

ANALYSIS AND RECOMMENDATIONS WITH RESPECT TO GENERAL CONTROL SECTIONS

The so-called "control sections" included in the 1988 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 1988-89 may be found in Section 3.00 through Section 36.00 of Senate Bill No. 1740 (Alquist) and Assembly Bill No. 2754 (Vasconcellos). In many instances, the numbering of these sections is not consecutive, as the section numbers in the 1988 Budget Bill have been designed to correspond with the equivalent or similar sections in the 1987 Budget Act.

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.

Sections Which We Recommend Be Approved

The following sections are virtually identical to the sections in the 1987 Budget Act, or do not represent any change in legislative policy. *We recommend approval because they are consistent with previous legislative policy.*

Section	Subject Area
3.00	Budget Act Definitions and Statutory Salaries
3.50	Employee Benefits
3.70	Recapture of Telephone Rental Costs
5.00	Attorney Fees—State Courts
5.50	Oversight of Consultant Contracts
6.00	State Building Alterations
6.50	Transfer of Amounts Within Schedules
7.50	Accounting of Procedures for Statewide Appropriations
8.50	Appropriation and Control of Federal Funds
8.51	Federal Trust Fund Account Numbers
8.60	Single Audit Review Costs
9.00	Supplemental Report of the 1988 Budget Act
9.10	Final Change Book
9.20	Administrative Costs for Property Acquisition
11.60	Disaster Response-Emergency Operations Account
12.50	Special Fund Reserves
13.00	Legislative Counsel Bureau
18.10	Department of Parks and Recreation Contract Agreements
22.00	Unallocated Appropriation for Welfare Employment Programs
24.00	State School Fund
24.10	Driver Training
24.60	Lottery Revenues
27.00	Authorization to Incur Deficiencies
28.00	Authorizations for Adjustments in Spending Authority
29.00	Personnel-Years Reporting

29.50	Reports on Proposed Personal Service Contracts
30.00	Continuous Appropriations
31.00	Administrative and Accounting Procedures
32.00	Expenditures in Excess of Amounts Appropriated
33.00	Governor's Vetoes
34.00	Severability of Budget Act Provisions
35.00	Budget Act to Take Immediate Effect
36.00	Urgency Clause

Sections Which We Recommend Be Modified

We recommend various actions on the following sections:

SECTION 3.60

RECAPTURE OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) CONTRIBUTIONS

ANALYSIS AND RECOMMENDATIONS

We recommend deletion of subdivision (b) of Section 3.60 because all gains due to improved fund performance should be captured over time, rather than all at once, through reduced employer contribution rates.

This section, first included in the 1986 Budget Act, authorizes the Department of Finance (DOF) to recapture any excess funds provided in state agencies' budgets for PERS employer contributions. In 1988-89, as in the past two years, there will be excess funds provided in individual agency budgets. This is because budgets were built using *current-year* employer contribution rates, yet the PERS Board has recently approved 1988-89 rates which are generally *lower* than the current-year's rates. In addition, for the first time certain PERS retirement categories (industrial, state safety and highway patrol) are "fully funded" (that is, they have no "unfunded liabilities") and even have *surplus* funds in their employer asset accounts. The budget proposes that these surplus funds be used to offset employer contributions in the budget year.

Table 1 shows the current-year and budget-year PERS rates and the savings from both rate reductions and surplus funds. Total savings of \$158 million is comprised of: (a) \$71 million from rate reductions and (b) \$86 million from surplus recapture.

Recapture of Overbudgeted Funds Due to Rate Reductions Is Appropriate

Employer retirement contribution rates are recalculated annually, effective each July 1. They are the product of an annual actuarial valuation of the retirement fund performed the previous July. Thus, the 1988-89 rates are based on the fund valuation performed in July 1987. The proposed budget-year rates are, with one exception, *lower* than the previous year's rates. The reductions are due to an increase in PERS assets, which in turn reduced the system's funding needs. Approximately two-thirds of the asset increase is due to greater-than-expected rates of return to the portfolio during 1986-87. In addition, the system is still realizing gains from its December 1986 decision to value assets at market value rather than book value. The total increase in assets from this change is being phased-in over a five-year period, resulting in small annual reductions in the PERS employer rates.

The rate reductions resulting from these asset gains would total \$71 million in 1988-89, and we recommend approval of language in the section which would recapture these funds.

Table 1
State PERS Employer Contributions
Impact of Reduced 1988-89 Rates
(dollars in millions)

<i>Retirement Categories</i>	<i>Rates</i>			<i>Estimated Salary Base 1988-89</i>	<i>Savings Resulting from 1988-89 Rate Reductions and Surplus Recapture</i>			
	<i>1987-88 Actual Rate</i>	<i>1988-89 Approved Rate</i>	<i>Rate Change</i>		<i>General Fund</i>	<i>Special Funds</i>	<i>Nongovt. Funds</i>	<i>Total</i>
State Miscellaneous:								
First Tier.....	15.202%	13.464%	-1.738%	\$3,032.0	\$18.9	\$19.9	\$13.9	\$52.7
Second Tier.....	15.038	13.413	-1.625	466.0	4.0	2.1	1.4	7.6
Industrial.....	15.332	16.626	1.294	146.2	-1.0	-0.5	-0.4	-1.9
State Safety.....	19.229	17.296	-1.933	112.7	0.9	1.1	0.2	2.2
Highway Patrol.....	20.859	18.453	-2.406	216.4	—	4.9 ²	—	4.9 ²
Peace Officer/Firefighter.....	17.171	16.431	-0.740	791.2	5.7	—	0.2	5.9
Totals, Savings Due to Rate Reductions.....					\$28.5	\$27.5	\$15.3	\$71.4
Proposed Savings Due to Surplus Recapture.....					20.6	59.0	6.6	86.2
Totals, Savings From Section 3.60.....					\$49.1	\$86.5	\$21.9	\$157.6

² Savings is less than the rate reduction and salary base figures would indicate. We were unable to reconcile PERS and budget data.

Stock Market Crash Should Not Significantly Affect PERS Employer Rates

The employer contribution rates dropped once again this year in spite of the October stock market crash, which resulted in a loss of over \$3 billion to the Public Employees' Retirement Fund. This is because rates are based on a valuation performed in July 1987, prior to the crash.

It is unlikely, however, that even *subsequent* years' rates will be affected significantly by the crash, for two reasons. First, as PERS phases in market gains and losses over a five-year period, only one-fifth of any reduction in PERS' stock portfolio during 1987-88 will be felt in 1989-90 rates. Second, even this loss will be offset to an unknown extent by past years' market gains which have not yet been fully phased in. Consequently, we would not expect 1989-90 PERS rates to change significantly.

Surplus Funds Also Should Be Reflected in Long-Term Rates

The budget proposes to use surplus funds in employer asset accounts of three "overfunded" categories to offset budget-year employer contributions on a dollar-for-dollar basis. The total savings for 1988-89 would be \$86 million (\$21 million General Fund). While the Legislature certainly has the option of recapturing these savings "up front," our analysis suggests that the actuarial gains should instead be taken over the long run, for two basic reasons.

Gains and Losses Should Be Treated the Same. Currently, all changes in PERS liabilities (for example, an increase in liabilities due to longer annuitant life spans) are reflected in long-term employer rates. In other words, liabilities are amortized over the system's funding period. We believe that *gains* should be treated in the same manner as *losses*. In so doing, the true costs of the system are spread more evenly over time, so that taxpayers of a particular time period do not pay a disproportionate share of the system's costs. If, on the other hand, the system were to take all gains "up front" and defer all losses, current taxpayers would be subsidized by future ones.

Amortization of Gains "Smooths Out" Annual Contribution Rates. If gains are taken "up front," the state's employer contributions would be subject to considerable fluctuations. For instance, under the Governor's proposal, the California Highway Patrol would make *no* PERS employer contribution in 1988-89. By the end of 1989-90, however, the agency would have to resume its "normal" PERS payments of about \$42 million. These huge fluctuations would obscure the ongoing level of retirement-related costs.

For these reasons, we recommend that the Legislature delete subdivision (b) of the section, thereby requiring PERS to realize the savings through reductions in long-term rates. This action would reduce expected 1988-89 savings by \$86.3 million (\$21 million General Fund). These savings would instead be realized through slightly lower rates in 1988-89 and subsequent years.

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 1987 Budget Act, specifies the monthly amounts which the state contributes toward the cost of its employees' and retirees' health insurance. The section provides for state monthly contributions of: (1) \$92 for the employee (or annuitant) only, (2) \$174 for an employee and one dependent, and (3) \$233 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 the 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 "supersedable" under collective bargaining, the Legislature must still approve any change—such as increases in the state's monthly contribution rates—which would result in increased costs during 1988–89.

Changes in the coverage of and premiums for state employee health insurance result from negotiations between the Public Employees' Retirement System (PERS) staff and the insurance carriers. These negotiations typically are completed 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 (1) the actual increase in health insurance premiums and (2) rate changes, if any, negotiated under collective bargaining or proposed for nonrepresented employees.

SECTION 4.20

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

ANALYSIS AND RECOMMENDATIONS

We recommend that the administrative surcharge rate set in this section be changed to 0.6 percent of total health insurance premiums.

This 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 are 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.

This section, as proposed in the 1988 Budget Bill, is identical to the version included in the 1987 Budget Act. It proposes to set the administrative surcharge rate for 1988–89 at 0.45 percent of total health insurance premiums and the special reserve rate at 0 percent.

Our analysis of the PECRF's fund condition indicates that the administrative surcharge rate should be set at 0.6 percent in 1988–89. This rate would generate enough revenue—when combined with the remaining surplus in the fund—to finance PERS's budget-year administrative costs. Accordingly, we recommend that the section be approved setting the administrative surcharge rate at 0.6 percent and the special reserve rate at 0 percent.

SECTION 11.50

DISTRIBUTION OF TIDELANDS OIL REVENUES

ANALYSIS AND RECOMMENDATIONS

We withhold recommendation on the proposed distribution of tidelands oil revenues pending (1) legislative action on the spending proposals in the Budget Bill and (2) receipt of information from the Department of Finance concerning the need to deposit funds in the Capital Outlay Fund for Public Higher Education and a reconciliation on the balance of unappropriated funds in the Special Account for Capital Outlay.

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 1988-89 Tidelands Oil Revenue
Comparison of Current Law with Section 11.50
(dollars in thousands)

<i>Fund</i>	<i>Current Law</i>	<i>Section 11.50</i>
State Lands Commission	\$12,303	\$12,303
California Water Fund	25,000	4,000
Fisheries Restoration	—	—
Central Valley Project	5,000	—
Sea Grants	525	525
Capital Outlay Fund for Public Higher Education (COFPHE)	125,000	3,607
State School Building Lease Purchase Fund (SSBLPF)	27,272	—
Energy and Resource Fund (ERF)	—	—
Housing Trust Fund	—	10,000
Special Account for Capital Outlay (SAFCO)	—	164,665
Total	\$195,100	\$195,100

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

Capital Outlay Fund for Public Higher Education. The Budget Bill proposes an allocation of \$3,607,000 to the Capital Outlay Fund for Public Higher Education (COFPHE). Language in the section exempts this allocation from Education Code Section 67354.5. We have two concerns with this proposed allocation. *First*, there are no proposed appropriations from the COFPHE in the Budget Bill and the Department of Finance staff has been unable to identify a need for these funds. *Second*, Section 67354.5 of the Education Code was enacted as part of the 1986 Higher Education Construction bond program approved by the voters in November 1986. This section requires that bond funds used to provide short-term loans to community colleges for the purchase of instructional equipment are to be repaid to the bond fund from the first money available in the COFPHE beginning in the 1987-88 fiscal year. There is an outstanding appropriation of \$35 million to the community colleges for this purpose. It is not clear that this provision, which is part of the bond program approved by the electorate, can be exempted through language

in the Budget Act. We have requested an opinion from the Legislative Counsel regarding this matter.

Special Account for Capital Outlay. The Governor's Budget (page GG 222) indicates that there will be an unappropriated balance of \$24.1 million in the Special Account for Capital Outlay (SAFCO) on June 30, 1989. This balance is based on carry-over balances from the current year (\$23.9 million), the proposed allocation of 1988 tidelands oil revenues to SAFCO (\$164.7 million) and proposed appropriations from SAFCO (\$164.5 million) in the Budget Bill. Based on the unappropriated balance in October 1987 (accounting for all appropriations from SAFCO in the Budget Act and other legislation) there should be a carry-over balance of \$13.2 million rather than \$23.9 million shown in the Governor's Budget. In October, the Department of Finance staff concurred with the \$13.2 million balance. At the time this analysis was written, the Department of Finance staff were attempting to reconcile the \$10.9 million difference between the October balance and the Governor's Budget. This reconciliation is important because accurate information on the unappropriated balance in SAFCO is essential in order for the Legislature to determine its spending plan for the budget year. Consequently, a full reconciliation of this fund is needed prior to budget hearings.

In addition, the price of oil has recently declined substantially. We estimate that the lower price will result in reduced tidelands oil revenue to the state of *at least* \$50 million in the current year and \$80 million in the budget year. If this lower price trend continues, the Governor's proposed expenditure plan from this revenue source would have to be changed dramatically. The State Lands Commission expects to release a revised tidelands oil revenue estimate on February 22. This revised estimate, coupled with the Department of Finance reconciliation, should give the Legislature the information it needs to determine a spending plan for the budget year.

SECTION 12.00

APPROPRIATIONS LIMIT FOR 1988-89

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 and the outcome of the June 1988 primary election.

This section establishes the state's 1988-89 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 1988-89 limit of \$27,306 million. This is only a preliminary estimate of the limit, however, as the limit's annual adjustment factors for inflation and population will not be final until May.

Further, on June 7, 1988 the voters will be asked to consider two initiative measures to amend Article XIII B. Both of these measures would significantly change the appropriations limit if adopted. Thus, the Legislature will not be able to ascertain the proper 1988-89 appropriations limit until after the June election. At that time, we will report our recommendations on the state's appropriations limit to the Legislature.

SECTION 12.30

SPECIAL FUND FOR ECONOMIC UNCERTAINTIES

ANALYSIS AND RECOMMENDATIONS

We recommend that this section be deleted.

This section does two things.

First, it provides for an appropriation to the Special Fund for Economic Uncertainties. As in past years, the amount would be determined after the 1988 Budget Act is enacted, and would be equal to the estimate of the reserve balance to be contained in the Final Change Book for the 1988-89 fiscal year. The budget proposes that new language be adopted in this section requiring that the amount so determined be reduced by the amount of any "excess revenues" under Article XIII B of the California Constitution, as estimated by the Director of Finance. Using the revenue and expenditure estimates contained in the Governor's Budget, the appropriation proposed by this section would amount to \$155 million.

The actual amount that will remain in the reserve at the end of the fiscal year will be determined by the difference between actual 1988-89 General Fund revenues and actual 1988-89 General Fund expenditures. Existing state law (Government Code Section 16418) 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 code section further provides for the transfer of funds from the Special Fund for Economic Uncertainties to the General Fund to eliminate the deficit. Thus, this Government Code section controls how much money is ultimately appropriated to the reserve in any fiscal year. As a result, the appropriation proposed by Control Section 12.30 is duplicative of the already existing statutory appropriation. Therefore, because the proposed appropriation is unnecessary, we recommend that section (a) be deleted.

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, 1988. The purpose of this language, which was first adopted in the 1986 Budget Act, 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 savings relative to the total amount of funds appropriated to them for expenditure in the Budget Act. These savings automatically revert to the surplus in the General Fund as of the last day of the fiscal year, and are then automatically reappropriated to the Special Fund for Economic Uncertainties.

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."

On the basis of a Legislative Counsel opinion, however, this language appears to be unnecessary. According to this opinion, the reappropriation of funds which have already been counted once for purposes of the appropriations limit does not constitute an additional "appropriation subject to limitation." Thus, although current estimates indicate that \$155 million would be appropriated by this section to the reserve, that portion which represents the amount "saved" in individual agency budgets need not be counted as an "appropriation subject to limitation." Because the language is not necessary to accomplish this objective, we recommend that it be deleted.

SECTION 23.50

ALLOCATION OF FEDERAL IMMIGRATION REFORM MONIES

ANALYSIS AND RECOMMENDATIONS

This section appropriates federal funds made available under the federal Immigration Reform and Control Act (IRCA). This act authorized a general amnesty for certain groups of undocumented aliens, holding out eventual citizenship to these individuals. In addition, the amendments created employer sanctions in the hopes of discouraging future illegal immigration.

The IRCA legislation included \$4 billion in federal funds to pay for the cost of certain state and federal services that would be available to legalized aliens. A portion of these funds—known as State Legalization Impact Assistance Grants (SLIAG) funds—will be made available to California beginning in 1987–88.

Legislature Needs Time to Develop Strategy and Obtain Better Information

We withhold recommendation on \$291.3 million in federal funds appropriated by this section and related Budget Bill language pending (1) the adoption of a legislative strategy regarding expenditure of federal SLIAG funds and (2) improved 1988–89 cost estimates for health, welfare, and education services provided to newly legalized aliens.

The 1988–89 Governor's Budget proposes through this section to spend \$291.3 million in federal SLIAG funds to reimburse state and local programs for the costs of providing services to eligible legalized aliens. The budget-year allocation is part of a five-year spending plan outlined in the budget which uses projections of the number of legalized aliens to apportion funds. The section also includes language specifying how reallocations of funds could be made during the budget year.

The appropriate SLIAG spending level—and accompanying reporting language—will depend on certain decisions not yet made and information not currently available:

- **Legislative Strategy in Spending SLIAG Funds.** The program allocations and reporting requirements desired by the Legislature should reflect its overall strategy in allocating SLIAG funds. Program allocations proposed in the Governor's Budget are based on a specific funding strategy. The Legislature, however, has significant flexibility in deciding how to spend federal SLIAG funds. (We discuss the options available to the Legislature in *The 1988–89 Budget: Perspective and Issues.*) Similarly, the Legislature's basic funding strategy will determine the kinds of information on SLIAG spending trends—Section 28 notification or quarterly reports, for instance—it desires during 1988–89.
- **Actual Data on Applicants for Legalization.** The program funding schedules in Section 23.50 were based on data from the 1980 Census and other Department of Finance estimates. As a result, a great deal of uncertainty surrounds estimates of IRCA program costs. *Actual* data on the number and characteristics of applicants will be available this spring, which will permit improved estimates of specific program impacts.

Until the Legislature determines its overall SLIAG funding strategy and actual cost data are made available, we cannot make recommenda-

tions regarding funding allocations and accompanying Budget Bill language proposed in Section 23.50. Therefore, we withhold recommendation on these issues at this time.

Medi-Cal Language Could Increase the General Fund Cost of IRCA

We recommend deleting proposed language limiting the use of SLIAG funds for Medi-Cal services because, without a change in state law, the language could increase General Fund costs of health services for legalized aliens in 1988-89.

The IRCA limits the availability of federal Medicaid funds for Medi-Cal services provided to legalized aliens. Specifically, the law permits only aged and disabled adults and children to receive federal Medicaid funding for the *full* scope of Medi-Cal services. Other specified adults or families are eligible for emergency or pregnancy-related services funded with federal Medicaid monies. The IRCA, however, *does* permit states to use SLIAG funds to provide non-emergency services to adults.

State Medi-Cal law does not contain the federal limitation on non-emergency medical services for legalized aliens. As a result, legalized aliens generally are now eligible for *all* Medi-Cal services provided under state law. Since the federal government will not pay its usual 50 percent share of these nonemergency costs, the state picks up 100 percent of the costs for these services.

The administration hopes to make state law consistent with federal law, thereby eliminating this state-only Medi-Cal program. Its legislative proposal is contained in SB 175—Maddy (please see Item 4260 for further details).

Language Potentially Creates General Fund Costs. Subdivision (c) of Section 23.50 prohibits the use of SLIAG funds to pay for nonemergency health services that are ineligible for federal financial participation under the Medicaid program. Presumably, this language was added on the assumption that SB 175—or similar legislation—will be in effect. If such a measure is enacted, subdivision (c) is superfluous, as no nonemergency services will be provided to undocumented workers. If, on the other hand, such legislation is *not* enacted, subdivision (c) would prohibit the state from using SLIAG funds to support state-only Medi-Cal costs. In other words, the state would be operating a program for legalized aliens with no ability to use federal funds *specifically intended* to support these types of costs.

Thus, our review indicates that the language is counterproductive and we recommend its deletion.

Legislature Needs Education Information Sooner Than Proposed

We recommend the Department of Education provide by April 1, 1988 the Adult Education Services Delivery Plan so that the Legislature can fully understand the department's plans for administering SLIAG funds.

Section 23.50 requires the Department of Education (SDE) to distribute SLIAG funds to community colleges, local school districts, and community-based organizations in accordance with an Adult Education Services Delivery Plan. The language requires the Department of Finance to approve the plan before allocating SLIAG funds to SDE. Many of the plan requirements reflect federal law and regulations. For instance, the SDE would be required to limit reimbursements to local

providers to \$500 per eligible legalized alien per year, as required under federal regulations.

Many of the plan requirements raise issues of potential concern to the Legislature, however. As part of the plan, SDE would be required to identify:

- *The process that local agencies would be required to use in order to track the use of SLIAG funds for eligible aliens.* The Legislature will want to ensure that expenditures can be tracked without undue administrative burden.
- *How community-based organizations and other qualified entities are proposed to receive SLIAG funds.* We think the Legislature will want to ensure that standards are in place to evaluate the quality of proposed private-sector programs.
- *Methods for encouraging the development of specific courses that are designed to meet the English language and civics requirements of citizenship.* Developing special courses could allow aliens to attain required proficiencies more quickly and at less cost.

The Budget Bill language would prohibit allocation of funds to SDE until the plan is approved by the Department of Finance. If, however, the plan is not completed until after the start of the budget year, there would be no opportunity for legislative review. Because of the importance of these issues to the implementation of the state's SLIAG spending plan, we think the Legislature should have a chance to review the adult education plan as part of its budget deliberations. Therefore, we recommend that SDE submit the adult education plan to the appropriate policy and budget committees by April 1, 1988.

SECTION 24.40

EMERGENCY PORTABLE CLASSROOM PROGRAM

ANALYSIS AND RECOMMENDATIONS

We recommend that this section be deleted.

This section authorizes the State Allocation Board (SAB) to spend up to \$35 million from any funds available to the board, for the purchase of portable classroom facilities (Education Code Section 17788). This authority is in addition to authority the SAB also has to spend specified rental revenues for the purchase of portable classrooms. Control Section 24.40 also provides for specified advance purchase procedures.

Effective January 1, 1988, Ch 1299/87 (SB 115) provides this same authority, including advance purchase procedures. As a result, Control Section 24.40 duplicates current statutory law and is not needed; accordingly, we recommend that it be deleted. Our recommendation is also discussed in our analysis of the Emergency Classroom program (School Facilities Aid—Item 6110) earlier in this *Analysis*.

SECTION 26.00

FUNDING OF COSTS DUE TO EXECUTIVE ORDERS

ANALYSIS AND RECOMMENDATIONS

We recommend that this section be deleted.

This section, which is identical to Section 26.00 of the 1987 Budget Act, 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 for such purposes. The

intent of this section is to prohibit the funding of state-mandated local programs arising from executive orders from appropriations made for the support of state agencies and departments.

Last year, a state appellate court decision (*Carmel Valley Fire Protection District v. State of California*) ruled that similar language included in previous Budget Acts was invalid, on the basis that it violated the "single subject rule." The court ruled that the control language violated the single subject rule because it did not promote the main purpose of the Budget Act, which is to appropriate funds to support the annual budget. This ruling was made in support of the court's order that funds appropriated for the support of the Department of Industrial Relations be used to reimburse local governments' costs of complying with a regulation adopted by Cal-OSHA.

The state appealed the *Carmel Valley* ruling, but the State Supreme Court refused to hear the case. Therefore, it appears that Control Section 26.00 is not an effective means of controlling the use of funds appropriated in the Budget Bill. On that basis, we recommend that it be deleted.

SECTION 26.50

APPROPRIATION OF SATELLITE WAGERING REVENUE TO SUPPLEMENT FAIR RACING PURSES

ANALYSIS AND RECOMMENDATIONS

We recommend deletion of this section because it is unnecessary.

This section appropriates to the Department of Food and Agriculture up to 10 percent of all revenues payable to the state from satellite wagering facilities located at local fairs. Under existing law, the department must use these funds to supplement purses for horse races at fairs. These supplements are intended to bring the purses for racing events at fairs up to a level of at least 80 percent of the purses for races of similar classes of horses at private racing associations in northern California.

Recent legislation (Ch 1273/87) continuously appropriates this revenue to the department for the same purpose. Therefore Control Section 26.50 is unnecessary and we recommend it be deleted.