

ANALYSIS AND RECOMMENDATIONS WITH RESPECT TO GENERAL CONTROL SECTIONS

The so-called "control sections" included in the 1986 Budget Bill set forth general policy guidelines governing the use of state funds. These sections place limitations on the expenditure of certain appropriations, extend or terminate the availability of certain other appropriations, establish procedures for the expenditure and control of funds appropriated by the Budget Act and contain the traditional constitutional severability and urgency clauses.

The control sections proposed for fiscal year 1986-87 may be found in Section 3.00 through Section 36.00 of Senate Bill No. 1530 (Alquist) and Assembly Bill No. 2660 (Vasconcellos). In many instances, the numbering of these sections is not consecutive, as the section numbers in the 1986 Budget Bill have been designed to correspond with the equivalent or similar sections in the Budget Act of 1985.

In addition, the Budget Bill includes Sections 1.00, 1.50, 99.00 and 99.50. These are technical provisions relating to the coding, indexing and referencing of the various items in the bill.

SECTION 3.00

BUDGET ACT DEFINITIONS AND STATUTORY SALARIES

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 3.00 of the 1985 Budget Act, sets forth various conditions under which appropriations for support, capital outlay, and acquisition of land are to be made. It restricts expenditures to categories or projects set forth in the Budget Act schedule, unless authority to shift funds from one category to another is provided in other sections of the act. Also, various words, terms and phrases found in the categorical schedules of individual Budget Act items are defined by this section.

This section also provides that the statutorily established salaries and wages of state officers are included in the appropriate support items of the Budget Act of 1986 in the amounts in effect on June 30, 1986. Without the provisions of this section, the salary increases previously approved by the Legislature could not be continued, and the salaries for these positions would be reduced to the base salaries authorized in the statutes.

SECTION 3.50

EMPLOYEE BENEFITS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 3.50 of the 1985 Budget Act, provides that state contributions for payment of employee benefits—such as retirement, disability, unemployment, health insurance, and workers' compensation insurance, all of which have continuing statutory appropriations—shall be paid from appropriations made by individual items in the Budget Act.

SECTION 3.60**RECAPTURE OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) CONTRIBUTIONS****ANALYSIS AND RECOMMENDATIONS**

We withhold recommendation on this section, pending final determination by the Legislature of the state employers' PERS contribution rates for 1986-87.

The Budget Bill includes a new section which would require the Department of Finance to recapture funds budgeted for PERS contributions in individual support items.

State agencies were allowed to budget for PERS contribution costs at the rates which were in effect for the current year. The Governor's Budget, however, assumes that the 1986-87 rates will be 15 percent less than current rates, due to favorable changes in actuarial assumptions. This section is proposed as a means of recapturing an estimated \$83 million (\$54 million General Fund) in overbudgeted funds.

At the time this analysis was prepared, there was no way to determine the extent to which PERS costs are overbudgeted, if indeed they are overbudgeted. Before such a determination can be made, two things must happen. First, the PERS board must adopt new actuarial assumptions and calculate the contribution rates that are consistent with these assumptions. The board is not expected to act on any rate changes for 1986-87 until late February or March. Preliminary information from the PERS, however, indicates that even with improved actuarial assumptions, the state could expect only minor reductions in its required contribution rates. Second, any rate changes would have to be implemented through legislation.

Accordingly, we withhold recommendation on this section, pending final determination of the state employers' PERS contribution rates for 1986-87.

SECTION 4.00**HEALTH INSURANCE PREMIUMS****ANALYSIS AND RECOMMENDATIONS**

We withhold recommendation on the monthly state contribution rates for employee health insurance specified in this section, pending final determination of the actual increase in health insurance premiums.

This control section, which is identical to Section 4.00 of the Budget Act of 1985, specifies the monthly amounts which the state contributes toward the cost of its employees' health insurance. The section provides for state monthly contributions of: (1) \$85 for the employee (or annuitant) only, (2) \$158 for an employee and one dependent, and (3) \$211 for an employee and two or more dependents.

Government Code Section 22825.1: (1) expresses legislative intent that the state pay 100 percent of the average premium cost for coverage of employees and annuitants, and 90 percent of the cost for coverage of dependents; and (2) specifies that the state's contribution toward employee health insurance shall be adjusted in the annual Budget Act. While this code section is "supercedable" under collective bargaining, its provisions have been included as part of all current civil service bargaining agreements (which generally cover the period 1985-86 through 1986-87). The Legislature must still approve any change—such as increases in the state's monthly contribution rates—which would result in increased costs during 1986-87.

Changes in the coverage of and premiums for state employee health insurance result from negotiations between Public Employees' Retirement System (PERS) staff and the insurance carriers. These negotiations typically are completed late in May. Any changes agreed to must be approved by the PERS board.

At the time this analysis was prepared, there was no basis for determining whether the contribution rates proposed in this section—that is, the current-year rates—are appropriate for the budget year. Accordingly, we withhold recommendation on this section, pending determination of the actual increase in health insurance premiums.

SECTION 4.20

CONTRIBUTIONS TO THE PUBLIC EMPLOYEES' CONTINGENCY RESERVE FUND (PECRF)

ANALYSIS AND RECOMMENDATIONS

We withhold recommendation on this section, pending clarification of information on the PECRF provided in the Governor's Budget.

This control section was first included in the 1984 Budget Act to provide a mechanism for (1) granting legislative approval of the surcharge rates that state agencies will be required to pay (a) for the costs incurred by the Public Employees' Retirement System (PERS) in administering the health benefits program and (b) toward a special reserve in the PECRF; and (2) recapturing excess payments to the PECRF. (For background information on the need for this control section, please see the *1984-85 Analysis*, pages 277-79, and the *1985-86 Analysis*, pages 224-27.)

This section proposes to set the administrative surcharge rate for 1986-87 at 0.7 percent of total health insurance premiums and the special reserve rate at 0 percent.

We have two major concerns regarding the administrative surcharge rate proposed for 1986-87. First, the Governor's Budget shows a current- and budget-year surplus in the PECRF, even though Section 4.20 (b) of the 1985 Budget Act provides for the reversion of the fund surplus as of June 30, 1985. To the extent the PECRF has surplus funds which could be used to pay administrative costs in 1986-87, there is no need to levy a surcharge rate in the budget year. Second, the budget shows that the proposed administrative surcharge rate would generate \$3.8 million, which is far in excess of the \$2.7 million that PERS expects to spend on health administration costs during 1986-87.

Pending clarification of these apparent discrepancies, we withhold recommendation on this section.

SECTION 5.00

ATTORNEY FEES—STATE COURTS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section increases legislative oversight regarding the payment of court-awarded attorney fees. It was included for the first time in the Budget Act of 1980.

The section prohibits the use of funds appropriated in the Budget Act or any other statute to pay attorney fees growing out of specified actions

in state court, prior to legislative review and approval. Specifically, the section limits payment to only those court-awarded attorney fees which are (1) specifically authorized and set forth in an item or section of the act, or (2) expressly authorized by a statutory provision *other than* 42 USC Section 1988 and other federal laws that provide for payment of attorney fees, or Section 1021.5 of the Code of Civil Procedure.

This section is similar to Control Section 5 in the 1985 Budget Act, which prohibited the payment of attorney fees awarded pursuant to Section 1021.5 of the Code of Civil Procedure, unless authority was provided elsewhere in the Budget Act. The proposed language in this section would extend the prohibition to attorney fees awarded pursuant to federal laws as well.

The Budget Bill includes an item which appropriates \$800,000 from various funds for the payment of attorney fee claims, settlements, and judgments against the state pursuant to the Code of Civil Procedure Section 1021.5, the "private attorney general" doctrine, the "substantial benefit" doctrine, or 42 USC Section 1988 and other federal laws providing for the payment of attorney fees. Of this amount, \$500,000 is proposed for attorney fees arising from actions in state courts and \$300,000 is proposed for payments of attorney fees arising from federal court actions. (Please see our analysis of Item 9810.)

SECTION 5.20

ATTORNEY FEES—FEDERAL COURTS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which was first included in the 1985 Budget Act, prohibits the use of funds appropriated in the Budget Act or any other statute to pay attorney fees with respect to actions arising in federal courts. Under this section, only court-awarded attorney fees specifically authorized and set forth in an item or section of the act may be paid with appropriated funds.

Last year, the Legislature adopted language indicating its intent that attorney fees awarded by federal courts be limited to a maximum hourly rate of \$90 and a maximum amount of \$100,000 for a single action. These limits are the same as the limits the Legislature placed on payments for attorney fees arising from state court actions, as specified in Item 9810 of the Budget Act of 1985.

This "intent language" does not appear in Section 5.20 of the 1986 Budget Bill. Instead the budget requests additional appropriations totaling \$300,000 from various funds in Item 9810 to pay the fees arising from federal court actions. Language in that item suggests that the federal courts be guided by the limitations imposed by the Legislature on payments for attorney fee awards arising in state courts. (Please see our analysis of Item 9810.)

SECTION 5.50

OVERSIGHT OF CONSULTANT CONTRACTS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 5.50 of the 1985 Budget Act, requires the Director of General Services to notify the Joint Legislative Budget committee within 30 days after approval of any contracts or inter-agency agreements providing for consultant or professional services.

SECTION 6.00**STATE BUILDING ALTERATIONS****ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

This section, which is identical to Section 6.00 of the 1985 Budget Act, establishes certain limits on the use of support budget funds for alterations of state buildings. Departments may not undertake building alterations using support budget funds which cost more than \$10,000 unless the Director of Finance determines that the proposed alteration is critical. "Critical" projects may not exceed \$200,000, and the Department of Finance's determination must be reported to the Chairperson of the Joint Legislative Budget Committee not less than 30 days prior to when bids for the project are requested. Alteration projects which cost less than \$10,000 are not subject to any approval or reporting requirement.

Section 6.00 is compatible with the Legislature's intent in adopting this section previously. We therefore recommend that this section be approved.

SECTION 6.50**TRANSFER OF AMOUNTS WITHIN SCHEDULES****ANALYSIS AND RECOMMENDATIONS**

We withhold recommendation on this section, pending further legislative review of statutory provisions delegating authority to the Department of Finance.

This section, which is identical to Section 6.50 of the 1985 Budget Act, authorizes the Director of Finance to transfer amounts between categories, programs or projects within the same schedule of an agency's items of appropriation. The Director of Finance is required to issue quarterly reports to the fiscal committees of each house and to the Joint Legislative Budget Committee (JLBC) regarding all transfers approved pursuant to this authority.

By enacting this section, the Legislature delegates budgetary authority to the Department of Finance. In our analysis of Section 27.00, we describe the JLBC's recent concerns with the way in which the department has abused this authority. Pending further review by the JLBC of this matter, we withhold recommendation on this section.

SECTION 7.20**COMMERCIAL INSURANCE POLICIES****ANALYSIS AND RECOMMENDATIONS**

We recommend that Section 7.20 be adopted in a modified form to omit an administrative directive which is no longer needed.

This section, which is identical to Section 7.20 of the 1985 Budget Act, prohibits the use of funds appropriated in the Budget Act to purchase a commercial insurance policy unless the coverage is required by law or necessary in order to ensure that a particular governmental function can be performed. The section requires a 30-day advance notification to the Joint Legislative Budget Committee before any insurance policy is purchased. In addition, this section directs the Department of Finance to reduce state agency budgets in cases where funds appropriated for insurance purchases are not needed.

When this section was first adopted in the 1984 Budget Act, the Legislature intended to strengthen the state's general policy toward self-insuring assets by prohibiting most *elective* purchases of private insurance policies (Section 7.20, subdivision (a)). A second provision (subdivision (b)) of this section was added at that time in order to provide the Department of Finance with the authority to "recapture" from the budget any funds which state agencies would no longer need for commercial insurance purchases.

The Department of Finance has had sufficient time to adjust state agency budgets where appropriate, and therefore the department no longer needs the authority granted by subdivision (b). Accordingly, we recommend that the Legislature adopt this section in modified form, by deleting subdivision (b).

SECTION 7.50

ACCOUNTING PROCEDURES FOR STATEWIDE APPROPRIATIONS ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 7.50 of the 1985 Budget Act, provides that, for accounting purposes, certain authorized statewide expenditures may be considered to be in augmentation of the appropriations made by this act. These expenditures include those authorized from the Reserve for Contingencies or Emergencies, total equivalent compensation funds, the price increase funds, the salary increase funds, and special funds pursuant to Section 11006 of the Government Code.

SECTION 8.50

APPROPRIATION AND CONTROL OF FEDERAL FUNDS ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 8.50 of the 1985 Budget Act, appropriates any additional amounts of federal funds received in excess of the amounts appropriated in the Budget Act, expresses legislative intent that state agencies should apply for the maximum amount of federal funds available to the state, and imposes reporting requirements on the Department of Finance with regard to reductions in federal funds. Specifically, the Director of Finance must report to the fiscal committees and the Joint Legislative Budget Committee when (1) federal funding for any of the federal block grant *programs* administered by the state is reduced by an amount in excess of 5 percent of the amount appropriated in the Budget Act or (2) federal funding for any Budget Act *item* receiving federal funds is reduced by an amount in excess of 5 percent of the amount appropriated in the Budget Act.

SECTION 8.51**FEDERAL TRUST FUND ACCOUNT NUMBERS****ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

This section, which is identical to Control Section 8.51 of the 1985 Budget Act, requires each state agency to use the Federal Trust Fund account numbers when certifying charges against federal funds appropriated by Budget Act items. We recommend approval of this section because it ensures consistent accounting between the State Controller's office and each state agency.

SECTION 9.00**SUPPLEMENTAL LANGUAGE REPORT****ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

This section states that the Supplemental Report of the Committee of Conference on the Budget Bill, which is prepared by the Legislative Analyst, reflects legislative intent in enacting the Budget Act. It is identical to Control Section 9.00 of the 1985 Budget Act. This section also directs the Legislative Analyst to send the report to all affected agencies.

SECTION 9.20**ADMINISTRATIVE COSTS FOR PROPERTY ACQUISITION****ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

This control section, which is similar to Section 9.20 in the 1985 Budget Act, specifies that the amount of funds expended for administrative costs in connection with the acquisition of state property shall be limited to the amount specified in the *Supplemental Report to the 1986 Budget Act*. Except in the case of condemnation, this section limits augmentations of administrative cost to 5 percent of the amount appropriated for administrative cost. Administrative costs associated with condemnation proceedings may be augmented by the State Public Works Board, in accordance with current law, which allows the board to augment an acquisition appropriation by up to 20 percent.

This section was first adopted in the 1984 Budget Act. It provides a measure of control over augmentations for administrative costs associated with property acquisition projects included in the budget. We recommend that the section be approved.

SECTION 11.50**DISTRIBUTION OF TIDELANDS OIL REVENUES****ANALYSIS AND RECOMMENDATIONS**

We withhold recommendation on the proposed distribution of tidelands oil revenues, pending legislative action on the spending proposals contained in the Budget Bill.

This section would modify existing law governing the allocation of tidelands oil revenues for the budget year. Table 1 compares the allocation of these revenues under existing law with the allocations proposed in this section.

Table 1
Distribution of Tidelands Oil Revenues in 1986-87
Comparison of Current Law with Section 11.50
(dollars in thousands)

Fund	Current Law	Section 11.50	
		Governor's Budget Est.	Lands Commission Est. ^a
State Lands Commission.....	\$13,766	\$13,766	\$13,766
California Water Fund	25,000	25,000	25,000
Fisheries Restoration Account.....	5,000	5,000	5,000
Central Valley Water Project Construction Fund.....	5,000	—	—
Sea Grants Program.....	500	500	500
Capital Outlay Fund for Public Higher Education (COFPHE)	109,138	125,837	125,837
State School Building Lease/Purchase Fund	150,000	—	—
Energy and Resources Fund	65,000	—	—
California Housing Trust Fund.....	20,000	20,000	20,000
Special Account for Capital Outlay (SAFCO)	21,996	235,797	225,797
Totals	\$415,400	\$425,400	\$415,400

^a January 1986

As Table 1 shows, Section 11.50 would distribute tidelands oil revenues in a manner that differs significantly from what current law specifies.

Section 11.50 also transfers \$22.5 million from the SAFCO to the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account. Current law specifies that an amount equal to \$1.50 per capita should be transferred to this account from the SAFCO in 1986-87.

If the appropriations proposed in the Governor's Budget are approved by the Legislature, the *COFPHE* would be overappropriated by nearly \$7 million, while the SAFCO would have an unappropriated balance of \$16.3 million (based on the State Lands Commission's January 1986 revenue estimate). Thus, the proposed distributions are neither consistent with those called for by current law nor consistent with what the administration's spending proposals require.

Until the Legislature has determined how it wants to *spend* tidelands oil revenues, it would be premature to *allocate* these revenues through Control Section 11.50. Once the spending decisions have been made, revenues should be allocated in a conforming manner.

We recommend, however, that the Legislature provide for a balance equal to no more than three percent of approved construction funding in the various funds that receive tidelands oil revenues. A three percent balance should be sufficient to provide any necessary augmentations during the budget year, given current projections of the inflation rate in the months ahead.

Amount of Tidelands Oil Revenue Is Uncertain

The Governor's Budget assumes that the state will receive \$425.4 million in tidelands oil revenues during 1986-87. In January, however, the State Lands Commission advised us that it had revised the 1986-87 revenue estimate to \$415.4 million. As shown in Table 1, this reduces by \$10 million the amount available in the SAFCO.

In recent months, the price of oil has fallen dramatically. If the price of oil continues to drop, tidelands oil revenues could be considerably less

than the amount allocated in the budget. For every one dollar reduction in the price of the state's oil, tidelands oil revenues will drop by \$20 million. In our *Analysis* of the State Lands Commission budget (Item 3560-001-001), we have asked the commission to submit a revised tidelands oil revenue estimate to the Legislature by April 15, 1986.

SECTION 11.51

ENERGY AND RESOURCES FUND

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section appropriates \$2,249,000 from the Special Account for Capital Outlay (SAFCO) to the Energy and Resources Fund (ERF) as of June 30, 1986.

This appropriation is intended to eliminate an anticipated deficit in the ERF. The Department of Finance indicates that funds in the ERF are lower than anticipated because of transfers from the ERF for (1) tax credits related to the purchase of solar-powered and energy conserving irrigation equipment, pollution abatement equipment, and alcohol fuel in 1984-85 and 1985-86, and (2) state loans to local agencies for the purpose of financing energy conserving street lighting. We recommend that this section be approved.

SECTION 12.00

APPROPRIATIONS LIMIT FOR 1986-87

ANALYSIS AND RECOMMENDATIONS

We withhold recommendation on this section, pending the receipt of final data on the factors used to adjust the state's appropriations limit.

This section establishes the state's 1986-87 appropriations limit called for by Article XIII B of the State Constitution. It also sets a time limit on judicial challenges to the limit established by this section.

The budget proposes a 1986-87 limit of \$24,205 million. This reflects only a preliminary estimate of the limit, however, as the final annual adjustment factors for inflation and population needed to establish the 1986-87 limit pursuant to the constitution will not be known until May.

When this data becomes available, we will report our recommendations on the state's appropriations limit to the Legislature.

Part 3 of *The 1986-87 Budget: Perspectives and Issues* contains a discussion of the state's appropriation's limit and the extent to which it is likely to constrain expenditures in the future.

SECTION 12.30

SPECIAL FUND FOR ECONOMIC UNCERTAINTIES

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section does two things.

First, it provides for an appropriation to the Special Fund for Economic Uncertainties. (Legislation enacted in 1985 established this fund to replace the General Fund's Reserve for Economic Uncertainties.) The budget proposes that an amount necessary to bring the fund balance up to \$1,160 million be appropriated to the fund on July 1, 1986. This is the amount that the Governor's Budget estimates will remain in this reserve fund on June 30, 1987. Using the revenue and expenditure estimates contained in the Governor's Budget, the appropriation proposed by this section would amount to \$325 million.

The actual amount that will remain in the reserve on June 30, 1987, will be determined by the difference between actual General Fund revenues and actual General Fund expenditures between now and that date. Existing state law provides for an automatic appropriation of the difference (if positive) to this fund. If revenues are not sufficient to fund the actual level of expenditures, this section provides for the transfer of funds from the Special Fund for Economic Uncertainties to the General Fund to eliminate the deficit. As a result, the appropriation proposed by this section is not necessary, but it does not appear to create any problems.

Second, this section contains language which would deem the amounts appropriated in the budget bill to be the lesser of the following amounts:

a. the amounts stated in the budget bill, or

b. the amounts actually encumbered or expended as of June 30, 1987.

The purpose of this language, which has not appeared in previous budget acts, is to avoid having to count the appropriation of the same funds twice for purposes of the appropriations limit. In past years, it has not been unusual for state agencies to realize significant savings relative to the total amount of funds appropriated to them for expenditure in the budget bill. These savings automatically revert to the surplus in the General Fund as of the last day of the fiscal year, and they are then automatically reappropriated to the Special Fund for Economic Uncertainties. Thus, the funds are appropriated twice during the course of the fiscal year, and each appropriation must be treated as an "appropriation subject to limitation" for purposes of the State Constitution.

The proposed language attempts to eliminate this double-counting by deeming the first appropriation to be the amount actually expended. As a result, the amount "saved" by an agency would then be considered as never having been appropriated, and only the appropriation of these funds to the Special Fund for Economic Uncertainties would be treated as an "appropriation subject to limitation." As this change would increase the Legislature's flexibility in adjusting to the now-binding provisions of Article XIII B, we recommend that it be approved.

SECTION 12.50

SPECIAL FUND RESERVES

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Control Section 12.50 of the 1985 Budget Act, relates to special fund reserves. It would appropriate the balances existing in *each* special fund as of June 30, 1987, into a reserve account within each fund. If these funds are not so appropriated, they would be subject to Section 2 of Article XIII B of the State Constitution, which requires the state to return to taxpayers surpluses in each fund that are unappropriated at year end.

The Legislature established these special fund reserve accounts in the 1981 Budget Act in order to prevent the return of monies which are not truly "surplus" in nature. Many special fund balances are earmarked for expenditure but are not yet appropriated. Thus, in order to prevent the return of monies that are *not* excess to the state's needs, we recommend approval of this section.

SECTION 13.00**LEGISLATIVE COUNSEL BUREAU****ANALYSIS AND RECOMMENDATIONS***We recommend approval.*

This section, which is similar to Section 13.00 of the 1985 Budget Act, permits the appropriation for support of the Legislative Counsel Bureau to be expended as authorized by the Joint Committee on Rules, rather than as submitted in the Governor's Budget, thereby retaining flexibility in the legislative branch to adjust the bureau's operating costs and staffing (within established classifications) to meet workload conditions. The section also exempts the bureau from certain Government Code, Administrative Code, and Public Contract Code Sections, and from Section 5.50 of the Budget Act, which place restrictions on administrative and related matters.

In addition, the section reappropriates the unexpended balances of the appropriations in the 1985 Budget Act for the bureau and the Commission on Uniform State Laws, to be used for the same programs and purposes that will be financed from the 1986-87 Budget Bill appropriations to the bureau and commission.

SECTION 18.10**DEPARTMENT OF PARKS AND RECREATION****ANALYSIS AND RECOMMENDATIONS**

We recommend that the reference in the control section to the "Senate Finance Committee" be changed to "Senate Budget and Fiscal Review Committee."

Many state park units are operated and maintained by local agencies through operating agreements with the Department of Parks and Recreation. This section, which is identical to Section 18.10 of the 1985 Budget Act, prohibits the department from approving or modifying any operating agreement unless either (1) the Legislature has reviewed the agreement during the budget process and adopted supplemental report language expressing its approval of the agreement or (2) the Public Works Board (a) approves the agreement, and (b) determines that the agreement could not have been reasonably presented to the Legislature during the budget process. The Director of Finance must notify the Chairpersons of the Joint Legislative Budget Committee and the fiscal committees 20 days in advance of when the board considers such an agreement.

Technical Recommendation. This control section requires the Director of Finance to provide certain notifications to the chairperson of the "Senate Finance Committee", among others. Because the Senate has altered its committee structure, this reference should be changed to the Senate Budget and Fiscal Review Committee.

SECTION 21.00

FEDERAL BLOCK GRANT AUDIT PLANS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Under existing law, state agencies administering federal block grant funds each year must prepare plans for conducting federally mandated audits. This section, which is identical to Section 21.00 of the Budget Act of 1985, authorizes the State Controller, with approval from the Auditor General and the Department of Finance, to withhold 1 percent of federal block grant funds from departments which fail to submit plans for federally mandated audits on a timely basis.

SECTION 24.00

STATE SCHOOL FUND

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section specifies the allocation of State School Fund revenues between K-12 education and community colleges. Our analysis of this section appears in Item 6870-001-001.

SECTION 24.10

DRIVER TRAINING

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section transfers to the General Fund the unencumbered surplus in the Driver Training Penalty Assessment Fund on June 30, 1987. Our analysis of this section appears in Item 6100-171-178.

SECTION 24.20

"BASIC AID" SCHOOL DISTRICTS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section limits the amount of state aid provided to so-called "basic aid" school districts. Our analysis of this section appears in Item 6100-101-001.

SECTION 24.30

DEFERRED MAINTENANCE

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section authorizes the State Allocation Board to make additional deferred maintenance apportionments to local school districts, above the limit set by current law. Our analysis of this section appears in Item 6100 (Department of Education, School Facilities).

SECTION 24.60**LOTTERY REVENUES****ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

This section requires public education agencies which receive state lottery funds to report to the Legislature by September 1, 1987 on how these funds were used in 1986-87, and how they propose to use them in 1987-88. Our analysis of this section appears in Item 6100-101-001.

SECTION 26.00**FUNDING OF COSTS DUE TO EXECUTIVE ORDERS****ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

This section provides that no funds appropriated in the Budget Act shall be used to finance increased state or local costs arising from the issuance of executive orders unless the funds are appropriated specifically for that purpose.

In prior years, Section 26.00 also allowed the Director of Finance to authorize the encumbrance of funds to meet increased costs resulting from the issuance of executive orders. The Department of Finance proposes to omit this language from the 1986 Budget Act, on the advice of the Attorney General. This is because a superior court has ordered the Director of Finance to authorize the encumbrance of funds to reimburse local agencies for mandated local program costs even though the Legislature has not appropriated funds for these reimbursements.

In our opinion, the costs of mandated local programs should be funded directly by the Legislature, not by the Director of Finance using funds which the Legislature appropriated for other purposes. Accordingly, we recommend approval of Section 26.00 as proposed.

SECTION 27.00**AUTHORIZATION TO INCUR DEFICIENCIES****ANALYSIS AND RECOMMENDATIONS**

We withhold recommendation on this section, pending further legislative review of statutory provisions delegating authority to the Department of Finance.

This section, which is identical to Section 27.00 of the 1985 Budget Act, authorizes the Department of Finance to approve agency requests to spend at rates which will result in the need for subsequent deficiency appropriations. The department must give the Legislature 30 days' advance notice prior to approving such requests. This requirement, however, does not apply to deficiencies: (1) relating to Medi-Cal, SSI-SSP and AFDC; or (2) involving an emergency expenditure. In addition, the department must inform the Legislature within 10 days of receiving from an agency any request to spend at rates which would result in a deficiency appropriation.

By including this section, as well as Sections 6.50 and 28.00, in the Budget Act, the Legislature delegates considerable authority over the budget to the Director. In January 1986, the Joint Legislative Budget Committee (JLBC) considered a number of instances in which the department either misused or overreached its authority under these sections. For example,

during the current year, the department approved several "emergency" expenditures for the Department of Corrections when, in fact, there was no emergency—just a department wanting to spend money without going through the normal budget process. (Please see pages 1013-15 for a more detailed discussion of how this authority has been misused.)

Given these questionable uses of the authority delegated to the Director by this section, the JLBC has initiated a review of these delegations of authority. We withhold recommendation on this section, pending completion of that review.

SECTION 28.00

AUTHORIZATIONS FOR ADJUSTMENTS IN SPENDING AUTHORITY ANALYSIS AND RECOMMENDATIONS

We withhold recommendation on this section, pending further legislative review of statutory provisions delegating authority to the Department of Finance.

This section, which is identical to Section 28.00 of the 1985 Budget Act, authorizes the Director of Finance to increase or decrease the amounts available for expenditure by an agency when funds received from any source exceed or fall short of the amounts scheduled in the Budget Act. The section requires, however, that certain adjustments (such as increases or decreases in excess of \$100,000) may be approved only after 30-days' advance notification to the Legislature.

By including this section in the Budget Act, the Legislature delegates considerable authority over the budget to the Department of Finance. In our analysis of Section 27.00, we describe the Joint Legislative Budget Committee's (JLBC) concerns regarding the way in which this authority has been used. Pending further review of this matter by the JLBC, we withhold recommendation on this section.

SECTION 29.00

PERSONNEL-YEARS REPORTING ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Control Section 29, first adopted in the 1983 Budget Act, requires the Department of Finance to publish the total number of personnel-years and estimated salary savings for each department and agency at the same time that the following documents are published: (a) the Governor's Budget, (b) the May revision, and (c) the Final Change Book. The listing provided at the time the Governor's Budget is published also must contain estimates of personnel-years for the prior year and current year.

In past years, the information provided to the Legislature by the Department of Finance on personnel-years has not been adequate for legislative review and control purposes. The Department of Finance published an estimate of prior-year, current-year and budget-year personnel-years *once* each fiscal year, in the budget document. The number of personnel-years proposed in the Governor's Budget, however, is changed—generally upwards—at various points during the fiscal year. Generally, the largest changes have come *after* the budget has been passed, due to the establishment of new positions by the administration. Without updated information on personnel-years, the legislature cannot adequately monitor changes in the number of state employees.

SECTION 29.50**REPORTS ON PROPOSED PERSONAL SERVICE CONTRACTS****ANALYSIS AND RECOMMENDATIONS**

We recommend approval of this section, with one minor modification.

This section, which is identical to Section 29.50 of the 1985 Budget Act, requires the Department of Finance to provide the Joint Legislative Budget Committee (JLBC) with a specified list of personal service contracts contained in the Governor's Budget. This section also requires the department to report to the Legislature on a quarterly basis regarding any state agency proposal that (1) involves the use of personal services contracting for a new service, and (2) was not previously considered in the Governor's Budget.

We recommend approval of Section 29.50, with one modification. In order to ensure that the JLBC receives the service contracts list prior to the completion of the *Analysis*, we recommend that the Legislature amend this section to require the Department of Finance to transmit this information to the JLBC by *January 10, 1987*.

SECTION 30.00**CONTINUOUS APPROPRIATIONS—EXEMPTIONS FROM GOVERNMENT
CODE SECTION 13340****ANALYSIS AND RECOMMENDATIONS**

We withhold recommendation on this section.

Section 13340 of the Government Code (as amended by Ch 111/85) provides that, effective July 1, 1986, all continuously appropriated funds must instead be appropriated in the annual Budget Act, unless expressly exempted by the Legislature.

This control section provides exemptions from the requirements of Section 13340 for over 500 funds.

We have not as yet completed our analysis of this proposal. Consequently, we withhold recommendation on this section. We will report our recommendations on the proposed exemptions to the Legislature in a supplemental analysis.

SECTION 31.00**ADMINISTRATIVE AND ACCOUNTING PROCEDURES****ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

This section, which includes the same provisions as Section 31.00 of the Budget Act of 1985, requires departments to comply with Sections 13332 through 13332.16 of the Government Code. These sections codified provisions which, in prior years, were included as control sections in the annual Budget Act.

This section also defines certain administrative and accounting procedures required by the Department of Finance. It requires expenditures to be made in accordance with established allotments, and restricts promotions, reclassifications, and the creation of new positions, unless approved by the Department of Finance. This section establishes a salary savings reserve to be reported by the agencies to the Department of Finance for

approval, and limits the use of the reserve. It also requires certification by the agencies that expenditures have been made for the purposes stated in the budget, unless the purposes have been revised by the Department of Finance.

Section 31.00 also requires the Director of Finance to notify the chairpersons of the fiscal committees and the Joint Legislative Budget Committee within 30 days of the creation or reclassification of any position with a minimum pay scale of \$2,636 per month. This monthly "threshold" amount was \$2,160 in Section 31.00 of the 1985 Budget Act.

SECTION 32.00

EXPENDITURES IN EXCESS OF AMOUNTS APPROPRIATED

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 32.00 of the 1985 Budget Act, prohibits and declares invalid any action by a public officer which would cause any expenditure to be in excess of amounts appropriated, except with the written consent of the Department of Finance. Any indebtedness created against the state in violation of these provisions would be considered null and void. The Department of Finance is to submit, on a quarterly basis, copies of all written consent documents to the fiscal committees of each house and to the Joint Legislative Budget Committee.

This section also makes a state official liable, on his or her official bond, for any indebtedness against the state in violation of these provisions. This section makes such an officer *personally* liable for the debt as well, consistent with Section 13324 of the Government Code.

SECTION 33.00

GOVERNOR'S VETOS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 33.00 of the Budget Act of 1985, declares the intent of the Legislature that an item veto by the Governor shall not affect other items in the Budget Bill.

SECTION 34.00

SEVERABILITY OF BUDGET ACT PROVISIONS

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 34.00 of the 1985 Budget Act, states legislative intent that a finding of unconstitutionality with respect to any part of the Budget Act shall not affect any other parts.

SECTION 35.00

BUDGET ACT TO TAKE IMMEDIATE EFFECT

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 35.00 of the 1985 Budget Act, specifies that, under provisions of Section 8, Article IV of the California Constitution, the Budget Act shall take effect immediately.

SECTION 36.00
URGENCY CLAUSE

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which is identical to Section 36.00 of the 1985 Budget Act, provides that the Budget Act is an urgency statute and shall take effect immediately.
