

CONTROL SECTIONS

ANALYSIS AND RECOMMENDATIONS WITH RESPECT TO GENERAL CONTROL SECTIONS

The so-called "control sections" included in the 1991 Budget Bill set forth general policy guidelines governing the use of state funds. These sections place limitations on the expenditure of certain appropriations, extend or terminate the availability of certain other appropriations, establish procedures for the expenditure and control of funds appropriated by the Budget Act, and contain the traditional constitutional severability and urgency clauses.

The control sections proposed for 1991-92 may be found in Sections 3.00 through 36.00 of Senate Bill 160 (Alquist) and Assembly Bill 222 (Vasconcellos). In many instances, the numbering of these sections is not consecutive, as the section numbers in the 1991 Budget Bill have been designed to correspond with the equivalent or similar sections in the 1990 Budget Act.

The Budget Bill also contains Section 1.2, which states that the budget incorporates the "trigger-related reductions" required by Ch 458/90 (AB 2348, Willie Brown), and provides that no further reductions shall be made to General Fund appropriations on July 1, 1991.

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

Sections Which We Recommend Be Approved

The following sections are virtually identical to the sections in the 1990 Budget Act, or do not represent any change in legislative policy. ***We recommend approval of these sections because they are consistent with previous legislative policy.***

Section	Subject Area
3.00	Budget Act Definitions and Statutory Salaries
3.50	Employee Benefits
3.75	Centrex Service Costs
5.00	Attorney Fees — State Courts
5.50	Oversight of Consultant Contracts
6.00	State Building Alterations
6.50	Transfer of Amounts Within Schedules
7.50	Accounting Procedures for Statewide Appropriations
8.50	Appropriation and Control of Federal Funds
8.51	Federal Trust Fund Account Numbers
8.60	Single Audit Review Costs
9.20	Administrative Costs for Property Acquisition
9.50	Minor Capital Outlay
11.51	Energy-Related Fund Transfers
11.55	Outer Continental Shelf Land Act
11.60	Unitary Fund
12.30	Special Fund for Economic Uncertainties
13.00	Legislative Counsel Bureau

- 18.10 Department of Parks and Recreation — Contract Agreement
- 22.00 Unallocated Appropriation for Welfare Employment Programs
- 24.00 State School Fund
- 24.10 Driver Training
- 24.60 Lottery Revenues
- 26.60 Expansion of Satellite Wagering Facilities
- 28.00 Authorization for Adjustments in Spending Authority
- 29.00 Personnel-Years Reporting
- 30.00 Continuous Appropriations
- 31.00 Administrative and Accounting Procedures
- 32.00 Expenditures in Excess of Amounts Appropriated
- 33.00 Governor's Vetoes
- 34.00 Severability of Budget Act Provisions
- 35.00 Budget Act to Take Immediate Effect
- 36.00 Urgency Clause

Sections Which We Recommend Be Modified

We recommend various actions on the following sections:

SECTION 3.60

**RECAPTURE OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)
CONTRIBUTIONS**

ANALYSIS AND RECOMMENDATIONS

We withhold recommendation on employer contribution rates for retirement benefits pending final determination of the actual rates established after the appropriate actuarial assumptions are updated.

This control section, which is identical to Section 3.60 of the 1990 Budget Act, specifies the contribution rates for the various retirement classes of state employees. The section also authorizes the Department of Finance (DOF) to require the State Controller to offset these contributions with surplus funds in the employer accounts. In addition, the section authorizes DOF to reduce any line item appropriation which is in excess of the amount required as a result of reduction in these rates.

At the time this analysis was prepared, the Public Employees' Retirement System (PERS) had not made a final determination on the contribution rates to be used for 1991-92.

Consequently, we withhold our recommendation pending action by the PERS Board.

SECTION 4.00

HEALTH INSURANCE PREMIUMS

ANALYSIS AND RECOMMENDATIONS

We withhold recommendation on the monthly state contribution rates for employee health insurance specified in this section, pending

final determination of the actual increase in health insurance premiums.

This control section, which is identical to Section 4.00 of the 1990 Budget Act, specifies the monthly amounts which the state contributes toward the cost of its employees' and retirees' health insurance. The section provides for state monthly contributions of: (1) \$157 for the employee (or annuitant) only, (2) \$292 for an employee (or annuitant) and one dependent, and (3) \$367 for an employee (or annuitant) with two or more dependents.

Government Code Section 22825.1: (1) expresses legislative intent that the state pay 100 percent of the *average* premium cost for coverage of employees and annuitants, and 90 percent of the cost for coverage of dependents; and (2) specifies that the state's contribution toward employee health insurance shall be adjusted in the annual Budget Act. While this code section is "supersedable" under collective bargaining, the Legislature must still approve any change — such as increases in the state's monthly contribution rates — which would result in increased costs during 1991-92.

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

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

SECTION 4.20

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

ANALYSIS AND RECOMMENDATIONS

We withhold recommendation on the administrative surcharge rate set in this section pending final determination of budget-year health insurance premiums.

This section, which is identical to Section 4.20 of the 1990 Budget Act, was first included in the 1984 Budget Act to provide a mechanism for (1) granting legislative approval of the surcharge rates that state agencies are required to pay (a) for the costs incurred by the Public Employees' Retirement System in administering the health benefits program and (b) toward a special reserve in the PECRF; and (2) recapturing excess payments to the PECRF.

At the time this analysis was prepared, there was no basis for determining the appropriate surcharge rate because budget-year health insurance premiums had not yet been set. According, we withhold recommendation on this section pending determination of 1991-92 health insurance premiums.

SECTION 9.30**APPROPRIATIONS TO BE CHARGED FOR FEDERAL WRITS****ANALYSIS AND RECOMMENDATIONS**

We recommend approval of this item with additional language.

This section provides a procedure whereby the State Controller will notify the Director of Finance in the event that federal courts issue and execute writs for the levy of state funds. Under the provisions of this section, the Director of Finance will, in turn, notify the State Controller of the specific appropriation or fund to be charged. In the event that an appropriation is made deficient by such a charge, funding augmentations could be authorized through the regular deficiency spending process outlined in Section 27.00 of the Budget Act, with the exception that the 30-day notification would not be required for payments mandated by federal courts.

Under current practice, federal court writs of execution are charged against the unappropriated balance of the General Fund as opposed to a specific appropriation or fund. This section would change that procedure and allow the Director of Finance to charge the writ against a specific appropriation.

Additional language needed. The proposed language would allow the Director of Finance to charge writs of execution against any department or agency, regardless of whether they were addressed in the federal writ. We recommend that language be added to this item to clarify that the writ be charged to the department or program associated with the federal action. In addition, in the event the department or agency no longer existed, the writ should be charged against the unappropriated balance of the General Fund. The addition of the following language will provide the needed clarification:

Federal writs of execution for the levy of state funds may only be charged against appropriations or funds having a direct programmatic link to the circumstances under which the federal writ was issued. If such a department or agency no longer exists, or no linkage can be identified, the federal writ shall be charged to the unappropriated surplus of the General Fund.

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

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

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

Table 1
Distribution of 1991-92 Tidelands Oil Revenues
Comparison of Current Law with Section 11.50
 (in thousands)

<i>Allocation</i>	<i>Current Law</i>	<i>Section 11.50</i>
State Lands Commission	\$12,842	\$12,842
California Water Fund	25,000	—
Central Valley Project	5,000	—
Sea Grants	525	—
Capital Outlay Fund for Public Higher Education (COFPHE)	121,333	—
Energy and Resources Fund	—	—
Housing Trust Fund	—	3,000
Special Account for Capital Outlay (SAFCO)	—	<u>148,858</u>
Totals	<u>\$164,700</u>	<u>\$164,700</u>

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

SECTION 12.00

APPROPRIATIONS LIMIT FOR 1991-92

ANALYSIS AND RECOMMENDATIONS

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

This section establishes the state's 1991-92 appropriations limit called for by Article XIII B of the State Constitution, as amended by Proposition 111. It also sets a time limit on the judicial challenges to the limit established by this section.

The budget proposes a 1991-92 limit of \$34,990 million. This is only a preliminary estimate of the limit, however, as the limit's annual adjustment factors for population and the change in California per capita income will not be final until May.

Furthermore, the Governor's Budget proposes two major program realignments and some minor shifts of tax revenues to fees that, taken together, could have a significant impact on the calculation of the state's appropriations limit. Under the realignment proposals, the primary programmatic and funding responsibility for local mental health and public health services would be shifted to counties. This may require an adjustment to the appropriations limits of the state and counties to reflect a "transfer of financial responsibility." Similarly, a number of the budget's fee proposals may have the effect of supplanting state General Fund support for existing programs. Under the constitutional provisions, such proposals also require an adjustment to the state's appropriations limit. We will report our recommendations for the setting of the state's 1991-92 appropriations limit when further information on the adjustment factors and budget proposals becomes available.

SECTION 12.31**PROPOSITION 98 RESERVE****ANALYSIS AND RECOMMENDATIONS**

We recommend that this section be deleted.

The Governor's Budget proposes a Proposition 98 reserve of \$110 million (\$100 million for K-12 programs and \$10 million for community colleges). These funds are reserved by Control Section 12.31 "for deficiencies and other educational purposes in program areas which are funded under the provisions of Proposition 98."

Our analysis indicates that a Proposition 98 reserve serves two purposes:

- To ensure that the subsequent appropriation of funding for deficiencies would not cause the state to exceed the Proposition 98 minimum funding requirements.
- To ensure that changes in factors affecting the Proposition 98 guarantee (such as decreases in General Fund revenues or increases in school district's property tax receipts) would not cause the state's actual contribution towards the guarantee to exceed the state's obligation.

Our analysis further indicates that, in any year in which the Proposition 98 guarantee is suspended and funding for K-14 education is significantly reduced below the Proposition 98 "full funding" level, neither of these outcomes is likely to occur. Consequently, in this context we find that there is little or no need for a separate Proposition 98 reserve for K-12 education funding (apart from the state's overall Reserve for Economic Uncertainties). In addition, because the state controls the total level of community college enrollment it wishes to fund, we find that there is no need for a separate Proposition 98 reserve for the community colleges.

We therefore recommend that the Legislature eliminate Control Section 12.31 and instead use the associated funds for other, higher priority, purposes. Should the Legislature choose not to suspend Proposition 98, or fund the guarantee near the "full funding" level, it will need to re-examine the issue of an appropriate Proposition 98 reserve.

This issue is discussed in greater detail in Items 6110 (Department of Education) and 6870 (California Community Colleges).

SECTION 12.32**PROPOSITION 98 FUNDING GUARANTEE****ANALYSIS AND RECOMMENDATIONS**

We withhold recommendation on this section, pending final legislative action on budget items counting towards meeting Proposition 98 minimum funding requirements.

This section establishes the amounts of appropriations which count towards meeting Proposition 98 minimum funding requirements for school districts, community colleges, and state agencies providing education services. This section also (1) states that all appropriation items

identified as "Proposition 98" in the Budget Act are for meeting Proposition 98 minimum funding requirements and (2) authorizes the Department of Finance to designate additional appropriation items as counting towards meeting Proposition 98 minimum funding requirements "where that designation is consistent with legislative intent."

The amounts shown in this section reflect the administration's budget proposals for items counting towards meeting Proposition 98 minimum funding requirements. As such, they do not reflect the impact of legislative action on the budget, which could yield different amounts. Accordingly, we withhold recommendation on this section, pending final legislative action on items counting towards Proposition 98.

SECTION 23.50

ALLOCATION OF FEDERAL IMMIGRATION REFORM MONIES

MAJOR ISSUES

- The President's recent budget proposal would eliminate \$365.7 million that California expects to receive in federal State Legalization Impact Assistance Grants (SLIAG) funds in 1991-92. Such a reduction (1) could increase General Fund costs and (2) would significantly reduce services provided to newly legalized persons.
- SLIAG funds will run out in either 1991-92 or 1992-93. The Legislature faces major transition issues regarding how to address continuing service demands without SLIAG funds.

ANALYSIS AND RECOMMENDATIONS

Conform Section 23.50 to Action in Various Items

We recommend that Section 23.50 be modified to reflect the actions the Legislature takes in various items of the Budget Bill.

This section appropriates federal funds made available under the federal Immigration Reform and Control Act (IRCA). This act authorized a general amnesty for certain groups of undocumented persons, holding out eventual citizenship to these individuals.

The IRCA legislation included \$4 billion in federal grants — known as State Legalization Impact Assistance Grant (SLIAG) funds — to pay for the cost of certain state and federal services that would be available to newly legalized persons.

The 1991-92 Governor's Budget proposes through this section to spend \$429.6 million in federal SLIAG funds to reimburse state and local programs for the cost of providing services to eligible newly legalized persons. This is \$107.4 million, or 20 percent, lower than the estimated expenditures in the current year. The Budget Bill also includes these appropriations in the schedules of each department that receives SLIAG funds.

The budget proposes the elimination of SLIAG funding for health clinics in 1991-92. We discuss the effects of the proposed elimination in our review of the Department of Health Services (Item 4260) budget. We also discuss a staffing issue in our review of the Department of Housing and Community Development (Item 2240) budget.

Because the appropriation of these funds in each department is subject to review by the Legislature during the budget process, we recommend that this section be modified to reflect the final actions the Legislature takes in various items of the Budget Bill.

Budget Proposal Eliminates Funding for Public Health and Other Programs

We recommend that the Health and Welfare Agency (HWA) and the Department of Finance (DOF) report during budget hearings on (1) how the proposed budget complies with a federal requirement to use 10 percent of SLIAG funds for public health and (2) the fiscal implications if the federal government finds the state out of compliance with this requirement.

During the first four years of SLIAG expenditures, the Legislature appropriated funds for a wide variety of public health, public assistance, and education programs. In 1990-91, the Legislature also provided funding for anti-discrimination education activities. The 1991-92 budget proposal is \$107.4 million lower than estimated current-year expenditures and:

- Fully funds estimated caseload for most public assistance programs, including the Medically Indigent Services Program, Medi-Cal, and SSI/SSP (increase of \$11.8 million).
- Reduces funding for education programs by two-thirds (reduction of \$70.8 million).
- Eliminates funding for all public health programs, primary care clinics, mental health, housing, and anti-discrimination education activities (reduction of \$44.4 million). The budget proposals for these programs do not include funds from other sources to offset the elimination of SLIAG funding.
- Reduces administration in various departments (reduction of \$4 million).

In developing its proposal, the administration attempted to (1) avoid General Fund obligations that will result if mandated public assistance programs are not fully funded and (2) provide enough funds for educational services so as to ensure that newly legalized persons are able to meet the basic education requirements the IRCA established for permanent residency.

Our analysis indicates that (1) the administration's objectives are consistent with the actions that the Legislature has taken in prior years and (2) the budget proposal meets both of the administration's objectives. However, it appears that the administration's proposal to eliminate funding for public health programs could place the state out of compliance with federal law. This is because the IRCA requires states to use at least 10 percent of the SLIAG funds they receive in each of three service categories: public health, public assistance, and education.

Table 1 displays by category the five-year expenditure totals for each of the three categories. The totals are comprised of the actual appropriations from 1987-88 through 1990-91 and the proposed appropriations for 1991-92. As the table indicates, under the administration's proposal, only 4.8 percent of the total SLIAG expenditures would be used for public health.

Table 1
State Legalization Impact Assistance Grant (SLIAG)
State Expenditures by Category

Five-Year Totals, 1987-88 through 1991-92

<i>Category</i>	<i>(dollars in millions)</i>	<i>Percent of Total Expenditures</i>
Public health.....	\$86.1	4.8%
Public assistance.....	1,334.9	73.8
Anti-discrimination/education.....	1.9	0.1
Education.....	386.6	21.3
Totals.....	\$1,809.5	100.0%

The IRCA exempts a state from the 10 percent requirement if the state "does not require the use of the full 10 percent." The administration indicates that it believes its expenditure proposal complies with the IRCA because, in its judgment, the state does not require the use of the full 10 percent for public health services. By choosing not to appropriate SLIAG funds for public health, the administration argues that the state is determining that it does not require them.

We are concerned that the administration's attempt to define the need for public health services by whatever level of funding it chooses to provide may not comply with the IRCA. We therefore recommend that the HWA and the DOF report during budget hearings on (1) how its proposal complies with federal law and (2) the fiscal implications if the federal government finds the state out of compliance.

Unused Prior-Year Appropriations May Become Available

Many of the programs that have received SLIAG funds have unspent funds remaining from their prior-year appropriations. The administration reduced the initial appropriations for 1987-88 and 1988-89 when it was clear that programs needed fewer funds. Even after these adjustments, however, \$61.6 million of the funds appropriated for 1987-88 and 1988-89 had not been spent at the time we prepared this analysis.

There are four major reasons why programs have not spent their entire appropriations:

- The state and the federal government disagree about what portion of the costs the state can claim for services provided to people whose applications for legalization have not been processed by the federal Immigration and Naturalization Service.
- The state and the federal government disagree about whether some services provided by county hospitals constitute "bad debt" or "charity care." The state cannot use SLIAG funds to reimburse counties for "bad debt" losses.
- The Department of Health Services has had difficulty collecting the data necessary to determine what portion of the clinics' services were provided to newly legalized persons.
- Some program areas have had fewer claims than estimated.

At the time this analysis was prepared, it was unclear how much money from prior-year funding will ultimately be available for reallocation. However, the administration indicates that it intends to close out the appropriations for 1987-88 and 1988-89 by April 1, 1991. At that time, the administration will be able to tell the Legislature what portion of the \$61.6 million remains unspent.

The 1990 Budget Act authorizes the administration to reallocate any remaining funds from prior years, subject to legislative notification. The administration has considerable discretion in how it allocates these funds. For example, the administration can allocate funds from 1987-88 to any year from 1988-89 to 1991-92 or save them until 1992-93. Moreover, the administration can allocate prior-year funds to *any* program, not just to the program where the funds were originally allocated.

The administration indicates that its first priority for allocating prior-year funds will be to fund any additional caseload that is identified in the May revision of expenditures. Consequently, the administration plans to wait until May before it decides how it will propose to allocate the funds.

The issue of allocating unspent prior-year funds is part of a larger issue the Legislature faces regarding how to address continuing service demands once federal SLIAG funds are no longer available. We discuss this issue next.

Legislature Faces Major Transition Issues

In considering the 1991-92 SLIAG appropriations, the Legislature faces a number of fiscal and policy issues regarding how to address continuing service demands once SLIAG funds are no longer available. This is because SLIAG funds will run out during either 1991-92 or 1992-93, depending on Congressional action on the federal fiscal year 1992 budget. The transition issues can be grouped in two categories: (1) what level of SLIAG funding the Legislature should assume will be available during 1991-92 and (2) how the Legislature should allocate those funds.

Level of Federal Funding is Uncertain

The level of federal SLIAG funding for 1991-92 is uncertain and will not be known until after the Legislature completes action on the Budget Bill. The Legislature has at least two options for determining spending levels in light of this uncertainty.

In the IRCA, the Congress committed to expenditures of \$1 billion each year for four federal fiscal years (FFYs): 1988 (October 1987 through September 1988) through 1991. However, in its actions on the FFY 1990 and FFY 1991 budgets, the Congress reduced each year's SLIAG funding by \$550 million and expressed its intent to provide the \$1.1 billion during FFY 1992 instead.

The Governor's Budget for 1991-92 assumes that the Congress will provide \$1.1 billion in deferred SLIAG funds in the FFY 1992 budget. The administration estimates that California will receive \$365.7 million from the FFY 1992 SLIAG appropriation. The FFY 1992 budget, however, proposes to eliminate SLIAG funding because, according to the President's budget, the states have used the funds as a "fiscal subsidy for general governmental costs."

Table 2 displays California's share of federal SLIAG appropriations. The first column of Table 2 displays the administration's assumptions regarding SLIAG funding, and the second column displays the President's proposal.

Table 2
State Legalization Impact Assistance Grant (SLIAG)
Estimated Federal Appropriations
Federal Fiscal Years 1988 through 1992
(dollars in millions)

	<i>Governor's Budget Assumptions</i>	<i>President's Proposal</i>
California's share of federal SLIAG appropriations		
Federal fiscal year (FFY) 1988 (October 1987 through		
September 1988).....	\$570.4	\$570.4
FFY 1989.....	522.5	522.5
FFY 1990.....	185.4	185.4
FFY 1991 (estimated).....	162.7	162.7
FFY 1992 (estimated).....	365.7	—
Total resources through September 1992.....	\$1,806.7	\$1,441.0

Table 3 displays the administration's actual and proposed expenditures through 1991-92 and compares the expenditures to (1) the Governor's assumptions about federal appropriations and (2) the President's proposed appropriations. As Table 3 shows, under the President's proposal, there would be a shortfall in federal appropriations of \$368.5 million. At the time the Legislature completes action on the 1991 Budget Bill, it will be too soon to determine final congressional action on the President's proposal.

Legislature's Options. Our review indicates that the Legislature has two options in considering the total level of 1991-92 expenditures:

- *Approve the administration's proposed spending level for 1991-92.* This assumes that the Congress will reject the President's proposal and that California's share of the FFY 1992 federal appropriation, combined with any unspent prior-year funds, will be sufficient to cover expenditures during state fiscal year 1991-92.

- *Reduce 1991-92 expenditures in line with the amount that would be available under the President's budget.* This option would require reductions totaling \$368.5 million. As we discuss below, this would also require General Fund augmentations for mandated programs.

The Legislature's decision in choosing between these two options, or in developing a compromise between the two, is complicated by various issues related to the transition from the use of SLIAG funds for various programs. We discuss these issues next.

Table 3

**State Legalization Impact Assistance Grant (SLIAG)
Proposed State Expenditures Compared to Federal Appropriations
1987-88 through 1991-92
(dollars in millions)**

<i>State Fiscal Year</i>	<i>Expenditures</i>
1987-88	\$110.1
1988-89	327.4
1989-90	405.4
1990-91 (estimated).....	537.0
1991-92 (proposed)	<u>429.6</u>
Total proposed expenditures	\$1,809.5
Difference between Governor's assumptions about federal appropriations and Governor's proposed expenditures.....	-\$2.8
Difference between President's proposed federal appropriations and Governor's proposed expenditures.....	-\$368.5

Legislature Faces Transition Issues

The Legislature's options for allocating SLIAG funds are limited by various factors. Regardless of the level of federal SLIAG funds that will be available, the Legislature faces several issues related to the transition from the use of SLIAG funds for various programs.

Regardless of the level of federal funding the Congress provides to California in FFY 1992, the Legislature must begin in 1991-92 to decide how to address continuing service demands as SLIAG funds become unavailable. If the Congress provides funding at the level assumed by the administration, the Legislature could appropriate \$429.6 million for 1991-92, which is \$107.4 million less than estimated expenditures in 1990-91. (As we discussed earlier, the administration's proposal addresses this reduction by eliminating funding for public health and other programs and by reducing funding for education.) If, however, the Congress provides funding at the level proposed by the President, the Legislature faces an *additional* reduction of up to \$368.5 million. This would reduce 1991-92 expenditures to only \$61.1 million. In either case, no SLIAG funds will be available during 1992-93.

The Legislature's options for determining how to allocate SLIAG funds in 1991-92 are limited by various factors. Of the \$429.6 million the administration proposes for the budget year, the administration's proposal allocates up to \$424.5 million for (1) entitlement programs (\$167.7 million), (2) health and welfare programs that are required by Section 17000 of the Welfare and Institutions Code (\$221.7 million), or (3) education services that are necessary to ensure that newly legalized

persons can qualify for permanent residency (up to \$35 million). The remaining \$5.1 million is for administration costs in various departments.

Entitlement Programs. The administration's proposal allocates \$167.7 million for entitlement programs. The two largest components of this are Medi-Cal (\$128.2 million) and SSI/SSP (\$35.4 million). Under current law, any reduction in the SLIAG allocation for these programs would have to be offset by an equal increase in General Fund appropriations.

Section 17000 Programs. Section 17000 of the Welfare and Institutions Code designates counties as "providers of last resort" for indigent health and welfare services. The administration's proposal allocates \$221.7 million to local governments for three programs that provide services under Section 17000: the Medically Indigent Services Program (MISP) (\$218 million), the County Medical Services Program (CMSP) (\$3.5 million), and General Assistance (\$237,000).

It is not clear whether the Legislature would have to provide General Fund appropriations for these programs if it does not allocate SLIAG funds for them, primarily because of outstanding lawsuits that argue the state must fully fund the MISP. However, in 1989-90, the Legislature reduced the General Fund appropriation for the MISP by \$100 million on the basis of the availability of at least \$100 million in SLIAG funds. The Legislature continued this reduction in 1990-91. Thus, the Legislature will face pressures in 1991-92 to provide at least \$100 million in SLIAG funds for the MISP or replace these funds with General Fund dollars.

Regardless of the action the Legislature takes on the MISP budget, to the extent that it allocates less than \$221.7 million in SLIAG funds or additional General Fund monies for the three Section 17000 programs, counties would have to either (1) cover the costs of the programs themselves or (2) reduce the eligibility standards or service levels for *all* county residents served through these programs, not just for newly legalized persons.

Education Requirements for Permanent Residency. The administration's proposal allocates \$35 million for education programs. It is unclear what portion of this would be used to provide the basic education requirements newly legalized persons must meet in order to become permanent residents (generally, 40 hours of classes in English and civics). To the extent that, during the current year, education providers give first priority to people who need to meet the basic education requirements, then during the budget year, a smaller portion of the \$35 million would be used to meet these requirements. If the Legislature does not allocate funds for education, some newly legalized persons may be unable to become permanent residents.

Transition Issues. The administration's proposal (which avoids 1991-92 General Fund obligations for mandated programs) is based upon four assumptions, none of which are certain:

- The Congress will approve a significantly higher level of SLIAG funding than the President has proposed.

- The Legislature will not allocate unspent prior-year funds *before* the May revise caseload estimates are available.
- Unspent prior-year funds will be sufficient to fund any caseload increases identified in May.
- The federal government will not require California to increase the portion of SLIAG funds it uses for public health programs.

Even if the Legislature accepts the administration's assumptions and its proposal for allocating SLIAG funds, it will face transition issues related to the termination of SLIAG funding in 1992-93. However, because the administration's proposal is based upon uncertain assumptions and the state could receive significantly less SLIAG funds during 1991-92 than estimated, it is likely that the Legislature will face these issues earlier. These issues include, at a minimum, the following:

- How will the Legislature fund programs that state or federal law will continue to require even after SLIAG funds are no longer available?
- If a shortfall in SLIAG funding forces the Legislature to reduce funding for some programs, what are the Legislature's priorities for using available SLIAG funds?
- If unspent prior-year funds become available for reallocation during 1991-92, what are the Legislature's priorities for using them?
- Service demands will continue in all program areas, including those which are not specifically required by statute. Can providers address these service demands, and what are the fiscal and programmatic implications if they cannot?
- Does the Legislature want to continue to provide education for newly legalized persons beyond the minimum level required for permanent residency? If so, (1) how will the services be funded and (2) should the Legislature continue to provide funding to community-based organizations in addition to funding provided to public agencies for adult education programs?

Legislature Should Determine Priorities

We recommend that the Legislature adopt Budget Bill Language that (1) outlines the Legislature's priorities for SLIAG funding and (2) directs the administration to (a) make any cuts and (b) reallocate unspent prior-year funds in a manner that is consistent with these priorities.

If the Legislature does not address these transition issues when it considers the 1991-92 budget, the administration will have considerable discretion in allocating any cuts that may be required as a result of federal action. This is because the decisions on how to allocate cuts would be made while the Legislature is out of session. The Congress will not take final action on the FFY 1992 budget until September 1991. The Budget Bill, as proposed, gives the administration the discretion to allocate any cuts that would be required if the Congress provides fewer SLIAG funds than anticipated, subject to legislative notification through the Control Section 28.00 process. Because the Legislature would be out of session when the notification occurs, its ability to consider the allocation of the cuts would be limited.

The Legislature's best opportunity to determine its priorities for using SLIAG funds is during the budget process. Accordingly, we recommend that the Legislature adopt Budget Bill language that (1) outlines the Legislature's priorities for SLIAG funding and (2) directs the administration to (a) make any cuts and (b) reallocate unspent prior-year funds in a manner that is consistent with these priorities.

SECTION 27.00

AUTHORIZATION TO INCUR DEFICIENCIES

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This section, which has appeared consistently in previous Budget Acts, provides a procedure whereby the Department of Finance may approve agency requests to spend at rates which will result in the need for subsequent deficiency appropriations. Through this procedure, the department must inform the Legislature within 10 days of receiving from an agency any request to spend at rates which would result in a deficiency appropriation and give the Legislature 30 days advance notice prior to approving such requests. This requirement, however, does not apply to deficiencies: (1) relating to Medi-Cal, SSI/SSP, and AFDC; or (2) involving an emergency expenditure.

Budget Proposes Deletion of Quarterly Report. The 1991-92 Governor's Budget proposes to delete subdivision (c) from this section, which requires the Director of Finance to provide to the Legislature a quarterly report on the cumulative deficiency requests approved pursuant to subdivisions (a) and (b) of this section. This report has been of only limited value, since it merely summarizes the individual deficiencies approved by the Director of Finance in the preceding fiscal quarter. The Legislature will still receive information regarding individual agency's requests for, and the Director of Finance's approval of, deficiency appropriations in a timely manner. Accordingly, we recommend approval.
