adequate to the degree they still serve as an effective deterrent. Regardless of where the Legislature ultimately decides to set penalty levels, authorizing the Director of DPR to adjust penalty levels for inflation—as proposed by the Governor—has merit since it would allow penalties to maintain their relative influence in the coming years.

**Increasing Existing Administrative Penalties for Pesticide Sales and Licensing Violations Would Provide Parity in Penalty Levels.** The LAO finds it reasonable to provide some level of increase to the existing pesticide penalties for sales and licensing violations, given that they have not been increased in roughly 30 years. Additionally, it makes sense to maintain relative comparability across most of DPR's administrative penalties. Similar to earlier discussion, the LAO finds that (1) the Governor's proposed increases to sales and licensing violation penalties are reasonable but moderately lower or higher levels could also be adequate to the degree they still serve as effective deterrents, and (2) authorizing the Director of DPR to adjust penalty levels for inflation has merit.

**Funding for Positions and Representation From Attorney General's Office Would Further Support Statewide Enforcement.** The LAO finds that the proposed funding for DPR state operations would further support statewide enforcement of pesticide use and residue laws and regulations. In particular, funding for additional enforcement positions would provide the staff needed to support the workload associated with the proposed increase in enforcement and penalty authority. This includes investigating and pursuing cases to levy administrative penalties and coordinating referrals to the Attorney General's Office or U.S. EPA. The positions also would further support local enforcement actions by providing additional assistance to CACs.

Additionally, funding for DPR to hire the Attorney General's Office would provide the department with the resources needed to ensure that egregious violations are appropriately referred for civil and criminal enforcement. The LAO finds that the Governor's proposal to provide this funding over a three-year period to be reasonable. This would allow the department to pilot these efforts and report back to the Legislature on outcomes during future budget hearings. This information could then be used to guide whether (and at what level) to continue funding these efforts.

## Recommendations

**Approve DPR Authority to Enforce Administrative Penalties for Pesticide Use Violations.** The LAO recommends that the Legislature approve the Governor's proposal to provide DPR with the authority to levy administrative penalties for serious pesticide use violations. Providing additional enforcement authority to DPR would further enhance the state's ability to ensure statewide compliance of pesticide use laws and regulations, while still

maintaining CACs as the primary local enforcement agencies. The additional enforcement authority would allow the state to serve as a backstop to local enforcement when merited. Furthermore, it would reestablish similar authority that the department previously held and establish a somewhat comparable enforcement structure to some other state environmental regulatory departments.

**Increase Pesticide Use Penalties at Levels That Will Help Deter Violations.** The LAO recommends the Legislature increase pesticide use penalties and authorize the Director of DPR to adjust penalty levels for inflation in future years. In deciding appropriate increases for the various penalties (including the new DPR administrative penalty), the Legislature will want to consider how increases would further deter individuals and businesses from violating state laws and regulations. This could include approving the Governor's proposed penalty levels—which increase penalties above an inflationary adjustment—or setting penalty levels somewhat higher or lower based on what the Legislature deems appropriate to achieve its goals.

**Approve Expansion of DPR's Pesticide Residue Enforcement and Penalty Authority.** The LAO recommends the Legislature approve the Governor's proposal to provide DPR with the authority to: (1) require entities to provide sale and distribution information; (2) levy administrative penalties for failing to produce such records; (3) levy administrative penalties for distributing and/or moving quarantined produce; and, (4) increase existing residue penalties. These changes could better enable the state to prevent contaminated produce from reaching consumers. The LAO recommends that the Legislature set the new administrative penalties for pesticide residue violations at levels that mirror whatever new thresholds it sets for CAC administrative pesticide use penalties and authorize the Director of DPR to adjust penalty levels for inflation.

**Increase Existing Administrative Penalties for Pesticide Sales and Licensing Violations.** The LAO recommends that the Legislature increase existing administrative penalties for pesticide sales and licensing violations and authorize the Director of DPR to adjust penalty levels for inflation in future years. Penalty levels have not been increased in roughly 30 years and thus have lost some of their relative power to deter violations. To maintain parity, the LAO recommends that the Legislature set the new maximum penalties at a comparable level to those it establishes for other DPR administrative penalties. This could include approving the Governor's proposed penalty levels or establishing somewhat higher or lower thresholds.

**Approve Funding for Positions to Investigate and Pursue Pesticide Residue and Use Enforcement Cases.** The LAO recommends that the Legislature approve the \$582,000 from the DPR Fund in 2022-23 and ongoing to support three new enforcement staff positions that would investigate and pursue pesticide residue and use enforcement cases. The additional positions would enable the department to conduct the workload associated with the proposed additional enforcement and penalty authority, as well as further support local enforcement efforts by CACs.

**Approve Funding for DPR to Hire Attorney General's Office for Civil and Criminal Enforcement Cases.** The LAO recommends that the Legislature approve the Governor's proposal to provide \$300,000 annually from the DPR Fund over the next three years to hire the

Attorney General's Office to represent the department in civil and criminal pesticide use enforcement actions. The funding would allow the department to appropriately refer egregious violations for civil and criminal enforcement and gather data regarding what level of funding might be appropriate in future years. The Legislature may want to consider specifying which metrics the department should track and present to inform these future decisions.

<b>STAFF COMMENTS</b>
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Staff agrees with the LAO that this proposal seems reasonable to increase the maximum penalties that have been eroded by inflation over time and add administrative penalty authority, especially for multijurisdictional violations, in order to protect human and environmental health including contamination of drinking water, air, and land as well as human and animal mortality.

As the LAO notes, the DPR has held similar authority prior to 2006.

However, the Assembly has tried and failed over the past few years on similar bills, so staff recommends listening to stakeholder concerns (if there are any) before adopting the trailer bill and related budget request.

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**Staff Recommendation: Hold Open.**

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**3900 CALIFORNIA AIR RESOURCES BOARD**  
**3360 CALIFORNIA ENERGY COMMISSION****ISSUE 4: ZERO EMISSION VEHICLE PACKAGE ACCELERATION**

The Governor's May Revision requests an acceleration of \$1.75 billion (General Fund) from the proposed four year Zero Emission Vehicle (ZEV) package into the 2021-2022 fiscal year.

This includes four proposals, two at the California Energy Commission (CEC) including electric vehicle charging and the equitable at home charging and two at the California Air Resources Board (CARB) for community based zero emission mobility and for low income customers to purchase zero-emission vehicles.

This also includes proposed budget bill language to waive existing laws to increase flexibility, including removing the Department of General Services from reviewing sole source contracts.

**PANEL**

- Craig Segall, Deputy Executive Officer, California Air Resources Board
- Hannon Rasool, Deputy Director, California Energy Commission
- Christian Beltran, Principal Program Budget Analyst, Department of Finance
- Sergio Aguilar, Assistant Program Budget Manager, Finance
- Ross Brown, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

**BACKGROUND**

This proposal seeks to pull forward multiple years of funding from the Zero Emission Vehicle Package that was heard in this Subcommittee on March 16, 2022. This proposal accelerates the following items:

**California Air Resources Board (CARB)**

- \$506 million (\$430 million General Fund (FY 21-22) and \$76 million GGRF (FY 22-23)) for low income customers to purchase ZEVs. While these programs are typically subject to an annual stakeholder process, the Administration has proposed allocations to expedite implementation. This includes:
  - At least \$376 million for Clean Cars for All (CC4A)
    - This includes at least \$250 million will be for the statewide program and at least \$50 million to equally divided among the five existing CC4A programs (South Coast, Bay Area, San Joaquin, Sacramento, and San Diego). It also includes \$76 million in GGRF in FY 22-23.
    - This program provides low income customers the ability to retire cars over 15 years old for \$1,500 and/or replace it for up to \$9,500 in incentives for a

new or used ZEV, transit pass, or bike. It is stackable with the Clean Vehicle Rebate Project. This program is currently only in specific air districts, but will be administered statewide shortly.

- At least \$100 million for the Financing Assistance program.
  - This program provides low income customers up to \$5,000 for a new or used ZEV. It also includes “low” interest loans (capped at 8%), as well as chargers or fuel cards.
- At least \$15 million for e-bike incentives for low income customers.
- \$419 million General Fund for Zero Emission Mobility.
  - This funding will support sustainable community-based transportation equity projects that expand clean transportation options and thereby reduce vehicle miles traveled and increase access to zero-emission mobility in low-income communities. These locally driven projects continue to be a direct response to critical mobility needs identified by community-based organizations and residents working on the front lines to lift up priority populations and build on the vision advanced in the Climate Action Plan for Transportation Investments (CAPTI). This includes legacy projects like: Clean Mobility Options (CMO), the Sustainable Transportation and Equity Project (STEP), Clean Mobility in Schools (CMiS), and the projects that provide planning and support. With this four-year proposal, pending public process, CARB may also consider building a pilot program to incentivize and reward transportation agencies for re-prioritizing VMT increasing roadway expansion projects to instead focus on expanding transportation choices that reduce VMT in line with the state’s climate and equity goals. Eligible projects could include transit, active transportation, micro mobility services, car sharing, van pooling, and other innovative investments that reduce dependence on driving. This aims to support 100 community-based projects.
    - A minimum of \$110 million is proposed for the Clean Mobility Options Project.
    - A minimum of \$122 million is proposed for the Clean Mobility in Schools Pilot Project.

### **California Energy Commission (CEC)**

- \$600 million General Fund for EV Charging Infrastructure.
  - This will likely cover 5,000 direct current fast chargers (DCFC)s with increased capacity up to 300 kW or higher. This would include co-sited energy storage or other measures to mitigate grid upgrade costs, integrate load, and add to grid resiliency. This investment will help meet the projected need of approximately 15,000 DCFCs by 2025 and 40,000 DCFCs by 2030, according to the CEC’s analysis pursuant to Assembly Bill 2127.
- \$300 million General Fund for Equitable At-Home Charging Incentives.

- This will deploy charging options to support those living in multi-unit dwellings such as apartments and condos and at low-income or disadvantaged communities' single-family homes. The at-home investments will fund Level 2 charging stations and also support infrastructure such as panel upgrades so that a broader number of Californians can enjoy the convenience and cost savings of charging their vehicle at home. This will support approximately 2,000 multi-unit dwelling locations, providing about 28,000 new Level 2 chargers that can be used by multiple residents at these locations. Further, the low-income and disadvantaged community single-family home investments will support an additional 50,000 homes.

This proposal also includes budget bill language to extend encumbrances, and provide the following statutory relief to the Energy Commission: exempt the Administrative Procedures Act, noncompetitively award funds to an existing grant, exempt the Public Contract Code, exempt the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, and exempt sole source contracts from review by the Department of General Services.

#### LAO COMMENTS

#### Proposal

**Provides Additional \$1.7 Billion in 2021-22 Instead of in Future Years.** The administration recently proposed to accelerate \$1.7 billion (General Fund) of the \$10 billion in total multiyear funding for ZEV-related activities that was (1) included in the 2021-22 budget agreement and (2) proposed as part of the Governor's January budget. As shown in Figure 1, the proposal would increase 2021-22 funding for light-duty vehicle and infrastructure programs, as well as equity-focused programs, from \$975 million to \$2.7 billion. This increase would be offset by lower spending in future years. (Additional funding intended for ZEVs that is not shown in the figure—mostly for heavy-duty vehicle programs—would be allocated over the next few years, consistent with last year's budget agreement and the Governor's January proposal.) The administration also proposes budget bill language that, among other things, exempts the California Energy Commission from the requirement to obtain approval from the Department of General Services (DGS) when entering into funding agreements. These proposals are part of the Governor's broader \$11 billion relief package, which also includes tax rebates for vehicle owners.

Figure 1

**Summary of Changes in Governor's ZEV Acceleration Proposal**

General Fund, Unless Otherwise Noted (In Millions)

Program	2021-22 Budget Act and January Proposal					Acceleration Proposal	
	2021-22	2022-23	2023-24	2024-25	2025-26	2021-22	2022-23
Clean Vehicle Rebate Project	\$525	—	—	—	—	\$525	—
Clean Cars 4 All and other equity projects	150	\$296	\$175	\$35	—	580	\$76 <sup>a</sup>
ZEV fueling infrastructure	300	100	220	210	\$70	900	—
Equitable at-home charging	—	60	100	90	50	300	—
Other equity and mobility projects	—	65	130	134	90	419	—
<b>Totals</b>	<b>\$975</b>	<b>\$521</b>	<b>\$625</b>	<b>\$469</b>	<b>\$210</b>	<b>\$2,724</b>	<b>\$76</b>

<sup>a</sup> Greenhouse Gas Reduction Fund.

ZEV= zero-emission vehicle.

**Assessment**

The LAO finds that the benefits of accelerating funding under this proposal are uncertain and that the proposal could have adverse effects on future budget flexibility and oversight.

**Benefits of Acceleration Are Unclear.** In concept, accelerating the funding for ZEV programs—rather than allocating the funds on a year-by-year basis—could allow the administration to implement projects more quickly. However, in practice, the Governor's \$10 billion January ZEV package would already provide historically high levels of funding for ZEV programs. If the funding were accelerated, it is unclear whether there is sufficient demand and/or administrative capacity to implement projects more quickly than what would otherwise occur under a multiyear funding approach. So far, the administration has not provided any estimates of how the accelerated funding would change the time lines for key program outcomes, such as number of charging stations installed or ZEVs deployed by a particular date.

**Reduces Future Budget Flexibility.** This proposal would reduce some of the Legislature's flexibility to adjust future budget allocations in response to unexpected budget and policy changes. For example, if General Fund revenues decrease due to an economic downturn in the coming years, the Legislature would no longer have flexibility to respond to these changes by adjusting ZEV spending in future budgets. Additionally, if there is an increase in ZEV funding from other sources in future years—such as federal spending or funding from a potential state ballot measure—the Legislature would have ceded the ability to adjust its spending priorities in response to these changes.

**Potentially Reduces Oversight.** Providing all of the proposed funding in the current year rather than over the next few years could also reduce the Legislature's ability to exercise its oversight role. For example, if future legislative oversight efforts determine that departments are not implementing programs effectively, then the Legislature might want to withhold funding for those programs until the administration can show that it has made improvements. However, under this acceleration proposal, the Legislature would find it more difficult to employ such oversight tools. Furthermore, the public contracting exemptions proposed by the administration would reduce



opportunities for third-party oversight from DGS that are meant to ensure state funds are being spent responsibly.

## Recommendation

**Reject Proposal to Accelerate ZEV Funding.** The LAO recommends that the Legislature reject this proposal. The proposal reduces future budget flexibility and oversight, while the benefits of accelerating the funding are currently unclear.

### STAFF COMMENTS

Staff agrees with the LAO's assessment that accelerating this funding into the current fiscal year would have minimal to no impact on expediting these funds.

However this Subcommittee may wish to consider accelerating the future years funding into 2022 for select programs where funding may be utilized in a quicker manner, like Clean Cars for All, financing assistance, or some of the funding for the community based equity and mobility projects if the Administration can document that demand for these programs will outpace originally proposed allocations.

Accelerating this funding into 2022, may mean other budget priorities are not funded.

Last year, the budget included \$500 million to the Energy Commission for zero-emission vehicle infrastructure, which is roughly five times more than a normal year of funding. To date, the Administration has not shared if those funds are exhausted, which would justify the additional \$900 million in this proposal being accelerated.

Additionally, the Clean Cars for All program, the financing assistance program, and some utility programs provide charging assistance for low income customers, so the \$300 million for at home charging for low income customers is not urgently needed.

Lastly, staff believes the exemptions in the budget bill language are overly broad (especially, regarding sole source contracts and public contract code exemptions) and for the remaining exemptions, they may have already been provided.

If this Subcommittee decides to adopt some version of acceleration they may wish to:

- Allocate \$10 million (of the \$15 million unallocated) to the Air Resources Board to fund battery replacements for low income customers.
- Allocate more of the CC4A funds to air districts with existing programs, including the most funding to air districts with high levels of air pollution.

To better understand this proposal, this Subcommittee may wish to ask:

### CARB

- Why is only \$50 million dedicated to air districts with CC4A programs?
- Has CC4A been oversubscribed in recent years?

- What is the status of the e-bike program?

CEC

- How much of last year's \$500 million for ZEV charging has been allocated?

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**Staff Recommendation: Hold Open.**

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**2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION**

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**ISSUE 5: AUDITS AND INVESTIGATIONS WORKLOAD TRANSFER**

Through a Spring Finance Letter, the Governor's budget includes the net zero transfer of 6 positions and \$868,000 from the Independent Office of Audits and Investigations (IOAI) to the Caltrans Administration Program to reestablish an Internal Audits Office within the Administration program.

**PANEL**

- Keith Duncan, Chief, Division of Budgets, Caltrans
- Frank Jimenez, Fiscal & Policy Analyst, Legislative Analyst's Office
- James Moore, Staff Finance Budget Analyst, Department of Finance

**BACKGROUND**

The Road Repair and Accountability Act of 2017 (SB 1) established the IOAI led by an Inspector General. The IOAI has authority to exercise all responsibilities for maintaining a full scope, independent, and objective audit and investigation program. To provide staff and resources for this new office, Caltrans transferred 48 existing permanent positions from the Administration Program to IOAI and established 10 new permanent positions within IOAI, for a total of 58 positions. Caltrans requested and received \$9,500,000 in State Highway Account funds and redirected \$8,752,000 from various programs.

Prior to the passage of SB 1, Caltrans had a Division of Audits and Investigations within the Administration Program which met the internal audits needs of Caltrans. Caltrans previously moved the entire Division of Audits and Investigations to the newly formed IOAI, under the Inspector General, as required by SB 1.

**STAFF COMMENTS**

The Administration has indicated that this request would allow Caltrans to reestablish an Internal Audits Office, which existed prior to the creation of the IOAI. Specifically, the Administration has indicated that the following workload would be transferred from IOAI to the new office:

- External audit coordination
- Audits of construction contracts
- Single audit management decision follow-ups
- Local government Indirect Cost Rate Proposal (ICRP) and Indirect Cost Allocation Plan reviews and risk assessments.

The IOAI was created statutorily through SB 1. The Subcommittee may wish to ask Caltrans why the plan to transfer the duties back to an office they dissolved prior to SB 1. Also, what

cannot be accomplished by the current structure and whether additional trailer bill is needed to make this change due to SB 1.

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**Staff Recommendation: Hold Open.**

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