SUMMARY OF RECOMMENDED LEGISLATIVE CHANGES CONTAINED IN THE ANALYSIS OF THE 1983-84 BUDGET BILL

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TABLE OF CONTENTS

	Page
INTRODUCTION	vi
JUDICIAL	
Salaries and Block Grants for Superior Court Judgeships	1
EXECUTIVE	
State Controller's Office	
Unclaimed Property Advertising Program	2
Locator Unit	4
State Board of Equalization--Increase Penalties for "Tax Protest" Appeals	6
STATE AND CONSUMER SERVICES	
Department of Consumer Affairs--Administrative Hearings	8
Department of Fair Employment and Housing--Recovery of Investigative and Administrative Costs	10
Franchise Tax Board--Exempt Corporation Fees	11
Department of General Services	
Eliminate General Fund Subsidy of Sales of Surplus Property	12
Approval of Lease-Purchase and Lease-with-Purchase Option Agreement	13
BUSINESS, TRANSPORTATION AND HOUSING	
Department of Alcoholic Beverage Control	
Hearing Costs	14
Fees and Penalties	15
Alcoholic Beverage Control Appeals Board--Members' Salaries	17
Department of Economic and Business Development--Technical Services	18

TABLE OF CONTENTS--contd

	Page
Department of Housing and Community Development	
Regional Housing Need Assessments by Councils of Government	19
Legislatively Mandated Reports	21
Employee Housing Program	22
Mobilehome and Commercial Coach License Fees	23
California Housing Finance Agency--Annual Operating Budget	25
Department of Motor Vehicles--Deposit for Hearing Costs	27
RESOURCES	
Department of Conservation--Williamson Act Cancellation Fees	29
Department of Forestry--Amador Plan Subsidy	31
Seismic Safety Commission--Extend Termination Date of Earthquake Education Program	33
State Water Resources Control Board--Water Rights Fees	34
HEALTH AND WELFARE	
Department of Health Services	
Reversion of Special Needs and Priorities Fund	35
Reversion of Local Health Capital Expenditure Account Funds	37
Medi-Cal Recoveries by Counties	39
Department of Developmental Services--Regional Center of Fiscal Policy	41
Department of Mental Health--County Exemptions from Maximum Reimbursement Limits	42
Employment Development Department--Legislatively Mandated Publications	44
Department of Rehabilitation	
Reader and Interpreter Services	45

TABLE OF CONTENTS--contd

Page

Work Activity Program--Administrative Authority............ 46

Work Activity Program--Rate Setting Procedures............. 47

Department of Social Services

Community Care Licensing.................................... 48

Community Care Licensing--Annual Inspections................ 50

Licensed Maternity Home Care Program....................... 52

YOUTH AND ADULT CORRECTIONAL

Department of the Youth Authority........................... 53

K-12 EDUCATION

Department of Education

Single Session Kindergarten Classes......................... 55

Physical Education Mandate.................................. 58

San Francisco County Office of Education.................... 60

Allocating Funding Deficits for ROC/Ps...................... 61

Targeting ROC/P Training.................................... 62

Economic Impact Aid Formula................................. 63

Physical Performance Test................................... 64

Correction of Attendance Absences Needed.................... 66

Parent Fees... 68

Proposition One Clarification Needed........................ 70

Hardship Waivers.. 72

Constitutional Amendment.................................... 74

Conservation of Existing School Construction Funds.......... 76

Nonuse Payments for Surplus School Sites.................... 78

Developer Fees.. 80

TABLE OF CONTENTS--contd

Page

Commission on Teacher Credentialing

Basic Skills Examination.................................... 82

Bilingual Teacher Directory................................. 83

POSTSECONDARY EDUCATION

California State University

Sell Surplus Land... 84

UC and CSU Collective Bargaining--Submission of Memoranda of Understanding................................. 85

GENERAL GOVERNMENT

Payments to Counties for Costs of Homicide Trials............ 87

California Public Broadcasting Commission (CPBC)--Elimination of Public Broadcasting Fund.................... 88

Public Employment Relations Board--Major Restructuring Needed.. 89

Department of Industrial Relations

Uniform Civil Penalties for Labor Code Violations.......... 91

Make Licensing Function Self-Supporting.................... 93

Funding Reforms for Subsequent Injury Program.............. 95

Administration Reform for the Subsequent Injury Program..... 98

Department of Personnel Administration Compensation Surveys... 101

State Public Works Board--Composition of Membership.......... 103

TAX RELIEF

Tax Relief.. 104

Senior Citizens' Property Tax Postponement--Subsidized Loan Rate... 106

Enterprise Special Districts--Eliminate Business Inventory Reimbursements................................... 108

TABLE OF CONTENTS--contd

Page

MISCELLANEOUS

Augmentation for Employee Compensation--Constitutional Salaries 108

Salaries of State Legislators 109

PERSPECTIVES AND ISSUES

Local Fiscal Relief--Use of General Obligation Bonds to Finance Capital Improvements 110

Short-Term Borrowing 112

Long-Term Borrowing 115

Collective Bargaining for State Employees 118

INTRODUCTION

This report summarizes the recommendations for new legislation contained in the Analysis of the 1983-84 Budget Bill.

All of the recommendations contained in this report are discussed in greater detail in the Analysis. This report merely (1) summarizes our analysis of the issues involved, (2) outlines the contents of the legislation recommended, and (3) presents our estimate of the fiscal effect that such legislation would have. These recommendations generally fall into one of four categories:

- Legislative changes that would result in direct savings to the state and/or local governments.
- Legislative changes that would remove mandatory continuing appropriations from the statutes and allow the legislature more flexibility in acting on the Budget Bill.
- Legislative changes in the state's administrative structure which would result in improved efficiency and result in cost savings, and
- Legislative changes which may not result in any cost savings, but would improve the delivery of mandated services to the citizens of California.

JUDICIAL

Salaries and Block Grants for Superior Court Judges--Population Estimates

Reference:

Analysis, page 28.

Analysis:

Counties contribute 10 percent to 15 percent of their superior court judges' salaries, based on the county's population. Under the Government Code, county populations are determined for this purpose by multiplying the number of registered voters within the county during the last general election, as determined by the Secretary of State, by two. These estimates are then used by the Controller until the next general election.

The Department of Finance's population research unit currently estimates the population of counties and cities semi-annually. These estimates are used for various purposes, such as allocating revenues from motor vehicle license fees. Data supplied by that unit indicates that use of the current method for establishing a county's proper share of a superior court judge's salary results in seven counties paying more or less than they would have if direct population estimates had been used for this purpose.

Recommendation:

We recommend enactment of legislation specifying that the Controller use Department of Finance estimates to determine a county's share of its superior court judges' salaries.

Fiscal Impact:

Annual General Fund savings of about $40,000, based on the most recent population estimates and number of approved judgeships.

State Controller's Office--
Unclaimed Property Advertising Program

Reference:

Analysis, page 110.

Analysis:

Section 1531 of the Code of Civil Procedure requires that the State Controller publish the owner's name, address, and dollar amount of unclaimed property which has escheated to the state. This requirement specifies that the publication occur twice. The first notice must appear 150 days after receipt of the property, and the second notice is published 90 days thereafter. These notices are published in newspapers in all 58 counties of California. The initial publication occurs after the individual has been notified at least two times by mail of the existence of the unclaimed property.

The budget is proposing to (1) reinstate funds for the advertising program, (2) shift funding support for this program from the Unclaimed Property Fund to the General Fund, and (3) increase the value from $50 to $100 that unclaimed property must have before it is subject to the advertising requirement. We believe that the responsibility for returning unclaimed property should remain with the holders of such property. Further, we believe that state support is inappropriate for a program which benefits relatively few individuals.

Recommendation:

We recommend that legislation be enacted to eliminate the advertising requirements associated with the Unclaimed Property program.

Fiscal Impact:

Annual General Fund savings of about $400,000.

State Controller's Office--Locator Unit

Reference:

Analysis, page 111.

Analysis:

Section 1531.1 of the Code of Civil Procedures requires that the State Controller establish a procedure for locating the owners of unclaimed property. The Locator Unit was established in August 1979 to carry out this mandate. The unit consists of four special investigators who attempt to locate owners or heirs of unclaimed property. Unlike the normal letter notification procedure utilized by the Unclaimed Property program, this unit devotes its time to a more in-depth research of specific unclaimed property accounts.

The cost of the Locator Unit is budgeted at $120,000 in 1983-84. In addition, the budget is proposing to shift funding for the program from the Unclaimed Property Fund to the General Fund.

As noted in the discussion of the advertising program, we believe that the responsibility for returning unclaimed property to its rightful owner rests with the holders of such property, such as banks and corporations. The service provided by the Locator Unit benefits relatively few taxpayers, and does so without reference to need. The costs of providing these benefits, however, will be funded by all taxpayers from the General Fund.

Recommendation:

We recommend that legislation be enacted to eliminate the Locator Unit.

Fiscal Impact:

Annual General Fund savings of about $120,000.

State Board of Equalization--
Increase Penalties for "Tax Protest" Appeals

Reference:

Analysis, page 127.

Analysis:

The board hears appeals of franchise and income tax decisions made by the Franchise Tax Board. The number of these appeals has increased dramatically over the past several years. In one year alone, 1981-82, the number of appeals grew by nearly 80 percent over the previous year's level. According to the board, as much as three-fourths of this increase is attributable to so-called "tax protest" activities.

Section 19414 of the Revenue and Taxation Code provides that, if it appears to the Board of Equalization that a taxpayer has filed an appeal "merely for delay," the board may impose a penalty of up to $500. In practice, the board has exercised this power relatively infrequently, usually in cases involving the filing of a tax protest appeal by a taxpayer who has had a similar appeal denied previously. Our analysis suggests that, if the board were to be more zealous in its application of the penalty provisions to tax protesters (including first-time offenders), the board's appeals workload could be greatly reduced.

To encourage the board to impose penalties more frequently in cases involving tax protesters, we believe that the statutory conditions under which such penalties may be imposed could be expanded and the amount of the penalty increased. We have no analytical basis, however, for recommending a particular penalty level. Increasing the maximum penalty to $5,000 could be justified on the basis of conforming state law with federal law. On the other hand, it may be argued that the state penalty should be less than the federal, recognizing that state income tax liabilities usually are lower than those at the federal level. Based on this rationale, a more modest increase in the penalty (for example, to $1,000) might be reasonable.

Recommendation:

We recommend that legislation be enacted to amend Section 19414 of the Revenue and Taxation Code so as to provide that the board shall impose a penalty in cases where appeal proceedings have been instituted primarily for delay, or where the taxpayer's position in such proceedings is frivolous or groundless. We further recommend that the Legislature consider increasing the current $500 penalty.

Fiscal Impact:

Unknown potential General Fund cost savings for administration of State Board of Equalization.

Department of Consumer Affairs--Administrative Hearings

Reference:

Analysis, page 168.

Analysis:

Under the Administrative Procedures Act, the Office of Administrative Hearings (OAH) in the Department of General Services conducts hearings, on a reimbursement basis, for the boards and bureaus of the department when requested to do so. The boards and bureaus of the department request that hearings be held whenever (1) a licensee seeks redress from an administrative decision of a board or bureau, or (2) a board or bureau seeks to take action against a licensee under the provisions of the various occupational licensing laws which they administer.

Existing law requires the boards and bureaus to pay the full cost of these hearings. In superior and municipal courts, civil litigants are required to pay a fee when they file an action. In addition, various courts charge for the actual costs of reporters, juries, transcripts, and other expenses. Similar charges could be imposed by the boards and bureaus on those requesting a hearing. In order to avoid penalizing persons for challenging erroneous decisions, and thereby discouraging them from doing so, assessments could be levied only in cases where the board's and bureau's decision is upheld. Imposition of such fees would transfer the cost of a hearing from the state to the party which initiates these costs.

Recommendation:

We recommend that legislation be enacted to assess unsuccessful litigants for the cost of hearings held by the Office of Administrative Hearings.

Fiscal Impact:

Annual savings of up to $1,962,000 to various funds.

Department of Fair Employment and Housing-- Recovery of Investigative and Administrative Costs

Reference:

Analysis, page 174.

Analysis:

Approximately 16 percent of the total cases closed by the department each year involve some form of monetary settlement or damages awards to complainants represented by the department. These amounts are paid by persons or entities against whom a complaint alleging unlawful discrimination has been filed by the department. The awarded amounts may be made for compensatory and/or punitive purposes. In 1983-84, we estimate approximately $10.4 million will be paid to complainants.

Existing law does not require the complainant to pay any filing fees for the advocate services of the department; nor is the department authorized to seek recovery of its actual costs for processing these cases.

Recommendation:

We recommend the enactment of legislation requiring DFEH to recover its actual investigative and administrative costs for each case that results in a monetary settlement or the awarding of damages by requesting that these costs be assessed separately. We further recommend that the department be required to transfer to the General Fund all monies recovered pursuant to this requirement.

Fiscal Impact:

Potential $1.5 million in additional General Fund revenues in 1983-84.

Franchise Tax Board--Exempt Corporation Fees

Reference:

Analysis, page 193.

Analysis:

Under current law, the Franchise Tax Board (FTB) collects a one-time fee of $10 from a corporation filing an application for exempt status and a yearly fee of $5 from an already exempt corporation filing an annual information return. These fees, which are set in statute (Revenue and Taxation Code Sections 23701 and 23772), have not been changed since 1969. The department estimates that it now costs about $50 (instead of $10) to process an exempt application and $10 (instead of $5) to process an annual return. Consequently, there is a large gap between revenues raised by existing fees and the current cost of processing the related documents.

Recommendation:

We recommend that legislation be adopted increasing the filing fees on exempt corporations in order that revenue from these fees cover the administrative costs of processing exempt corporation documents.

Fiscal Impact:

Annual General Fund revenue gain of approximately $440,000.

Department of General Services--Eliminate General Fund Subsidy of Sales of Surplus State Property

Reference:

Analysis, page 212.

Analysis:

In recent years, the Real Estate Services Division (RESD) of the Department of General Services (DGS) has transferred state surplus property to local governmental agencies at no cost or at costs substantially below the market value for the parcels. In some cases, the revenue derived from the sale of properties is insufficient to cover RESD's cost in administering the sale or managing the property. When this happens, RESD must cover its losses using revenues received from leasing other state properties under its jurisdiction. Normally, these revenues would be remitted to the General Fund. Consequently to the extent RESD does not cover its cost in selling surplus property to governmental agencies, the General Fund is in effect providing a subsidy to the agency receiving the property.

One recent example of this situation is the transfer of the School for the Blind and Deaf in Berkeley. The University of California, at no cost, received this property having an estimated value exceeding $10 million. Real Estate Services however, had incurred expenses in management and administration in excess of $250,000.

Recommendation:

We recommend that legislation be adopted to require governmental agencies that receive state surplus property to pay the costs incurred by the Department of General Services in managing/administering the property.

Fiscal Impact:

Undeterminable, but significant savings to the General Fund based on historical costs incurred.

Department of General Services--Approval of Lease-Purchase and Lease-with-Purchase-Option Agreements

Reference:

Analysis, page 216.

Analysis:

Section 14669 of the Government Code authorizes the Director of General Services to lease-purchase or lease with the option to purchase building space for state use. Existing law requires only that notification be given to the Joint Legislative Budget Committee, and that the agreement be reviewed by the Legislative Analyst. The Legislature does not have the authority to approve or disapprove the proposed agreement.

This process precludes adequate legislative review of individual projects and their fiscal implications, and removes from the Legislature budgetary control of major state commitments and expenditures. This seriously limits the Legislature's fiscal flexibility in setting priorities among state needs.

Recommendation:

We recommend that legislation be enacted requiring that proposed lease-purchase and lease-with-purchase-option agreements for building space be approved by the Legislature.

Fiscal Impact:

Unknown, but potential major savings.

BUSINESS, TRANSPORTATION AND HOUSING

Department of Alcoholic Beverage Control--Hearing Costs

Reference:

Analysis, page 279.

Analysis:

Under existing law, the full cost of alcoholic beverage license hearings (conducted by the Office of Administrative Hearings) is paid by the department, with the exception of a portion of the transcript preparation expense if the hearing decision is appealed. Contrastingly, in superior and municipal courts, civil litigants are required to pay various fees to partially offset court costs. Similar charges could be imposed by the department on those requesting a hearing. However, in order to avoid penalizing persons for challenging erroneous decisions, and thereby discouraging them from doing so, assessments should only be levied in cases where the department's decision is upheld (about 80 percent of the time). Additionally, the department should be authorized to waive all or a portion of the fees if the litigant can demonstrate a financial hardship.

Our analysis indicates that imposition of such fees would result in the cost of a hearing being borne by the party which imposes these costs on the state. Additionally, by charging litigants for the costs of their hearings, frivolous appeals might be discouraged.

Recommendation:

We recommend that legislation be enacted to assess financially able unsuccessful litigants for the actual cost of their administrative hearings.

Fiscal Impact:

Annual savings to the General Fund of about $420,000.

Department of Alcoholic Beverage Control--Fees and Penalties

Reference:

Analysis, page 280.

Analysis:

We have identified three Alcoholic Beverage Control fines or license fees that we believe need to be adjusted to reflect the effect of inflation since they were either established or last adjusted.

1. Offers in Compromise. When the department determines that a license suspension of 30 days or less is warranted due to a violation of the Alcoholic Beverage Control Act, the licensee may pay an "offer in compromise" (or fine) as an alternative to having his or her license suspended. These fines have not been increased since they were established in 1957. Between 1957 and 1982, however, the cost of consumer goods has risen over 204 percent. As a result, the effective level of the fines has been reduced considerably. From the standpoint of purchasing power, a $2,000 fine in 1957 is equivalent to a $6,080 fine today. In order to restore their deterrent effect, these fines should be increased by 200 percent.

2. Daily Beer and Wine License. Special daily beer and wine licenses are issued for a fee of $5.50. This amount has not been adjusted since 1957. The department estimates that its cost for issuing one of

these licenses is at least $10. If legislation was enacted establishing a fee "not to exceed $15," the department could adjust the fee within this range to cover its costs, without requiring new legislation annually.

3. Miscellaneous Licenses. Currently, only 22 of the 33 types of licenses issued by the department require payment of an original fee. These licenses require fees ranging from $200 to $6,000 (with the exception of one fee, which is set at $50). Altogether, the department issued 539 licenses in 1981-82 for which it was not able to levy any fee, and over 1,800 for which it was able to charge only the $50 fee. Processing of these licenses, however, requires a significant department investigative and clerical effort. According to department data, processing costs associated with these licenses range from $100 to $400.

If a minimum fee of $100 was established, the department could recover a greater proportion of its costs in processing these licenses.

Recommendation:

We recommend the enactment of legislation adjusting these fees and penalties to reflect the effect of inflation.

Fiscal Impact:

Annual General Fund revenue gain of approximately $1.6 million.

Alcoholic Beverage Control Appeals Board--Members' Salaries

Reference:

Analysis, page 283.

Analysis:

Each of the three members of the Alcoholic Beverage Control Appeals Board currently receive an annual salary of $25,444. Related staff benefits bring total state costs for the three board members to approximately $100,000 per year. Yet the board meets only once a month, generally for one day, to decide cases.

Board members originally were given a relatively high salary because the board's workload and demands on the board members' time was much greater than it is now. Existing workload would not seem to justify salaries that are only slightly less than what members of the Legislature are paid.

Many other state boards and commissions pay their members per diems only. There appears to be no significant distinction between the demands placed on members of the Appeals Board and those placed on other part-time boards.

Recommendation:

We recommend that legislation be enacted providing Appeals Board members with a $100 per diem plus necessary expenses, in lieu of a salary.

Fiscal Impact:

Savings to the Alcoholic Beverage Control Appeals Fund of approximately $98,000.

Department of Economic and Business Development--Technical Services

Reference:

Analysis, page 301.

Analysis:

The Department of Economic and Business Development (DEBD) is the principal agency for promoting economic development in the state. A significant portion of DEBD's activities involves providing technical services and other forms of assistance that benefit specific local governments and businesses. For example, the Office of Local Economic Development provides loan packaging assistance and helps local agencies establish economic development corporations. Likewise, the Office of Tourism helps local communities establish tourist promotion programs.

We believe that these kinds of services can and should be supported on a full-cost basis by those who directly benefit from them. Some of these services would otherwise be provided by private financial advisors or economic development consultants. Under current law, however, the department does not have the authority to change fees for technical services.

Recommendation:

We recommend that legislation be enacted allowing the department to change fees for technical assistance and other services provided to specific agencies, businesses, and individuals.

Fiscal Impact:

Potential cost savings to the General Fund.

Department of Housing and Community Development--
Regional Housing Need Assessments by Councils of Government

Reference:

Analysis, page 321.

Analysis:

Existing law requires each city and county to design a "housing element" as part of its local general plan that addresses that community's "appropriate share" of the regional demand for housing. Chapter 1143, Statutes of 1980, mandates that each council of government (COG) calculate this "appropriate share" for each city and county within its jurisdiction, based on statewide housing need determinations by HCD. Prior to the enactment of Chapter 1143, HCD regulations permitted, but did not require, each COG to prepare regional fair-share housing allocation plans. To date, $725,000 has been appropriated to satisfy COG claims for the three fiscal years ending in 1982-83.

Our analysis of this mandated program indicates that it (1) has not provided sufficient incentive to some COGs to complete the tasks, (2) has not achieved the express legislative intent, and (3) will result in increased ongoing costs to the state without a clear identification of statewide benefits.

Recommendation:

We recommend the repeal of this local mandate provided in Section 65584 of the Government Code and the transfer of this function to the state Department of Housing and Community Development.

Fiscal Impact:

General Fund savings of $265,000 in 1983-84.

Department of Housing and Community Development--Legislatively Mandated Reports

Reference:

Analysis, page 311.

Analysis:

Section 37913 requires the HCD to publish annually a report describing mortgage bonds sales pursuant to the Marks-Foran Residential Rehabilitation Act of 1973. According to the department, only six or seven jurisdictions are actually selling bonds under the act. No reports on bond sales have been issued by the department to date; the first report is expected to be released in February 1983.

Since only a small number of jurisdictions is participating in this program, an annual summary does not seem warranted or necessary.

Recommendation:

We recommend the enactment of legislation eliminating the annual reporting requirement contained in Sections 37100 and 37913 of the Health and Safety Code.

Fiscal Impact:

Annual General Fund savings of $2,000.

Department of Housing and Community Development--
Employee Housing Program

Reference:

Analysis, page 313.

Analysis:

The Employee Housing Program is responsible for enforcing minimum sanitary and safety standards in employee housing units and labor camps in the state that are occupied by five or more employees. The program's inspection and investigation programs are supported by both the General Fund and by fees collected from operators of the camps.

Despite a legislative directive in the 1981 Budget Act that the program maintain a funding ratio of 58 percent General Fund support and 42 percent fee support, the General Fund share has consistently exceeded this level since 1981-82. The department reports it must rely exclusively on General Fund support for its complaint investigations because the department is not authorized to retain any fines assessed and collected (these are retained by the state or local agency that actually prosecutes the violations).

Recommendation:

In order to permit greater recovery of its administrative costs, we recommend the enactment of legislation authorizing the department to recoup the costs of investigations from fines imposed on violators of state sanitary and safety standards.

Fiscal Impact:

Potential General Fund savings up to $373,000 beginning in 1983-84.

Department of Housing and Community Development--
Mobilehome and Commercial Coach License Fees

Reference:

An Analysis of the Vehicle License Fee System for Mobilehomes, Manufactured Housing, and Commercial Coaches (Legislative Analyst Report 83-5) and Analysis page 318.

Analysis:

In general, all mobilehomes, manufactured housing, and commercial coaches sold for the first time prior to July 1980 are subject to an annual vehicle license fee (VLF) that is collected by the Department of Housing and Community Development (HCD). The VLF, an assessment collected in lieu of property taxes for these units, is based on the "market value" of each unit. The collected VLF revenues are apportioned to local county assessors by the State Controller according to the number of VLF-paying units within each county.

Our analysis of the current formula by which the unit's "market value" and the annual VLF assessment are determined indicates significant undervaluation of the units. As a result of this undervaluation for VLF purposes, state and local governments are experiencing major losses in VLF revenues each year.

Recommendation:

In order to reform the existing VLF system, we recommend legislation requiring that effective July 1983, all mobilehomes, manufactured housing, and commercial coaches currently subject to annual vehicle license fees be transferred to local property tax rolls upon resale.

Fiscal Impact:

Potential additional local revenues of $9.7 million in 1983-84 and $19.6 million in 1984-85; potential General Fund savings of $7.2 million in 1984-85.

California Housing Finance Agency--Annual Operating Budget

Reference:

A Review of the California Housing Finance Agency (Legislative Analyst Report No. 81-13, June 1981), and Analysis page 323.

Analysis:

Section 51000 of the Health and Safety Code exempts the California Housing Finance Agency (CHFA) from the normal budgetary review and approval process to which all other state agencies are subject. In lieu of this annual budgetary scrutiny by the Legislature, the agency is required to submit a "preliminary budget" by December 1 for the ensuing fiscal year to the Business, Transportation, and Housing Agency, the Department of Finance, and the Joint Legislative Budget Committee.

Our review of this alternate oversight procedure indicates that it does not insure fiscal accountability and results in inadequate fiscal performance by CHFA. Based on our analysis, we find that exempting CHFA's operating budget is unnecessary to protect the agency's decision-making process and results in no outside check on the reasonableness of the agency's support budget.

The following are examples of CHFA's fiscal performance that result from the absence of adequate outside fiscal controls:

1. Agency staffing and salary levels substantially above the average for other state agencies with comparable functions and workload;

2. Adoption of the 1981-82 operating budget four months after the start of 1981-82 fiscal year;

3. A 91 percent increase in the agency's operating budget in the five fiscal years since 1977-78;

4. Disregard of a legislative directive in the 1982 Budget Act to report on additional positions prior to augmenting the staff;

5. A 19.5 percent increase in the CHFA travel budget for 1983-84, when all other agencies are being restricted to a 5 percent increase in travel for 1983-84.

Recommendation:

We recommend the enactment of legislation amending Sections 50913 and 51000 of the Health and Safety Code to eliminate CHFA's exemption from legislative review through the budget process.

Fiscal Impact:

Indeterminable potential savings to the Housing Finance Fund and to the General Fund (in CHFA programs supported by the General Fund) due to increased efficiencies achieved through enhanced legislative oversight.

Department of Motor Vehicles--Deposit for Hearing Costs

Reference:

Analysis, page 453.

Analysis:

The Office of Administrative Hearings (OAH), in the Department of General Services, provides adjudicative services for numerous agencies within state government. The Department of Motor Vehicles (DMV) utilizes OAH services in cases where an occupational licensee or an applicant for occupational license of the DMV appeals an adverse licensing decision issued by the department. The DMV supports the entire cost of OAH services from the Motor Vehicle Account, State Transportation Fund.

Our analysis reveals that an extremely high percentage of DMV occupational licensing decisions are upheld by the Office of Administrative Hearings. In 1981-82, adverse actions taken by the DMV were upheld in 96 percent of the cases involving licensees and 100 percent of the cases relating to applicants. Thus the department is incurring a substantial cost (proposed expenditures of $224,000 in 1983-84) to have almost all of its adverse actions upheld by the OAH. In instances where DMV's actions are sustained by the OAH, we believe the cost of the hearing should be paid by the licensee or applicant, not the public at large. This type of assessment is currently imposed on civil litigants in superior and municipal courts.

In order to avoid collection problems, the DMV should be permitted to require a deposit (equal to its average cost per hearing) on all cases appealed to the OAH. The DMV could return deposits to persons receiving a favorable ruling from OAH and retain the deposits of unsuccessful applicants to cover the cost of hearings. In addition, the department should be permitted to waive the deposits in cases of financial hardship.

Recommendation:

We recommend the enactment of legislation authorizing the DMV to (1) require occupational licensees and applicants requesting adjudication by the Office of Administrative Hearings to post a deposit prior to the hearing, (2) waive the deposit in cases of financial hardship, and (3) retain the deposit in cases where DMV's administrative decision is upheld.

Fiscal Impact:

Potential savings of $217,000 annually to the Motor Vehicle Account, State Transportation Fund.

Department of Conservation--Williamson Act Cancellation Fees

Reference:

Analysis, page 533.

Analysis:

Under the Williamson Act, open-space contracts have a term of 10 years and are automatically renewed. Landowners may cancel contracts prior to the end of the 10-year period under specified circumstances. If a cancellation petition is approved, the landowner must pay a substantial cancellation fee to the state. Cancellation fees are assessed and collected by local governments.

Chapter 1095, Statutes of 1981, provided a one-time "window" between January 1 to May 30, 1982, when landowners could petition local governments for cancellation of an open-space contract under less restrictive procedures. Due to the substantial number of cancellation petitions filed during the five-month window, the state's General Fund could eventually receive between $24.4 million and $68.2 million in cancellation fees. Because existing law does not specify when cancellation fees assessed by local government must be transferred to the state's General Fund, deposit of the fees could be delayed indefinitely by local governments.

Recommendation:

We recommend that legislation be enacted to require cities and counties to immediately transfer to the state all fees collected for cancellation of open-space contracts.

Fiscal Impact:

1. One-time potential increase to the General Fund of between \$24.4 million and \$68.2 million.

2. Ongoing potential increase to the General Fund of approximately \$1 million annually from future cancellation of contracts.

Department of Forestry--Amador Plan Subsidy

Reference:

Analysis, page 546.

Analysis:

Under the "Amador Plan," the Department of Forestry (CDF) provides subsidized structural fire protection contract services to rural residential and commercial areas by operating selected fire stations during winter months when the facilities would otherwise be closed. These stations are normally operated only during the summer fire season when the potential for wildfires in backcountry forest and brushland areas is greatest. Unlike the year-round contract fire protection service provided by the CDF under "Schedule A" agreements, local governments under the Amador Plan are not required to reimburse the state for the salaries of department firefighting personnel during the winter months the fire stations are operated. These costs are instead absorbed by the department and eventually are charged to the General Fund.

Participation in Amador Plan agreements has grown from 8 counties in 1977-78 to 19 counties in the current fiscal year and now involves wintertime operation of 32 CDF fire stations requiring 827 personnel-months of firefighting staff. These staff positions annually cost the state between $1.3 million and $1.5 million in salaries and wages. Participation has increased because in 1981 the Legislature made the Amador Plan available to any county containing CDF fire stations (42 counties). When first authorized, Amador Plan agreements were only available to 23 counties with populations of 100,000 or less.

We believe that several factors now justify a reevaluation of the state subsidy provided under the Amador Plan. Due to current- and prior-year General Fund budget reductions, CDF has (1) closed or reduced operation of 12 forest fire stations, (2) permanently closed 3 fire lookout facilities, (3) delayed hiring of and accelerated termination of seasonal firefighters, (4) reduced automotive equipment purchases to replace obsolete or damaged fire trucks, (5) eliminated fire crew supervisors at CDF-operated inmate conservation camps, and (6) reduced mass media fire prevention efforts. Budget reductions last year also forced the California Conservation Corps (CCC) to eliminate the firefighter trainee program, which provided 240 CCC members as supplemental firefighting staff at 40 high-workload CDF fire stations.

All of these budget reductions have adversely affected the level of fire protection provided to state responsibility brushland and forested areas. Amador Plan counties, meanwhile, have continued to receive from CDF the same level of wintertime fire protection in local responsibility areas.

If the state was fully reimbursed by local governments for the cost of CDF employees operating under existing Amador Plan contracts, the General Fund savings would allow the department to restore a significant amount of funding deleted from the state responsibility fire protection mission.

Recommendation:

We recommend enactment of legislation to repeal provisions of the Amador Plan and to require that all contract fire protection service provided by CDF to cities and counties be reimbursed at cost.

Fiscal Impact:

Potential General Fund savings of from $1.3 million to $1.5 million per year.

Seismic Safety Commission--Extend Termination Date of Earthquake Education Program

Reference:

Analysis, page 580.

Analysis:

The California Earthquake Education Act of 1981 (Ch 785/81) established pilot projects in Los Angeles, Alameda and Contra Costa Counties to develop, test and evaluate programs for earthquake safety education. The program is intended to make informational material readily available to the general public through community education and school systems. Phase I of the pilot projects will be concluded by the end of the current fiscal year. Funds are requested in the budget to complete the pilot projects established by the act.

Under the provisions of Ch 785/81, the program ceases to exist on January 1, 1984. Implementation of the pilot projects, however, was delayed for six months in 1982 due to an administrative freeze on certain contracts. It is unlikely that the second phase of the work contemplated by the Legislature can be completed before January 1, 1984.

Recommendation:

We recommend that legislation be enacted to extend the termination date for the Earthquake Education Program to July 1, 1984.

Fiscal Impact:

None.

State Water Resources Control Board--Water Rights Fees

Reference:

Analysis, page 705.

Analysis:

Historically, the board's costs of reviewing and acting on water rights applications have been shared between the General Fund and those receiving the direct benefit from the process--the water rights applicant. Existing law requires a minimum fee of $10 to file an application and a variable rate schedule based on the amount of water to be diverted. The minimum fee and fee schedule were last increased in 1969. While fees have remained constant, board costs for processing water rights applications have more than tripled, from $800,000 in 1969-70 to approximately $2.7 million in 1983-84. The $1.9 million increase has been absorbed by the General Fund. Water rights applicants should help pay more of the increased costs of processing applications.

Recommendation:

We recommend that legislation be enacted to increase water rights applications and permit fees to partially offset increased processing costs. The minimum fee should be increased to at least $20 and the rate schedule should be at least doubled.

Fiscal Impact:

Unknown annual savings to the General Fund equal to the increase in fee revenue.

Department of Health Services--
Reversion of Special Needs and Priorities Fund

Reference:

Analysis, page 782.

Analysis:

Existing law authorizes the Director to allocate to counties unused funds in the County Health Services Fund on a 50 percent matching basis for "special needs and priorities" (SNAP) as identified by the Director. Funds become available for SNAP either when counties (1) propose in their county plans and budgets to spend less than the total amount of funds allocated to them under the AB 8 formula (undermatching) or (2) underspend their budgets and must return matching funds to the state (recoupments). The amount of undermatched funds is known during the fiscal year for which the funds are appropriated. The amount of recoupments is known 6 to 18 months after the close of the fiscal year.

In our view, expenditures for special county health projects should be subject to the same review process as other proposed expenditures of state funds--that is, they should be identified specifically in the budget and reviewed and approved by the Legislature.

Recommendation:

We recommend enactment of legislation repealing the SNAP provisions of AB 8 and reverting unused county health services funds to the General Fund. We further recommend that the legislation revert unused funds from current- and prior-year appropriations.

Fiscal Impact:

The budget companion bills, AB 223 and SB 124, would repeal the SNAP provisions of AB 8 and, instead, require that all unspent funds appropriated for county health services revert to the General Fund.

The budget estimates a reversion to the General Fund of $2.2 million in the budget year if the SNAP provisions are repealed. We estimate a reversion of $3.5 million in 1983-84, based on reverting unused funds from current- and prior-year appropriations as well as unused funds from the budget-year appropriation.

Department of Health Services--
Reversion of Local Health Capital Expenditure Account Funds

Reference:

Analysis, page 783.

Analysis:

Chapter 1351, Statutes of 1980 (AB 3245), appropriated $25 million from the Special Account for Capital Outlay (SAFCO) to the Local Health Capital Expenditure Account (LHCEA) in the County Health Services Fund for grants and loans to counties for capital expenditures and county health facilities. Chapter 1351 specifies that (1) no funds appropriated to the LHCEA shall be transferred to any other fund and (2) interest on appropriated funds shall be accrued to the LHCEA, not the General Fund. Our review indicates that $1,096,000 in interest income will be available for expenditure at the beginning of the budget year. Any additional interest earned during the budget year, any unspent funds remaining when projects are completed, and any loan repayments made by counties will increase the amount in the fund.

In our view, expenditures for additional capital outlay projects at county health facilities should be subject to the same review process as other proposed expenditures--that is, they should be specifically identified in the budget and reviewed and approved by the Legislature.

Recommendation:

We recommend enactment of legislation that eliminates the restriction on transfer of funds from the LHCEA and requires the interest earnings of the LHCEA to be deposited in the General Fund. We also recommend reversion to the General Fund of all uncommitted funds in the account, except for the amounts required for department support in the budget year and in 1984-85.

Fiscal Impact:

The companion bills to the budget, AB 223 and SB 124, include provisions that would eliminate the existing restriction on transfer of funds from the LHCEA and require that interest earnings in the account be deposited in the General Fund. Accordingly, the budget assumes that interest earnings will accrue to the General Fund in 1983-84. We estimate a reversion of at least $924,000 as a result of our recommendation to revert all uncommitted funds that are not required for department support in 1983-84 and 1984-85.

Department of Health Services--
Medi-Cal Recoveries by Counties

Reference:

Analysis, page 909.

Analysis:

A pilot project conducted in Orange County in 1977-78 indicated that counties could be significantly more effective than the state in recovering the costs of Medi-Cal benefits inappropriately received by beneficiaries. Chapter 102, Statutes of 1981 (AB 251), provides that the department may contract with counties to identify and recover funds from Medi-Cal beneficiaries for services that were received improperly. The act provides that the state shall pay counties 10 percent of the revenues recovered in excess of a county's administrative costs in making a recovery, plus the cost of the recovery effort itself. A 10 percent incentive payment, however, has apparently been insufficient to cause any counties to establish a recovery program.

Recommendation:

We recommend enactment of legislation to allow the department to pay counties up to 25 percent of recoveries in excess of county costs associated with identifying and recovering costs of Medi-Cal benefits inappropriately received by beneficiaries. We recommend that the legislation prohibit the department from reimbursing a county for administrative costs exceeding the amount of recoveries.

Fiscal Impact:

If a 25 percent incentive payment causes counties to establish Medi-Cal recovery programs, General Fund revenues would increase by an indeterminable amount.

Department of Developmental Services--Regional Center Fiscal Policy

Reference:

Analysis, page 936.

Analysis:

Two separate court rulings in the current year have indicated that under current law, neither the Legislature nor the administration has the authority to control or limit regional centers' expenditures for client services. We believe that the lack of effective legislative or administrative control is undesirable because (1) it limits the Legislature's ability to budget funds according to statewide priorities and (2) it could have significant adverse consequences for clients in community care, should the Legislature ever be in a position of not being able to appropriate additional funds to close a substantial deficit in the program.

Recommendation:

We recommend enactment of legislation that would authorize service restrictions if necessary to limit regional centers' expenditures for services to the amount appropriated for that purpose.

Fiscal Impact:

This measure would allow the Legislature to avoid costs above the amount budgeted for regional centers. Based on current trends, we estimate that these costs will be major.

Department of Mental Health--
County Exemptions from Maximum Reimbursement Limits

Reference:

Analysis, page 986.

Analysis:

Current law permits counties, on a pilot project basis, to consolidate Medi-Cal fee-for-service mental health services with their Short-Doyle programs. Counties that operate a single consolidated mental health program are exempt from maximum reimbursement limits established by AB 799 (Ch 328/82). The maximum reimbursement limits are equal to 125 percent of the statewide average cost per unit of service, adjusted for inflation.

We are aware of no analytical basis for excluding any county from the requirement that it take steps to correct excessively high reimbursement rates. Existing law authorizes the department to waive reimbursement limits for high-cost providers if full reimbursement can be justified. We see no reasons why such justification should not also be required for high-cost services in consolidation counties.

Recommendation:

We recommend enactment of legislation to repeal Section 5705.1(d) of the Welfare and Institutions Code, which exempts mental health pilot project counties from the 125 percent Short-Doyle program reimbursement limitation.

Fiscal Impact:

Repeal of the exemption would prohibit counties selected for the consolidation pilot project from funding high-cost providers unless justified. Reducing reimbursements to high-cost providers would either (1) make more funds available for lower-cost services or (2) reduce expenditures. Until a federal waiver has been approved and the pilot project counties selected, however, the recommendation would have no fiscal effect.

Employment Development Department--
Legislatively Mandated Publications

Reference:

Analysis, page 1025.

Analysis:

The Employment Development Department (EDD) issues annually 12 legislatively mandated reports concerning specific employment and training programs. Our analysis indicates that consolidating these publications into one annual report would:

1. Focus attention on the cost-effectiveness of the overall state effort to employ and train individuals through EDD programs, as well as allow comparison of the effectiveness of each program.

2. Increase the use of interprogram comparisons by requiring all programs to evaluate performance within one standard time period.

3. Provide the Legislature with a single source of information on the design and performance of EDD's employment and training programs.

Recommendation:

We recommend that the companion bills (SB 124 and AB 223) to the Budget Bill be amended to require EDD to submit annually by December 1, one report which evaluates the performance during the previous fiscal of all employment and training programs for which the department is now required to submit separate reports.

Fiscal Impact:

No direct fiscal effect.

Department of Rehabilitation--Reader and Interpreter Services

Reference:

Analysis, page 1037.

Analysis:

Currently, the University of California, the California State University, and the California Community Colleges provide reader and interpreter services to blind and deaf students who are clients of the department. These services are supported by state funds. State law expresses legislative intent that state funds support reader and interpreter services, but federal law permits the use of federal vocational rehabilitation funds to support those services.

We estimate that $2.9 million in unbudgeted federal vocational rehabilitation funds are available in 1983-84.

Recommendation:

We recommend enactment of legislation authorizing the use of federal funds to support reader and interpreter services in the state's institutions of higher education, and adoption of Budget Bill language directing the department to reimburse the institutions for the cost of those services. Substituting federal funds for state funds will permit the Legislature to support other high priority programs without reducing the level of reader and interpreter services currently available.

Fiscal Impact:

Unknown, but potentially major, General Fund savings.

Department of Rehabilitation--
Work Activity Program--Administrative Authority

Reference:

Analysis, page 1041.

Analysis:

The Work Activity program provides sheltered employment and prevocational training to about 11,000 developmentally disabled adults. In the current year, the program is incurring a major funding shortfall. This is because (1) the 1982 Budget Act appropriated $1.2 million less than the amount needed to fund projected caseload growth and (2) the Sacramento County Superior Court has ordered the department to refrain from establishing any policies limiting the availability of work activity services to eligible individuals.

Recommendation:

We recommend enactment of legislation authorizing the department to set priorities for services provided by the Work Activity program. This legislation is needed because the court ruled that the department lacks statutory authority to limit caseload growth, even if funding is insufficient to support the number of persons seeking services.

Fiscal Impact:

None. Program costs would be limited by annual Budget Act appropriations.

Department of Rehabilitation--
Work Activity Program--Rate Setting Procedures

Reference:

Analysis, page 1044.

Analysis:

Currently, work activity providers are reimbursed at rates commensurate with "reasonable costs." The department determines these rates by analyzing cost statements submitted by providers. Basing provider rates on historical costs has led to total program costs that have greatly exceeded the amount the Legislature has been willing to appropriate for the program, and has led to inflexible administration of the program.

Recommendation:

We recommend enactment of legislation authorizing the department to contract with work activity providers selected on a competitive basis. Our analysis indicates this policy would more effectively limit program costs and encourage more efficient operation of work activity centers.

Fiscal Impact:

This recommendation would result in unknown, but potentially major, General Fund savings. Actual program costs would depend upon bids submitted by providers and on which contractors were selected.

Department of Social Services--
Fees for Community Care Licensing

Reference:

Analysis, page 1065.

Analysis:

Section 1523 of the Health and Safety Code prohibits the imposition of license fees on any community care facility. In contrast, most other state licensing programs require the licensees to pay a fee sufficient to pay for the costs of the program.

Our analysis indicates that there are two reasons community care facilities are exempt from license fees:

1. Community care facilities often are unable to adjust the rates they charge their clients to reflect specific changes in their cost of doing business. This is because the rate of reimbursement is set by the government.

2. Part of any increase in the cost of care resulting from the imposition of a license fee would be borne by the state General Fund.

An unknown number of community care clients are private placements. Private placements are those community care clients whose care is paid from nongovernmental sources. For example, nearly all of the children in day care centers are private placements whose care is generally paid for by their parents. Most community care facility types have some private placements. Community care facilities are free to increase the rates they charge for private placements to the extent that the market will allow.

The current policy of exempting community care facilities from a licensing fee results, in effect, in a subsidy of these private placements. We find no analytical basis for such a subsidy, since private placements, by definition, are those placements which do not qualify for any of the various programs which specifically subsidize community care.

Recommendation:

We recommend enactment of legislation requiring that community care facilities be charged a fee based on (1) the cost of licensing each facility type and (2) the proportion of each facility's clients which are private placements.

Fiscal Impact:

We estimate that this legislation will result in potentially major General Fund savings to the extent that revenues from license fees are used to offset General Fund support for the Community Care Licensing program.

Department of Social Services--
Community Care Licensing--Annual Inspections

Reference:

Analysis, page 1063.

Analysis:

Chapter 3, Statutes of 1973, the Community Care Facilities Act, requires the Department of Social Services (DSS) to inspect most community care facilities annually. The department allocates more of the community care licensing budget to these annual inspections than to any other function of the licensing program. Our analysis indicates that the current policy of annual inspections may not result in the most effective use of licensing resources because the annual visit seems to result in the identification of relatively few serious violations of licensing standards as compared with complaint visits. In our Analysis, we recommend a demonstration program to test the feasibility of eliminating or modifying the current requirement for annual visits. The implementation of the recommended demonstration project would require exempting a small group of facilities from the annual inspection policy for the duration of the project.

Recommendation:

We recommend enactment of legislation to suspend the current statutory requirement for annual visits with respect to those facilities chosen to be included in the recommended demonstration project.

Fiscal Impact:

The suspension of the annual visit policy with respect to facilities in the experimental group would have no fiscal effect because the demonstration project would redirect the resources which would be freed by such a suspension. The demonstration project itself, however, could result in substantial General Fund savings to the extent that it leads to the elimination or modification of the current annual inspection policy.

Department of Social Services--
Licensed Maternity Home Care Program

Reference:

Analysis, page 1178.

Analysis:

Chapter 1190, Statutes of 1977, the Pregnancy Freedom of Choice Act, established the Licensed Maternity Home Care Program to provide counseling and residential treatment services to unmarried, pregnant women under the age of 21. The state pays for support of the young women residing in the homes and prohibits the homes from seeking parental contributions towards the support of residents. The purpose of prohibiting parental support of program participants is to ensure that young, pregnant, unmarried women are not discouraged from seeking care. This prohibition means, however, that no information on the economic status of participants is available.

Additional information concerning family income and resources of girls applying for maternity home care would be useful to the Legislature in assessing the extent to which the General Fund should be obligated to support the Licensed Maternity Home Care Program. In order both to protect the young woman's right to choose care and to meet the need of the Legislature for more information, we recommend that information concerning parental income be collected after the young woman has become a resident of a licensed maternity home.

Recommendation:

We recommend enactment of legislation requiring the department to adopt regulations for the collection of additional financial data about residents after their acceptance into a maternity home.

Fiscal Impact:

None.

YOUTH AND ADULT CORRECTIONAL

Department of the Youth Authority

Reference:

Analysis, page 1251.

Analysis:

Chapter 461, Statutes of 1978 (AB 90) established the County Justice System Subvention Program (CJSSP) which is administered by the Department of the Youth Authority. Under the CJSSP, funds are provided to counties for seven separate program categories, including the funding of activities mandated by Ch 1071/76 (AB 3121). (AB 3121 made major changes in the way juveniles are processed by the criminal justice system at the local level.)

AB 90 directed the department to (1) contract with an independent agency for an evaluation of the CJSSP and (2) report to the Legislature by January 1, 1983 on the results of the evaluation. The Legislature is to assess the impact of the program by December 31, 1983. AB 90 also provides that if the CJSSP is terminated, counties are to continue being reimbursed for costs mandated by AB 3121.

In view of the experience and expertise of the Controller's staff in reviewing and approving claims for reimbursing local governments for state mandated costs, we believe the AB 3121 reimbursement provisions should be separated from the CJSSP and, instead, the State Controller should be responsible for providing these reimbursements. In order to help minimize the extent of overcrowding in state correctional institutions, we believe CJSSP funds should be used to maximize the number of felons charged with less serious offenses that are processed through the local criminal justice system, rather than sent to state correctional facilities.

Recommendation:

We recommend that legislation be enacted to (1) separate AB 3121 reimbursements from the CJSSP and put those reimbursements under the administration of the State Controller and (2) focus the balance of funds appropriated under the CJSSP on local alternatives to state incarceration.

Fiscal Impact:

No cost impact if the program is continued at its current funding level.

K-12 EDUCATION

Department of Education--Single Session Kindergarten Classes

Reference:

An Analysis of 21 State-Mandated Local Programs, Report Number 82-2, and Analysis, page 1323.

Analysis:

Under Education Code Section 46118, a school district is required to meet the following three conditions in order to receive state apportionments for kindergarten average daily attendance (ADA):

- A class must meet at least 180 minutes (3 hours) but no more than 240 minutes (4 hours) per day.
- The teacher must be assigned to only one session of kindergarten.
- The teacher must be employed on a full-time basis.

In addition, Ch 100/81 (AB 777) requires the kindergarten teacher to be available for assistance or assignment in the instructional program of the primary grades when not involved in the kindergarten program. It does not, however, require school districts to assign kindergarten teachers to nonkindergarten duties, nor does it permit one kindergarten teacher to conduct two kindergarten sessions.

The current law provisions originally were adopted in order to give kindergarten teachers more time to meet with the parents of students, and to prepare materials for class. It was intended that these changes would reduce remedial problems that would have to be addressed in later grades. The restrictions that apply to kindergarten teachers do not apply to teachers of any other grade level.

As a result of current law, school districts must pay a kindergarten teacher for a full school day, even though a kindergarten teacher spends no more than four hours, and potentially three hours, a day in a kindergarten class. The remaining hours in the work day are set aside for class preparation and for meetings with parents, unless, as allowed by AB 777, the teacher is assigned some other primary grade level duties. In contrast, a primary grade teacher spends up to six hours in class and has only two hours to prepare assignments, correct homework and examinations, meet with parents, and perform other duties.

In our report of state-mandated local programs (Report 82-2), we concluded that the current law regulations regarding kindergarten instruction are restrictive because they preclude school districts from employing one kindergarten teacher to teach two sessions or from hiring part-time kindergarten teachers. No benefit has been shown to accrue to either the state or school districts as a result of this mandate. Furthermore, the mandate may require districts and the state to allocate limited funds in ways that may not be cost-effective.

Recommendation:

We recommend that legislation be enacted to repeal the Education Code provisions requiring school districts to limit the use of their kindergarten teachers to the instruction of one class daily.

Fiscal Impact:

If the single session kindergarten mandate is repealed and if districts either increase the number of sessions taught by kindergarten teachers or hire part-time kindergarten teachers, districts will more than cover the costs of their programs under the existing school finance mechanism. Currently, one kindergarten class generates sufficient revenue to pay for the teacher and other class costs. If one teacher were to teach two classes, the school finance mechanism would provide double funding for the teacher costs. It is not possible to estimate how much excess funding would be provided statewide.

The purpose of our recommendation, however, is not to divert state funds from local school districts. Rather, it is to eliminate a mandate which results in school districts incurring costs that are unnecessary or unjustified. Accordingly, repeal of this mandate need not result in a reallocation of state funds away from K-12 education.

Department of Education--Physical Education Mandate

Reference:

Analysis, page 1325.

Analysis:

Sections 51222 and 51223 of the Education Code require that students in grades 1 to 6 and grades 7 to 10 attend courses in physical education for 200 minutes and 400 minutes, respectively, for every 10 school days. Students may be excused or exempt from physical education for reasons of illness or injury, part-time attendance, or attendance in a driver training program.

Our analysis indicates that there is not sufficient justification to continue the statewide P.E. mandate. First, the mandate hinders the ability or school districts to adjust expenditures to meet funding reductions. Some district administrators have indicated that declining enrollments and inflation have reduced their purchasing power over time. In order to reduce expenditures to meet the revenues available, some have chosen to reduce class offerings. The P.E. mandate, however, prohibits districts from reducing this program below the specified minimum. As a result, these districts may have to eliminate some academic courses in order to meet the requirements of the P.E. mandate. Local preferences should determine which courses the school district should retain in the event that program cut backs are necessary.

Second, the mandate restricts the students' ability to increase their academic courseload by substituting academic classes for P.E. The only subject for which there is a specified minimum attendance requirement is physical education, consequently, students may not substitute their P.E. class for an academic class. Substitution among all other classes, however, is allowed. The mandate is even more burdensome for students enrolled in districts offering an instructional program for only the minimum school day. These students face limited class offerings, but, nevertheless, are required to meet the P.E. requirement.

Recommendation:

We recommend that urgency legislation be enacted to repeal the Education Code provisions that require (1) students to participate in physical education programs and (2) districts to provide physical education as part of the school curriculum.

Fiscal Impact:

Undeterminable savings to school districts that terminate or reduce the size of their physical education program.

Department of Education--San Francisco County Office of Education

Reference:

"A Review of the County Offices of Education" (Report Number 82-10), and Analysis, page 1326.

Analysis:

County offices of education receive state funds to provide services and programs to districts within their jurisdiction. The San Francisco county office serves a single district--San Francisco Unified (the fourth largest district in the state). Our review indicates that county services supported by the county office operations revenue limit (business services) and the "Other Purpose" apportionment (staff development, audio-visual, and library services) generally are not provided to large districts because such districts have sufficient resources to provide these services from their own revenue limits. Consequently, we recommend enactment of legislation to eliminate the state portion of the San Francisco county office operations revenue limit and "Other Purpose" apportionment. In order to allow the district sufficient time to adjust to this redirection, we recommend that this proposal become effective in 1984-85.

Recommendation:

We recommend the enactment of legislation to eliminate the state portion of the San Francisco County office operations revenue limit and "Other Purpose" apportionment, effective in 1984-85.

Fiscal Impact:

We estimate a General Fund savings of $350,000 in 1984-85 and annually thereafter.

Department of Education--Allocating Funding Deficits for ROC/Ps

Reference:

Analysis, page 1329.

Analysis:

The budget proposes to limit state funded enrollment (ADA) growth in Regional Occupational Centers and Programs (ROC/Ps) to 10 percent in 1983-84. There is no proposed limit, however, on enrollment growth in any individual ROC/P. Consequently, if a deficit were to occur as a result of total ROC/P growth in excess of 10 percent, individual ROC/Ps which grew by less than 10 percent would be subject to that deficit. Consequently, we recommend legislation to establish a procedure for applying such funding deficits only to those ROC/Ps that exceed the authorized level of growth.

Recommendation:

We recommend enactment of legislation to provide that, in allocating deficits in the ROC/P appropriation caused by excessive enrollment growth, only those ROC/Ps that exceed the authorized level of growth shall be subject to the deficit.

Fiscal Impact:

We estimate no cost.

Department of Education--Targeting ROC/P Training

Reference:

Analysis, page 1330.

Analysis:

Regional Occupational Centers and Programs (ROC/Ps) provide vocational training to high school pupils and adults. In contrast to generalized training offered in school-based vocational education programs, ROC/P courses are designed to prepare individuals for specific occupations. These courses can generally be completed in one semester or one year. The type of job-specific training offered by ROC/Ps should be more effective if provided as close as possible to the time when the pupil is seeking employment. Thus, enrollment of pupils in grades 9 and 10 may be counterproductive from a vocational training standpoint and also may dilute the pupil's core academic preparation. Consequently, we recommend enactment of legislation to prohibit the enrollment of 9th and 10th grade pupils in ROC/Ps.

Recommendation:

We recommend the adoption of Budget Bill language and enactment of legislation restricting enrollment in Regional Occupational Centers and Programs (ROC/Ps) to pupils in grades 11 and 12 and adults.

Fiscal Impact:

We estimate a General Fund savings of $13 million in 1983-84 and annually thereafter.

Department of Education--Economic Impact Aid Formula

Reference:

Analysis, page 1343.

Analysis:

Economic Impact Aid (EIA) is a mechanism for distributing state aid to school districts for the provision of compensatory education services, including services to Limited English proficient (LEP) pupils. The funds are allocated through a complex formula including a factor related to additional resources necessary to serve LEP pupils, as projected by the number of Spanish and Asian surnamed and American Indian pupils.

Our analysis indicates that the current method for determining the impact of LEP pupils--identifying the number of Spanish and Asian surnamed and American Indian pupils--is not the most accurate method available. A statewide census is now conducted each spring to specifically identify LEP children.

Recommendation:

We recommend that legislation be enacted to amend the Education Code so that Economic Impact Aid allocations are based on the statewide district count of limited-English proficient pupils, rather than on the district count of only Spanish and Asian surnamed and American Indian pupils.

Fiscal Impact:

We estimate no state fiscal impact, but there would be a reallocation of funds among school districts.

Department of Education--Physical Performance Test

Reference:

Analysis, page 1384.

Analysis:

Under current law, Education Code Sections 60603(d) and 60608, students in grades specified by the State Board of Education are required to take a physical performance test. The board has specified that students in grades 5, 7, and 10 shall take this test.

The State Department of Education (SDE) provides districts with a list of specific tests, to be administered and the average range of expected student performance on each test. The department reviews the test items on a six-to-seven-year cycle, and adjusts the expected student performance ranges based on the results of its review. The last review was in 1981-82.

The code does not state the purpose of this test, nor does the code require any systematic evaluation of test results. Consequently, the state does not systematically collect or evaluate the results of the tests. Because there is no ongoing evaluation, the tests do not provide the state with data on whether pupil physical performance is increasing or decreasing.

In summary, we find no analytical basis for the state to continue mandating the physical performance test.

Recommendation:

We recommend that the enactment of legislation repealing the physical performance test requirements for grades 5, 7, and 10 because we find no analytical basis to continue this mandate.

Fiscal Impact:

We estimate no state fiscal impact because there are minimal state resources allocated to this test. We estimate unknown but probably minor savings to local school districts from not having to score the test.

Department of Education--Correction of Attendance Absences Needed

Reference:

Analysis, page 1416

Analysis:

Child care agencies are reimbursed in part on the basis of their average daily attendance; which includes not only the number of children actually present at a facility, but reimbursement is also included for children who are not present but have "excused absences."

The Auditor General, in his report "Improvements Needed in Administering State-Fund Child Care Programs," indicates that agencies may be abusing this provision by claiming an excessive number of excused absences, and that some of these absences are questionable. A review of eight sample agencies, for example, revealed that the amount of excused absences ranged from 8 percent to 31 percent of enrollment, with the average rate of excused absences being 16 percent. Some of these absences resulted from family vacations, and some were due to children staying home.

While we recognize the need to continue to provide state reimbursement for some excused absences, the Auditor General's findings indicate that the current provision in the Education Code allowing full state reimbursement of excused absences needs to be tightened.

Recommendation:

<u>We recommend that the Legislature enact legislation to stipulate that state reimbursement shall not be provided for excused absences in excess of five days per child per year for children enrolled in state subsidized child care programs, unless such absences are due to certain specified reasons.</u>

Fiscal Impact:

Because enactment of this legislation would reduce yearly state reimbursements to local child care agencies, this would result in unknown annual savings to the state General Fund.

Department of Education--Parent Fees

Reference:

Analysis, page 1417.

Analysis:

The Advisory Committee on Child Development Programs in its report "Eligibility and Fees for Subsidized Child Care," recommends that AFDC and SSI/SSP grants be counted as income when determining the amount of any fee which a family is required to pay for state-subsidized child care. The committee reports this reflects the overwhelming sentiment of the 114 program directors and 868 parents included in their study.

The Education Code specifically prohibits recipients of AFDC and SSI/SSP grants from paying any fees for state-subsidized child care services.

The family fee schedule (from which the parent fee for state subsidized child care services is determined) is based upon a family's size and its "ability to pay" as indicated by the family's gross income. Therefore, we see no reason why a distinction should be made in determining "ability to pay" regarding what the source of that income is. It makes no sense, for example, to charge a working family a higher fee than is charged a non-working family with the same gross income.

Accordingly, we agree with the committee's recommendation and believe that AFDC and SSI/SSP recipients should be subject to the payment of family fees as are other recipients of state subsidized child care services.

Recommendation:

We recommend enactment of legislation repealing the exemption currently granted to AFDC and SSI/SSP recipients for the payment of family fees for receipt of state subsidized child care services.

Fiscal Impact:

This legislation would probably result in a minor (less than $25,000) savings to the state General Fund resulting from the payment parent fees for receipt of state subsidized child care services by some SSI/SSP recipients.

Department of Education--Proposition One Clarification Needed

Reference:

Analysis, page 1428.

Analysis:

Under the State School Building Lease-Purchase program, school districts with school construction projects funded from state tidelands oil revenues, must agree to contribute either 10 percent of a projects' cost in the first year from district funds, or contribute 1 percent of the projects' cost per year for 10 years to the State School Deferred Maintenance Fund. They also must justify holding any surplus school sites to the State Allocation Board prior to receiving state school construction aid.

Proposition 1, however, did not apply these provisions to projects funded from Proposition 1 bond revenues. Therefore, the anomalous situation exists in which some projects will be subject to the contribution and surplus school site requirements, while others will be exempt from these requirements--depending solely upon the funding source for the project.

Several benefits accrue to the state from the local match and surplus site requirements. First, the 10 percent match helps to encourage the design of cost-effective projects by districts. Second, requiring districts to justify the holding of unused surplus school sites both promotes the maximum use of existing facilities, and reduces school construction costs to the state. Accordingly, we recommend that legislation be enacted to require projects funded from these bonds funds to be subject to both provisions.

Recommendation:

We recommend the enactment of legislation to clarify the provisions of Proposition 1 regarding local district matching funds and the sale of surplus school sites.

Fiscal Impact:

Applying the 10 percent match requirement to school construction projects funded from Proposition 1 bond funds would free-up $50 million of these monies which would be used to finance additional school construction projects. Requiring school districts to sell surplus school sites prior to receiving state aid funded from Proposition 1 bond sales would result in an unknown, but potentially major (over $1 million) amount of additional lease payments which the state would receive as a result of the surplus site sales, and which under current law would be used to fund the debt service for the Proposition 1 bonds.

Department of Education--Hardship Waivers

Reference:

Analysis, page 1429.

Analysis:

Existing law requires that local school districts provide a 10 percent match for state tidelands oil funds received for school construction projects. Alternatively, districts have the option of extending this payment by contributing 1 percent of the project cost each year, for a period of 10 years to the State School Deferred Maintenance Fund. Both of these requirements may be waived by the State Allocation Board (SAB) in a case of hardship, which the law requires the board to define.

At the time the Analysis of the 1983-84 Budget Bill was prepared, the board had not adopted a regulation defining "hardship."

Our analysis indicates that the average ending balances in school districts' General, Building, and Special Reserve funds as of June 30, 1981, were more than adequate to fund 1 percent of the cost of the average school construction project approved for construction funding in the current year. It was also more than adequate to fund 1 percent of the cost of the most expensive project.

Accordingly, we believe the option by districts to pay 1 percent over 10 years is adequate recognition of a hardship situation, and therefore conclude that formal hardship waivers are unnecessary.

Recommendation:

We recommend that legislation be enacted amending the Education Code to delete the requirement that the State Allocation Board adopt a hardship waiver regulation because it is no longer needed.

Fiscal Impact:

Because a hardship waiver regulation has yet to be adopted by the State Allocation Board, this recommendation would have no fiscal impact.

Department of Education--Constitutional Amendment

Reference:

Analysis, page 1430.

Analysis:

Proposition 13 effectively eliminated the ability of local school districts to levy additional special property tax rates to pay off new bonds or loans, and therefore severely limited the districts' access to funds needed for school building construction. Consequently, school districts now rely upon the State School Building Aid program to finance virtually all of their capital outlay needs.

School districts frequently complain about various aspects of the State School Building Aid program, including (1) the amount of paperwork involved in filing an application, (2) the inadequacy of the building area entitlement, and (3) the restrictiveness of the program.

Our analysis, however, also indicates that the current method of financing school construction is deficient in two more important respects because (1) it does not generate sufficient funding to meet district needs, and (2) it does not distribute the burden of paying for new school facilities in an equitable manner.

For these reasons, we believe that a new revenue source needs to be developed to finance school construction. Specifically, we believe that local school districts should be given the authority (subject to local voter approval) to assess a special property tax in order to fund bonded debt issued to finance school construction. This financing method has the advantages of (1) making school construction financing available to those districts who are unable to obtain State School Building Aid funds to meet existing needs, (2) having the residents of the school districts, who are the primary beneficiaries of the new school construction, paying most of the cost of these facilities, and (3) maintaining local voter control of borrowing and taxing decisions.

Recommendation:

We recommend the enactment of legislation to place a constitutional amendment on the next general election ballot authorizing local voters to assess special property tax rates to fund debt service for local school construction bonds.

Fiscal Impact:

Unknown, but probably major (over $1 million) of additional bond and property tax revenues raised by local school districts for school construction purposes, which would reduce the present excess demand on the State School Building Aid program for school construction financing.

Department of Education--Conservation of Existing School Construction Funds

Reference:

Analysis, page 1433.

Analysis:

Before school districts can receive State School Facilities Aid funds to help finance the cost of local school construction projects, they must agree to fund either 10 percent of the project's cost in the first year from local district funds, or contribute 1 percent of the project's cost each year for 10 years to the State School Deferred Maintenance Fund.

While in theory, the 10 percent local district match should provide some incentive for districts to conserve limited state building funds by encouraging them to seek the most cost-effective structures, our field observations indicate that in practice this incentive is not sufficent to accomplish this purpose.

Our analysis suggests that the amount of state aid available for school construction could be made to "go further" if additional incentives were provided for districts to conserve these funds. One way to do this would be to change the required district funding match so that the matching percentage increases as the project's cost approaches 100 percent of the building aid allowance. For example, the district match could be set so that it would be 5 percent when the project's cost is 85 percent of the allowance, but 15 percent when the cost reaches 100 percent of the allowance. Placing the district match on such a sliding scale would not only promote the conservation of state school construction funds, but also promote the design of more cost-effective structures.

Recommendation:

We recommend the enactment of legislation substituting a sliding scale for the required 10 percent school district match that now applies to the cost of school construction projects, in order to strengthen incentives for reducing the cost of assisted projects.

Fiscal Impact:

This recommendation would result in an unknown amount of savings to the State School Building Lease-Purchase Fund resulting from the design of more cost-effective structures by school districts and unknown revenues to the State School Deferred Maintenance Fund from the premium school districts pay for the design of less cost-effective structures.

Department of Education--Nonuse Payments for Surplus School Sites

Reference:

Analysis, page 1435.

Analysis:

Under current law, unused school sites are subject to a nonuse payment of 1 percent of the adjusted purchase price of the property. Nonuse payments were instituted to serve as an incentive for school districts to dispose of surplus sites, thereby placing them back onto the property tax rolls.

Our analysis indicates that the current nonuse payment provisions are not adequate to accomplish their intended purpose because the nonuse payment rate is lower than comparable market lease rates. Also, our analysis indicates that school districts can derive substantial profits from the appreciation in value of their surplus school sites in spite of the 1 percent nonuse payment they are required to make. Therefore, school districts benefit from the retention of these sites; and in the spring of 1981, 682 unused sites comprising 9,072 acres were in existence.

Therefore, we conclude that the current 1 percent nonuse payment must be increased if it is to serve its intended purpose of encouraging districts to restore surplus sites to the property tax rolls. Specifically, we recommend that legislation be enacted increasing the rate upon which the nonuse payments are based to reflect the yearly increase in assessed valuation in the county in which the property is located. This rate should be calculated based upon the prior year's "adjusted purchase price" of the property, with the nonuse payment amount being reduced by any interest paid on any outstanding State School Building Aid loans. For property upon which a nonuse payment will be assessed for the first time, this essentially freezes the "adjustment purchase price" of the property at its current value in the year prior to the beginning of the nonuse payments. For property currently subject to nonuse payments, this freezes the "adjusted purchase price" of the property at its value in the current year. The state captures any future increase in the fair market value of the property through the assessment of the nonuse payment.

Recommendation:

We recommend the enactment of legislation to increase the nonuse payment for surplus school sites charged to local school districts, in order to return these sites to the property tax rolls.

Fiscal Impact:

This recommendation will result in an undetermined, but potentially major (over $1 million) amount of additional nonuse payments collected by the state. These will revert to the General Fund if the surplus school sites are not either used or sold by the school district within two years of the date of the assessment of the first nonuse payment.

In addition, this recommendation will result in an unknown amount of savings to the General Fund due to reduced general aid apportionments to school districts. This occurs due to the increased property tax revenues received by school districts as a consequence of the unused school sites being returned to the property tax rolls.

Department of Education--Developer Fees

Reference:

Analysis, page 1438.

Analysis:

Some school districts currently are receiving developer impaction fees under the provisions of Ch 955/77 (SB 201). Under SB 201, a city or county may adopt an ordinance to require developers to dedicate land or pay fees to mitigate the impact of housing developments. These fees must be used for the acquisition of temporary elementary or secondary school facilities, which are used until permanent school facilities can be built. The fees typically range from several hundred dollars to $3,000 per house.

Since 1981-82, the state has been unable to provide the amount of funding specified by existing law for state school construction aid due to shortfalls of tidelands oil revenues, and the necessity to use some of these revenues to fund General Fund deficits. The state has also been unable to significantly mitigate the need for K-12 school capital outlay.

New financing sources for school construction, therefore, would be desirable. One such source would involve greater use of developer fees. Currently, SB 201 fees can only be used for the procurement of interim school facilities, and use of these facilities must be discontinued one year after receipt of an apportionment from the State School Building

Lease-Purchase program. Authorizing the assessment of SB 201 fees to finance part or all of the cost of permanent in addition to temporary school facilities, will raise a new source of funding for school construction purposes.

Recommendation:

We recommend the enactment of legislation authorizing school districts to assess SB 201 fees to finance the cost of permanent school construction, so that more funds can be made available to meet the unmet need for school facilities.

Fiscal Impact:

This recommendation would result in an unknown reduction in the number and dollar amount of school district applications submitted for state school construction aid, because some school districts should be able to finance part or all of the cost of their school construction projects through the assessment of developer fees. This would free-up some state funds to finance additional school construction projects.

Commission on Teacher Credentialing--Basic Skills Examination

Reference:

Analysis, page 1471.

Analysis:

Chapter 1368/81 (AB 757) requires teacher credential applicants to pass the statewide basic skills test (reading, writing, and mathematics) and prohibits districts from initially hiring teachers unless they have passed the examination. Holders of an adult education credential in a nonacademic subject are exempt from this requirement. We believe that holders of the vocational education credential should also be exempt because (1) they teach nonacademic subjects and (2) the basic skills requirement could lead to problems in the recruitment of teachers in this field.

Recommendation:

We recommend enactment of legislation to exempt applicants for a vocational education credential from the basic skills proficiency examination requirement.

Fiscal Impact:

We estimate minor annual savings to the Teacher Credentials Fund, offset by corresponding decreases in revenue.

Commission on Teacher Credentialing--Bilingual Teacher Directory

Reference:

Analysis, page 1474.

Analysis:

Chapter 1631, Statutes of 1982, requires each state agency to make recommendations as to whether legislatively mandated publications should be discontinued. To carry out this responsibility, the commission conducted a survey of school districts to determine the need for commission publications. The survey indicated that one of the commission's publications--the annual directory of bilingual teachers--was not productive. Current law requires the commission to compile the directory and send a copy annually to each school district. Of 384 districts that enrolled bilingual students, only 32, or 8 percent, found the directory useful. Based on these results, the commission has recommended discontinuation of the directory.

Chapter 1632 also requires the Legislative Analyst to review the information provided by each agency and make appropriate recommendations. Based on our review, we conclude that elimination of the bilingual teacher directory is warranted.

Recommendation:

We recommend adoption of Budget Bill language and enactment of legislation requiring the Commission on Teacher Credentialing to discontinue publication of the annual directory of bilingual teachers.

Fiscal Impact:

We estimate that this would result in an annual Teacher Credentials Fund savings of $10,000 in operating expenses (printing and postage).

California State University--Sell Surplus Land

Reference:

Analysis, page 1682.

Analysis:

In August 1969, the state purchased a 380-acre site in Contra Costa County to be used for a proposed CSU campus. The terms of the deed of sale specify that, should the state decide not to develop the site as an institution of higher education, the original owner shall have the right to purchase the property from the state for the original purchase price ($1,740,000) plus 7 percent per annum interest. Our analysis indicates that this site is not needed because (1) the college-going population statewide is projected to decline, (2) CSU currently has excess physical capacity, and (3) the regional need has been met by the Contra Costa off-campus center which is affiliated with the CSU, Hayward campus. Our analysis further indicates that it is not wise to set aside funds in what is essentially a 7 percent savings account when they can either be better invested or utilized for other state programs that are experiencing program reductions due to lack of sufficient funds.

Recommendation:

We recommend that the Legislature designate the Contra Costa site as surplus state land and enact legislation calling for its sale.

Fiscal Impact:

Based on the repurchase price as of August 1982, the sale of the Contra Costa site will result in a one-time General Fund revenue increase of $4,193,400.

UC and CSU Collective Bargaining--Submission of Memoranda of Understanding

Reference:

Analysis, page 1586 and 1677.

Analysis:

Government Code Sections 3572 and 3572.3 require that CSU and UC submit to the Legislature for action all memoranda of understanding (MOUs) which require budgetary or statutory changes.

In 1982-83, CSU reached agreement on MOUs covering employees in four of their nine bargaining units. CSU notified the Legislature, by letter, that the financial provisions of these MOUs included exactly the same increases as those provided to all state employees for 1982-83 through the employment compensation item (9800-001-001). CSU further stated that because no budgetary or statutory action was required, no additional action was necessary by the Legislature under the provisions of the above cited Government Code action. Consequently, the actual MOUs were not submitted to the Legislature for review and action.

Subsequent to ratification of the 1982-83 MOUs, we asked CSU to provide a detailed cost accounting of all provisions contained in the MOUs which they considered "absorbable" costs or which required a new appropriation. CSU identified $2.3 million in "absorbable" costs for these four units. This information was not presented to the Legislature at the time of its action with respect to CSU's MOUs. CSU's action raises two issues: (1) where are existing resources coming from to fund the costs? and (2) how will these costs be funded in future years? Although UC did not present MOUs to the Legislature in 1982-83 because it had not completed negotiations, we believe CSU's experience pointed out a defect in the existing law that should be corrected for both systems.

In the future, we believe that the Legislature should be presented with the actual MOU and full information on the financial impact of their provisions before it is expected to take action on the MOUs.

Recommendation:

We recommend that legislation be enacted which requires CSU and UC to submit to the Legislature by May 15 of each year all MOUs accompanied by detailed cost estimates for all provisions contained in these MOUs.

Payments to Counties for Costs of Homicide Trials

Reference:

Analysis, page 1787.

Analysis:

The state reimburses counties for costs of homicide trials that exceed the revenue derived from a 1.25 cent local property tax rate. Counties currently have no financial incentive to evaluate costs of conducting homicide trials once the property tax threshold is exceeded.

The lack of incentive was made obvious by the Juan Corona retrial. Sutter County has submitted claims totaling $4.5 million to the state for this trial. The State Controller is withholding payment of $0.5 million pending receipt of further justification. The questioned claims include high hotel room and meal expenses incurred by witnesses and investigators.

The administration proposes in the budget companion bills (AB 223 and SB 124) to begin reimbursing counties in 1983-84 for 80 percent, rather than for 100 percent, of the costs that exceed the statutory threshold. This cost-sharing approach should help protect the state from future problems similar to those experienced with the Corona retrial.

Recommendation:

We recommend that AB 223 and SB 124 be amended to specify that the state will reimburse homicide trial costs according to current state standards for travel and per diem expenses and attorney and investigator rates.

Adoption of this recommendation would further protect the state from the type of excessive costs that occurred during the Corona retrial.

Fiscal Impact:

Potential undeterminable savings to the General Fund.

California Public Broadcasting Commission (CPBC)-- Elimination of Public Broadcasting Fund

Reference:

Analysis, page 1801.

Analysis:

State funds to support the CPBC primarily come from the General Fund. In the past, this support has been provided through the Public Broadcasting Fund (PBF), which was established to support the development, operation, interconnection, and programming of public broadcasting systems throughout the state. Originally, the Legislature anticipated that the PBF would receive revenues from the General Fund, the federal government, and other public or private grants.

Our analysis indicates that there is no justification for continuing the PBF. The PBF was originally established as a continuously appropriated fund to better facilitate grant awards to public broadcasting facilities. As a result of Ch 1284/78 (AB 3322), however, all resources available to the fund will be subject to appropriation in the annual budget acts, beginning on July 1, 1983. Thus, the original justification for the fund no longer exists. In fact, we believe that the existence of the fund results in unnecessary administrative costs.

Recommendation:

We recommend enactment of legislation to eliminate the Public Broadcasting Fund because the fund complicates unnecessarily the budget process.

Fiscal Impact:

Indeterminate fiscal impact on the General Fund.

Public Employment Relations Board--Major Restructuring Needed

Reference:

Analysis, page 1809.

Analysis:

Under current law, the Public Employment Relations Board administers three collective bargaining acts governing employment for the state and local school districts. The board has five, full-time members who are authorized by law to employ attorneys to assist with decision writing. Currently, two attorneys are budgeted for each board member. In addition, the statutes authorize a general counsel and an executive director to the board. The board is authorized to have 105.6 personnel-years in 1982-83.

In each of our last two analyses, we have raised concerns about PERB's inability to issue decisions on a timely basis. Two years ago, we presented data which showed that, in 1980, PERB was four times slower than the Agricultural Labor Relations Board, three times slower than its New York State counterpart and almost eight times slower than its Massachusetts counterpart in processing unfair labor practice cases at the board level. In this year's Analysis we demonstrate that in 1981-82 the California PERB cost almost twice as much as its New York counterpart and 7½ times more than its Massachusetts counterpart. In order to improve case processing, the Legislature increased the board from three to five members effective

January 1, 1981. The Legislature also adopted supplemental report language in 1981 and in 1982 aimed at requiring PERB to adopt procedures to improve its case processing.

Our analysis indicates, however, that when this analysis was prepared, the PERB had made little actual progress to improve its case processing.

Recommendation:

We recommend that legislation be enacted making (1) the board chairman accountable to the Governor and the Legislature for case processing at the board level and (2) the general counsel accountable for all other management matters.

Fiscal Impact:

Annual General Fund savings ranging between $92,000 and $1.0 million annually depending on the extent to which the board is restructured.

Department of Industrial Relations-- Uniform Civil Penalties for Labor Code Violations

Reference:

Analysis, page 1822.

Analysis:

Under current law, the Labor Commissioner enforces 15 wage orders which are promulgated by the Industrial Welfare Commission, and more than 200 state laws relating to wages, hours, and working conditions. Violators of these laws are subject to a wide range of sanctions, including (1) a jail sentence of up to six months and/or a fine of not more than $500, (2) a state prison sentence of up to five years and/or a fine of up to $1,000, (3) civil penalties ranging from $10 to $100 per employee, (4) combinations of civil penalties and jail sentences or fines, and (5) no penalty at all.

Although violators of most labor laws are subject to jail sentences and/or fines (misdemeanor penalties), only about 1 percent of the prosecution cases currently closed by the Labor Commissioner result in the imposition of such penalties. Moreover, misdemeanor prosecutions have declined from 716 in 1978-79 to 596 in 1981-82. The decline and infrequent use of misdemeanor penalties is due to the growing number of more serious criminal cases which occupy most of the time of the criminal justice system. Consequently, the potential deterrent effect of a misdemeanor penalty for a Labor Code violation is not significant.

Recommendation:

We recommend enactment of legislation establishing a citation and uniform civil penalty system for all violations of laws and regulations which govern wages, hours, and working conditions and which are enforced by the Labor Commissioner.

Fiscal Impact:

Annual additional General Fund revenue of up to $750,000 from the new civil penalties, depending on the nature of the civil penalty system enacted.

Department of Industrial Relations--Make Licensing Function Self-Supporting

Reference:

Analysis, page 1823 (also see the 1982-83 Analysis, page 1664)

Analysis:

Under current law, the Division of Labor Standards Enforcement regulates the following special employment relationships: (1) agents who counsel, direct, or arrange engagements for artists and entertainers, (2) farm labor contractors, (3) garment and apparel manufacturers, (4) firms which have employees who are paid for performing work in their homes, (5) employees who are paid for performing work in their homes, (6) agents who recruit athletes for a fee to sign with professional athletic teams, (7) persons who are paid to load and unload agricultural products, (8) sheltered workshops which are permitted to pay less than minimum wages to severely handicapped workers, and (9) minors who are employed in various theatrical productions.

The division also grants exceptions to minimum wage and other requirements of the Industrial Welfare Commission (IWC) orders. Most of the minimum wage exemptions are granted to sheltered workshops.

The division is authorized to charge fees for issuing licenses and permits in all of these programs except sheltered workshops, theatrical permits for minors, and special exemptions from the minimum wage and other provisions of the IWC orders. Only the athletic agent and garment manufacturing programs, however, are required to be self-supporting. The statutes require the agricultural produce unloader program to be self-supporting in the San Francisco Bay area, but not in other parts of the state. The remaining licensing, registration, and special exemption programs require substantial General Fund subsidies.

Our analysis indicates that there is no basis for requiring some of the special licensing programs to be self-supporting and permitting others to receive a General Fund subsidy.

Recommendation:

We recommend that legislation be enacted to make the various functions in the licensing and registration program of the Division of Labor Standards Enforcement self-supporting.

Fiscal Impact:

Enactment of the recommended legislation would result in General Fund savings of approximately $300,000 annually.

Department of Industrial Relations--Funding Reforms for Subsequent Injury Program

Reference:

Analysis, page 1845.

Analysis:

Death-Without-Dependency Revenues. Chapter 1334, Statutes of 1972, and Ch 12/73, which implemented a constitutional amendment approved by the voters in 1972, require employers or their insurance carriers to pay to the state a workers' compensation death benefit in cases where a worker who dies as the result of an industrial injury leaves no surviving heirs. In such cases, the state receives, in a lump sum, the amount of the benefit that is usually paid to one total dependent (for example, a dependent spouse or child). At the current time, this benefit is $60,000, but it will rise to $70,000 on January 1, 1984. The revenue from these payments, which is called death-without-dependency revenue, is placed in the General Fund and used to offset the costs of the subsequent injury program.

In cases where the deceased worker has no totally dependent spouse or children, a partial dependent death benefit may be paid. Such benefits usually go to dependents such as parents, uncles, or aunts. The partial dependency death benefit is paid at the rate of four times the amount of the annual contribution provided by the deceased workers. However, it may not exceed $60,000 for one partial dependent or $85,000 for more than one partial dependent. These limitations will rise to $70,000 for one dependent and $95,000 for more than one dependent on January 1, 1984.

Prior to June 14, 1979, the state received the death benefit only when no partial dependency benefits were paid. On that date, however, a California Court of Appeal ruled that, in industrial death cases where there are partial dependents, the state is entitled to the difference between the partial dependent death benefit and the benefit that the state would have received had there been no dependent. This ruling was issued in the case of The Department of Industrial Relations v. the Workers' Compensation Appeals Board and Jeremy Shannon Tessler, commonly referred to as the Tessler case.

On May 22, 1982, the California Supreme Court overturned the Tessler ruling. As a result, the state once again is unable to collect death benefits in industrial death cases where partial dependent benefits are paid.

We can find no basis for allowing some employers (or their insurance carriers) to avoid making payments to the state required of other employers under essentially the same circumstances merely because a partial death benefit payment is made. Furthermore, current law as interpreted by the supreme court tends to encourage employers and insurance companies to seek out partial dependents, even when none is claimed, as a means of avoiding the required payment to the state. The end result is that employers and insurance companies often receive a windfall savings, while, the state's taxpayers must contribute more to support the subsequent injury program.

Program Should be Self-Supporting. The subsequent injury program requires an appropriation of $3,328,000 from the General Fund in 1983-84, in addition to the $2,050,000 in revenue available to the program from industrial death benefits where there are no surviving heirs. The 1972 National Commission on State Workmen's Compensation Laws recommended that all states make their subsequent injury programs self-supporting. At least 28 states now operate their subsequent injury programs in this manner, including Arizona, Connecticut, Florida, New York, Pennsylvania, Ohio, Oregon, and Wisconsin.

We believe that it would be appropriate for California to make its subsequent injury program self-supporting in the same manner. A self-supporting program would have the advantages of (1) ensuring that adequate resources are available for funding subsequent injury benefits and (2) spreading liability for hiring handicapped workers among all employers.

Recommendation:

We recommend that a constitutional amendment and implementing legislation be enacted to:

1. Require employers or their insurance carriers to pay to the state the difference between any partial-dependent benefit and any total workers' compensation benefit in death-without-dependency cases.

2. Make the subsequent injury program self-supporting.

Fiscal Impact:

Adoption of this legislation would avoid the need for a General Fund appropriation to support the program. Savings in 1983-84 would be $3,328,000 if the program were now operating on a self-supporting basis.

Department of Industrial Relations--Administration Reform for the Subsequent Injury Program

Reference:

Analysis, page 1846 (see also Analysis of the 1979-80 Budget Bill, pages 1249-1258)

Analysis:

Sections 4750 and 4755 of the Labor Code were enacted in 1937 to establish the Subsequent Injury Fund program primarily to encourage employers to hire handicapped workers. Prior to that time, employers were reluctant to hire such workers because workers' compensation costs were usually higher for handicapped workers in the event that they sustained a subsequent or second injury. This occurred because certain workers' compensation benefits are progressively greater for more serious disabilities arising from industrial injuries. Employers were, therefore, liable for the employees total disability consisting of the initial handicap plus the disability arising from the second injury.

To remedy this problem, Sections 4750 and 4755 of the Labor Code limit the financial responsibility of the employer of a handicapped worker to only the disability arising from the subsequent industrial injury. All other costs for disability workers' compensation are paid by the state from the Subsequent Injury Fund which is financed primarily by annual General

Fund appropriations and is estimated to cost approximately $5.4 million in 1983-84. Our analysis indicates that the program has serious administrative problems, probably no longer achieves its major objectives, and needs major restructuring.

Administrative Problems. Administrative and legal costs of the fund are excessive primarily because all benefits are required to be determined through the adjudicatory process before the Workers' Compensation Appeals Board in the Department of Industrial Relations. This requires litigation in almost all cases.

Reimbursing Insurance Companies. Most of the states which have established subsequent injury programs in recent years are employing a system which was recommended by the Council of State Governments to simplify administration. These states reimburse insurance companies or self-insured employers for any costs paid to qualifying handicapped workers, usually on a quarterly basis. Our analysis indicates that administration of the Subsequent Injury Fund would be greatly simplified if the state were to adopt the Council of State Governments' recommendation.

Abolishing the Credit Period. California currently employs a very complicated method for ensuring that benefits paid from the Subsequent Injury Fund do not duplicate payments which the recipient received for the preexisting disability. This method results in the delay of the payment of subsequent injury benefits for an average of about three and one-half years. This delay, which is referred to as a "waiting period" in our analysis, violates the basic objectives of the workers' compensation program which is to provide supplemental compensation during early stages of a disability to enable a worker to make necessary adjustments to allow him to reenter the work force. As far as we can determine, no other state employs such a system. Our analysis indicates that the "waiting provision" should be abolished.

Recommendation:

We recommend that legislation be enacted to:

1. Revise claims settlement procedures to parallel those used by insurance companies.

2. Provide for the reimbursement of employers of their insurance companies rather than making direct payments to employees.

3. Eliminate the "waiting provision" for benefits in existing law.

Fiscal Impact:

Due principally to the administrative problems, adequate statistics are not maintained on the subsequent injury program. It, therefore, is not possible to estimate the costs of the proposal accurately. Abolishment of the waiting period would probably result in substantial costs to the fund. These costs would be partially offset by administrative savings.

Department of Personnel Administration--Compensation Surveys

Reference:

Analysis, page 1834.

Analysis:

Prior to the enactment of the State Employer-Employee Relations Act (SEERA) in 1977 and the Higher Education Employer-Employee Relations Act (HEERA) in 1978, the Legislature relied on salary survey data provided by the State Personnel Board (SPB) in determining whether state salaries were trailing or leading salaries paid in comparable private or local government employment. The results of these surveys were published and were considered in establishing salaries for state civil service and related employees and for nonacademic employees at University of California (UC) and California State University (CSU).

With the advent of collective bargaining for state civil service employees, responsibility for the salary survey function was moved from the SPB to the Department of Personnel Administration (DPA). The DPA, however, has not provided compensation data to the Legislature in the same manner as that which was provided by the SPB. The apparent reasons for this change are attributed to (1) the desire to reduce costs and (2) the belief that publishing comprehensive wage survey data would be detrimental to the collective bargaining process.

Our analysis indicates that in light of collective bargaining, it may be inappropriate for the DPA, which represents the Governor in the negotiating process, to supply the wage survey data to the Legislature. Rather than continue to have DPA responsible for collecting wage survey data, the state should adopt a process for obtaining the data similar to the one used by the government of Canada, where an independent body, the Pay Research Bureau, publishes nationwide surveys of prevailing compensation.

Within California, the SPB, as an independent body, could serve to provide these compensation surveys in the way that the Pay Research Bureau does. The collection of the survey data could be financed by reimbursements from the interested parties to include the Governor, UC, CSU, the state employee unions, and other public jurisdictions.

Recommendation:

We recommend that legislation be enacted amending the Government Code to transfer the compensation survey function from the DPA to a pay research section within the SPB.

Fiscal Impact:

Probably minor one-time General Fund cost to transfer 5.6 positions and functions from the DPA to the SPB.

State Public Works Board--Composition of Membership

Reference:

1983-84 Budget: Perspectives and Issues (Analysis, page 200.

Analysis:

In the past, we have recommended that Section 15770 of the Government Code be amended to revise the composition of the State Public Works Board by removing the Director of General Services and adding the Director of Housing and Community Development. In 1981, the Legislature approved SB 681 which would have made this change. The Governor, however, vetoed the bill.

We continue to believe this change is warranted. Many issues that come before the board directly involve decisions made by the Department of General Services. This places the Director of General Services in a position of constantly having to approve--or disapprove--proposals that are developed by the Director's staff, and that in many cases have already been approved by the Director himself. The Director of Housing and Community Development would not be subject to the same conflicting pressures. Further, the Director's interest in the state's acquisition and construction projects and their impact on community development would be an asset to the board.

Recommendation:

We recommend that legislation be enacted to change the State Public Works Board membership by replacing the Director of General Services with the Director of Housing and Community Development.

Fiscal Impact:

Indeterminate.

Tax Relief
Senior Citizens' Property Tax Postponement--Subsidized Loan Rate

Reference:

Analysis, page 1942.

Analysis:

Current law allows eligible senior citizen homeowners to defer payment of all or a portion of their residential property taxes. The state pays to local governments the amount of taxes deferred and then places a lien on the property to ensure that the amount of all taxes deferred is repaid to the state, with interest, at the time the property is sold or transferred. Chapter 1242, Statutes of 1977, provides that interest at the rate of 7 percent annually, not compounded, be collected at the time the deferred taxes are repaid.

The Pooled Money Investment Fund (PMIF) is the account where state monies are deposited, when not in use, so that interest earnings may be accrued. Since 1977-78, interest rates earned by the PMIF have exceeded the statutory interest rate charged on the deferred tax loans by an average of 2.8 percentage points. This means that less interest is being earned on the amount of the deferred tax loans than would otherwise be earned if the monies were on deposit in the PMIF. For each year that the PMIF earns more than 7 percent, the General Fund is actually subsidizing the loans granted under this program. There will be an estimated $25 million in outstanding loans for deferred taxes in 1983-84. Assuming the PMIF earns an average annual interest rate of 10 percent, the General Fund will forego $750,000 in potential interest earnings.

We do not question the merit of assisting eligible homeowners in paying their property taxes. However, we can find no analytical basis to justify subsidizing this program when the PMIF earnings exceed 7 percent--nor should the General Fund receive increased revenue if the PMIF interest earnings fall below 7 percent. Since the PMIF interest rate is lower than current market rates for loans, changing the statutory interest rates would still allow program participants to receive favorable interest rates on their deferred tax loans when compared to current market rates, the General Fund, however, would not lose corresponding interest earnings.

Recommendation:

We recommend that the Legislature amend Section 16183 of the Government Code as follows: (1) delete the specified interest rate of 7 percent and, instead (2) provide that interest be charged at a rate equal to the PMIF interest rate for the comparable time period.

Fiscal Impact:

Increased annual revenue of approximately $750,000 to the General Fund.

Tax Relief
Enterprise Special Districts--
Eliminate Business Inventory Reimbursements

Reference:

Analysis, page 1946.

Analysis:

Enterprise special districts are those special districts which are entirely or predominately self-supported by user charges, and where operations are accounted for in a manner similar to a private business. Chapter 327, Statutes of 1982 (the companion trailer bill to the 1982-83 Budget Bill), contains language precluding enterprise special districts (other than airport and transit districts) from receiving reimbursement for property tax revenues lost as a result of the exemption for business inventories, for an estimated current year savings to the General Fund of $11 million.

Although many enterprise districts engage in nonenterprise as well as enterprise activities, the existing language precludes enterprise districts from receiving any business inventory reimbursement, even if the reimbursement is associated with a nonenterprise activity. Information from the Department of Finance indicates that approximately $2 million of the $11 million savings is attributable to reimbursements associated with nonenterprise activities.

For the budget year, the Governor is proposing that reimbursement for business inventory exemption-related tax losses be restored. The 1983-84 budget includes $11 million for this reimbursement and SB 124 amends the existing statutory language adopted in the current year to reflect this proposal.

Because enterprise special districts are by definition self-supporting, we can find no analytical basis to justify providing them with business inventory reimbursements for their enterprise-related activities, however, we believe that funding <u>should be</u> provided for <u>nonenterprise</u> activities.

<u>Recommendation</u>:

<u>We recommend the adoption of legislation restricting specified enterprise special districts from receiving reimbursement for enterprise-related activities</u>.

<u>Fiscal Impact</u>:

Annual savings to the General Fund of approximately $9 million.

Augmentation for Employee Compensation--Constitutional Salaries

Reference:

Analysis, page 1980.

Analysis:

Under the State Constitution (Article V, Section 12), salaries of the seven constitutional officers (Governor, Attorney General, Lieutenant Governor, Controller, Treasurer, Secretary of State, and Superintendent of Public Instruction) may not be changed during their elected term of office. Consequently, if their salaries are not adjusted by January 1987, the present salary rates will remain in effect until January 1991.

From 1967-68 to 1982-83, constitutional officers fared worse than any other group of state employees in terms of maintaining their real income. In real terms, these officials "lost" between 33 percent and 56 percent of their salaries to inflation.

Recommendation:

We recommend that legislation be enacted to increase the salaries of the seven constitutional officers effective January 5, 1987, by at least the same percentage above these 1967-68 levels as judges' salaries have been increased during that period.

Fiscal Impact:

Indeterminable General Fund cost, depending on implementation by the Legislature.

Augmentation for Employee Compensation--
Salaries of State Legislators

Reference:

Analysis, page 1980.

Analysis:

The State Constitution provides that any statute adjusting compensation for legislators may not apply until the beginning of the regular session commencing after the next general election. Salary increases are limited to 5 percent a year since the last adjustment.

Government Code Section 8901 provides for the annual increase in compensation. The latest adjustment consisted of a 10 percent salary increase in 1980-81.

From 1967-68 to 1982-83, state legislators fared only slightly better than the seven constitutional officers in terms of maintaining their real income. During this period, the legislators "lost" 31 percent of their salary to inflation.

Recommendation:

We recommend that legislation be enacted to increase the salaries of members of the Legislature, effective December 3, 1984, by the maximum amount authorized by the Constitution.

Fiscal Impact:

Increase in annual General Fund cost of approximately $506,000.

Local Fiscal Relief--
Use of General Obligation Bonds to Finance Capital Improvements

Reference:

Perspectives and Issues, page 185.

Analysis:

Local governments are becoming increasingly concerned about the condition of capital facilities--sewers, streets, bridges, and so on--in their communities. These facilities, sometimes referred to as "infrastructure," are said to be badly deteriorated and in need of repair, largely because funding for public facilities has declined in recent years. Most important, the traditional source of funding for such facilities--general obligation bonds--has been eliminated because of the 1 percent limit on the property tax rate due to Proposition 13 (June 1978 ballot). This limit restricts the ability of local governments to use their taxing powers as security for the payment of debt service on general obligation bonds.

We believe that the need for capital improvements cannot be adequately addressed without resort to general obligation bonds. General obligation bonds are a preferable means of financing many projects (and perhaps the only means for some) because: (1) they are backed by the full faith and credit of the issuing agency; (2) they require voter approval; and (3) they generally provide a better match between who pays and who benefits over the life of a project. The use of general obligation bonds also may permit some projects which could be financed under alternative financing mechanisms to be completed at a lower cost, due to the superior security they offer. Under these circumstances, we find no basis for precluding the use of general obligation bonds by local governments for projects which a majority of voters are willing to support.

Recommendation:

We recommend that the Legislature present to the voters for their approval an amendment to the California Constitution that would give localities access to the general obligation bond market. Specifically, we recommend that the voters be asked to approve a constitutional amendment permitting localities to temporarily increase their property tax rates above the 1 percent limit, for the express purpose of amortizing debt issued to finance voter approved public facilities.

Fiscal Impact:

Potential savings in interests costs paid on debt issued by local governments to finance capital improvements.

Short-Term Borrowing

Reference:

Perspectives and Issues, page 156.

Analysis:

It is not uncommon for the General Fund to borrow money on a short-term basis in the course of a fiscal year. This need arises because of differences between when revenues are actually received and when the state's bills must be paid. This type of borrowing, which can be from both internal and external sources, may be necessary even when a year-end budget surplus is anticipated. However, temporary borrowing is a frequently used tool in the cash management process. When responsibly undertaken and monitored, it is a proper way of handling the state's short-run cash deficiencies. During 1982-83, the need for short-term borrowing has been especially significant and, given the state's tight fiscal position, will also be important during the budget year.

We believe that the Legislature may wish to consider and resolve five specific policy issues regarding short-term borrowing. They are:

1. Which state official should be responsible for managing short-term external borrowing?
2. Should short-term external borrowing for cash-management purposes be "rolled-over" between fiscal years?

3. Should there be a statutory ceiling on the amount of short-term external borrowing which can be undertaken without specific legislative authorization?
4. What type of short-term debt should be issued for cash management purposes?
5. Should the state be permitted to borrow externally before it has exhausted its internal borrowing capabilities?

Recommendation:

We recommend that legislation be enacted which:

1. Designates the State Treasurer as the official statutorily responsible for managing all short-term General Fund external borrowing activities;
2. Limits the use of short-term external borrowing to borrowing within (as opposed to across) fiscal years, unless interyear borrowing is simply unavoidable;
3. Establishes a statutory ceiling on the amount of short-term external borrowing which can be undertaken without specific legislative authorization;
4. Authorizes the issuance of secured, as well as unsecured, short-term debt for cash-management purposes; and
5. Authorizes the Treasurer to borrow from external resources even if internal funds are available, whenever external borrowing is less costly.

Fiscal Impact:

To the extent that the interest rate for conventional short-term notes is less than the rate which could be required on alternative forms of borrowing, such as internal borrowing from special funds, there would be a General Fund cost savings.

Long-Term Borrowing

Reference:

Perspectives and Issues, page 159.

Analysis:

The state undertakes borrowing through the issuance of long-term tax-exempt bonds. Unlike short-term borrowing, which is a tool for cash management, long-term bonds with maturities of up to 50 years are used to finance the acquisition of capital equipment and facilities, including highways, water systems, prisons, and office buildings.

In last year's Analysis, we indicated that there are a number of problems and policy issues regarding the use of tax-exempt bonds by governments to finance capital outlays. Given the importance of these issues, we prepared a report on the general subject of long-term borrowing. This report, entitled The Use of Tax-Exempt Bonds in California: Policy Issues and Recommendations, was transmitted to the Legislature earlier this session.

As discussed in this report, we believe that there are five general categories of major policy issues regarding long-term borrowing. These are:

1. What programs should tax-exempt bonds be used to finance?
2. How much tax-exempt debt should be issued and how should it be allocated between different programs?

3. What technical constraints should the state impose on tax-exempt bond issues?

4. What should be the role of the state government in local borrowing activities?

5. Should California continue to exempt from state taxation the interest earned on state and local governments bonds?

Recommendation:

We recommend that legislation be enacted as itemized in our bond report and summarized in the "Perspectives and Issues" section of the Analysis.

The legislation would address a wide variety of subjects, including:

1. Open-ended bond authorizations for the state's revenue bond programs;

2. A state debt ceiling;

3. Selection of winning bidders for bond issues by using the true interest cost (TIC) criterion, subject to appropriate bidding constraints;

4. Revision of technical constraints on bond issues, such as interest rate ceilings, price discounts, methods of sale, and maximum maturity lengths;

5. The exemption of interest earned on state and local bonds from state income taxation;

6. The use of general obligation bonds issued by local governments to finance public facilities; and

7. The state's involvement in local government debt-related activities.

Fiscal Impact:

The fiscal impacts of these individual recommendations would vary from case to case. In many cases, there would be potential General Fund cost savings, such as from the more efficient marketing of bonds.

Collective Bargaining for State Employees

Reference:

The 1983-84 Budget: Perspectives and Issues, page 185.

Analysis:

Collective bargaining agreements--or memoranda of understanding (MOUs)--and the compensation package for noncovered employees resulted in current-year costs of approximately $146 million, consisting of $85 million in costs reviewed by the Legislature (including recent adjustments) and $61 million in costs that were never presented to the Legislature for its consideration.

The collective bargaining process, as conducted for 1982-83 (1) did not comply with the statutory requirement that the Legislature review and approve all MOU provisions requiring the expenditure of funds, (2) resulted in $61 million in state costs in addition to the $85 million in so-called direct costs, which will continue in future years, and (3) necessitated the diversion of existing program funds, thereby circumventing the legislative process and reducing legislative control over the allocation of limited resources.

As a result, the Legislature experienced three serious problems in carrying out its duties under collective bargaining:

- The Legislature had only a short time to review the contract provisions.

- The information that was presented did not give a precise picture of the fiscal ramifications of the provisions within the MOUs.
- No process exists to ensure the consistent management and administration of the contract provisions.

Recommendation:

We recommend that legislation be enacted to:

1. Require the Department of Personnel Administration (DPA), the University of California (UC), and the California State University (CSU) to submit to the Legislature by May 15 all MOUs and other proposals for compensation increases for 1983-84.

2. Require the Department of Finance, UC, and CSU to submit annually a comprehensive cost summary of proposed and negotiated compensation changes for their respective employees.

3. Require the Department of Finance to review all cost estimates prior to legislative budget hearings to verify their reliability and consistency.

4. Require the Department of Finance to provide guidance to agencies, in the form of management memos, as to standard procedures for implementing the various cost provisions contained in the MOUs.