April 8, 2011

MOU Fiscal Analysis Bargaining Units 6 and 13

LEGISLATIVE ANALYST'S OFFICE

Presented to:

The California Legislature

Pursuant to Section 19829.5 of the Government Code

Background on the State Memorandum of Understanding (MOU) Process

- ☑ ***Ralph C. Dills Act Provides for State Employee Collective Bargaining.*** With passage of the Dills Act in 1977, the Legislature authorized collective bargaining between unions representing rank-and-file state employees and the administration. Currently, about 200,000 state workers belong to one of the state's 21 bargaining units.

- ☑ ***Legislature and Employees Must Ratify MOUs.*** Fiscal provisions of MOUs must be ratified by the Legislature and MOUs must be approved by bargaining unit members in order to take effect. In addition, under the Dills Act, the Legislature annually may choose whether to appropriate funds in the budget to continue the financial provisions of each MOU.

- ☑ ***Fiscal Analysis Required by State Law.*** Section 19829.5 of the Government Code—approved by the Legislature in 2005—requires the Legislative Analyst's Office (LAO) to issue a fiscal analysis of proposed MOUs.

- ☑ ***MOUs for Two State Unions Now Before Lawmakers.*** The MOUs addressed in this analysis apply to employees in the final bargaining units to reach an agreement with the administration: rank-and-file correctional peace officers and stationary engineers. Our analysis examines all MOU documents for correctional peace officers submitted to our office on April 1 and April 4 and all MOU documents for stationary engineers submitted to our office on March 30. If ratified, the term for both MOUs would begin April 1, 2011 and end either July 1, 2013 (stationary engineers) or July 2, 2013 (correctional peace officers).

LAO
70 YEARS OF SERVICE

Bargaining Units at a Glance

☑ ***Unit 6.*** Unit 6 is the second largest of the state's 21 bargaining units, and represents about 30,000 rank-and-file employees. Salaries and related expenses for Unit 6 employees and their supervisors total about 40 percent of all such dollars paid from the General Fund. This figure results from (1) the salary levels of correctional officers (which are relatively high compared with other state classifications), and (2) the fact that the personnel costs for correctional staff—unlike many other groups of state employees—are funded almost entirely from the General Fund. About 80 percent of Unit 6 employees belong to the civil service classification of correctional officer. These officers confine and supervise felons within the state's prison system. Almost all Unit 6 employees work for the California Department of Corrections and Rehabilitation (CDCR). Unit 6 employees are represented by the California Correctional Peace Officers Association (CCPOA).

☑ ***Unit 13.*** Unit 13 is one of the smallest bargaining units, and represents less than 1,000 rank-and-file employees. Unit 13 employees maintain and operate heating, cooling, water, waste-water, and other major mechanical systems at state facilities. Among the largest classifications are stationary engineers and water and sewage plant supervisors. More than half of Unit 13 employees work for CDCR. The remaining employees work in other departments—including the Department of General Services, Department of Developmental Services, and Department of Mental Health. Unit 13 employees are represented by the International Union of Operating Engineers Local 39.

LAO
70 YEARS OF SERVICE

Current MOUs

- ☑ ***Bargaining Unit Contracts Have Expired.*** Both bargaining units' MOUs are expired—Unit 6's MOU expired in 2006 (known as the 2001-06 MOU) and Unit 13's MOU expired in 2008. Generally speaking, the provisions of an expired MOU continue in effect until new MOUs are approved pursuant to the "evergreen" provision of the Dills Act (Section 3517.8 [a] of the Government Code).

- ☑ ***Both MOUs Provided Salary Increases.*** Employees in both bargaining units received pay increases under their current MOUs. The last pay increase for Unit 6 was in 2006 and the last pay increase for Unit 13 was in 2007.

  - ***Unit 6 Pay Increases Linked to California Highway Patrol (CHP).*** The original version of the 2001-06 MOU provided for salary increases on four specific dates: July 1 of each of the years 2003, 2004, 2005, and 2006. The salary increases were to be based on a methodology that linked correctional officer pay to that of CHP officers, which in turn had been linked to that of five urban police departments. Although a 2004 MOU addendum reduced the pay increases, we estimate that the MOU resulted in correctional officers receiving general salary increases of about 34 percent from 2003-04 to 2007-08. These salary increases were more than twice as much as the increase for the average state employee over the same period.

  - ***Pay Increases for Unit 13.*** All Unit 13 employees received a 3.5 percent general salary increase in 2006 and a cost-of-living adjustment of 3.4 percent in 2007. The expired MOU also provided pay differentials for specific classifications.

LAO
70 YEARS OF SERVICE

Current MOUs *(Continued)*

- ☑ ***State Contributes Flat Dollar Amount to Employee Health Care.*** The state's contribution to both units' health care premium costs is a flat dollar amount. The last increase to the state's contribution to Unit 6 health care was in 2006 and was based on the 85/80 formula (85 percent of the average employee premium plus 80 percent of the average additional premiums for dependents). The last increase in the state's contribution to Unit 13 health care was in 2008 and was based on the 80/80 formula (80 percent of the average employee premium plus 80 percent of the average additional premiums for dependents).

- ☑ ***Employee Pension Categories.*** About 97 percent of Unit 6 employees are in the peace officer/firefighter (PO/FF) retirement category of California Public Employees' Retirement System (CalPERS). More than half of Unit 13 employees are in the safety CalPERS retirement category and the remaining employees eligible for CalPERS are in the miscellaneous category.

- ☑ ***Unit 6 Defined Contribution Retirement.*** The state contributes 2 percent of Unit 6 PO/FF employees' base pay toward a defined contribution retirement plan—the State Peace Officers' and Firefighters' Defined Contribution Plan (PO/FF II).

- ☑ ***For More Details…*** This analysis does not describe every provision of the current or proposed MOUs. For a more complete look at the history and provisions of the 2001-06 MOU, please read our February 7, 2008 report, *Correctional Officer Pay, Benefits, and Labor Relations*, available from our website: http://www.lao.ca.gov/2008/stadm/ccpoa_pay_020708/ccpoa_pay_020708.pdf. Summaries and text of MOUs are available at the Department of Personnel Administration's (DPA's) website: http://www.dpa.ca.gov/bargaining/contracts/index.htm

LAO 70 YEARS OF SERVICE

Proposed MOU— Personal Leave Program (PLP)

☑ ***One Day of Unpaid Leave Each Month for 12 Months.*** The proposed MOUs would establish a 12-month PLP. For the first 12 months of the MOUs, the PLP provides every employee eight hours of unpaid leave each month, resulting in a 4.6 percent pay reduction. Unused leave under the PLP accrues on a monthly basis. For Unit 6, unused PLP days do not expire (unlike the PLP provided in the other bargaining units' MOUs ratified in 2010). For Unit 13, unused PLP days expire July 1, 2014.

☑ ***No Furloughs During PLP.*** The MOUs would end the three-day-per-month furlough program that the prior administration imposed—through Executive Order S-12-10—on nearly all Unit 6 and 13 employees. During the 12-month PLP, the proposed MOUs specify that the state shall not impose a furlough program on Unit 6 and 13 employees. The state could reinstate a furlough program on Unit 6 and 13 employees after the PLP has ended.

☑ ***Reduced Take-Home Pay Does Not Affect Retirement Benefits.*** Although employee and employer pension contributions to CalPERS are based on the lower pay levels for employees, the PLP would not reduce the amount of final compensation used to determine employee pension benefit levels.

☑ ***Cash Value for Unused PLP Days.*** Although all recent MOUs for other bargaining units specify that PLP days have no cash value, the proposed Unit 6 MOU contains a provision that states that DPA would issue a Personnel Management Liaison (PML) Memo—a memo sent to human resources officers to implement or clarify new personnel policies—that would give cash value to PLP days for all six bargaining units with MOUs pending before the Legislature (Units 2, 6, 7, 9, 10, and 13). The DPA indicates that it intends to implement this provision by directing managers to ensure that employees use their PLP days before separation from state service and that PLP days would be cashed out only upon "rare occasions" where this has not occurred.

Proposed MOUs—Pay and Employee Pension Contribution Changes

- ☑ ***All Employees Contribute Larger Share Towards Pension.*** All Unit 6 employees would contribute an additional 3 percent of their monthly pay towards their pension beginning in April 2011. All Unit 13 employees would contribute an additional 5 percent of their monthly pay toward their pension beginning April 2011. Figure 1 summarizes how each classification would be affected by the increased contribution rates.

- ☑ ***PO/FF II Defined Contribution Retirement Eliminated.*** The PO/FF II defined contribution retirement program provided under the expired MOU would be eliminated under the proposed Unit 6 MOU. This would eliminate the state's future contribution of 2 percent of employee pay to the program.

- ☑ ***Pay Increases to Top Step in 2013-14.*** The proposed Unit 6 MOU specifies that all Unit 6 classifications shall be adjusted by increasing the top step by either 3 percent or 4 percent (for employees enrolled in PO/FF II) effective July 1, 2013. The proposed Unit 13 MOU would adjust the top step of all classifications by 5 percent on the same date.

Figure 1

Current and Proposed Employee Pension Contributions

(Percent of Monthly Pay[a])

Retirement Category	Current Contributions	Contributions Under Proposed MOUs
Unit 6		
Miscellaneous/Industrial	5%	8%
Police Officer/Firefighter	8	11
Unit 13		
Miscellaneous/Industrial	5	10
Safety	6	11

[a] A small portion of monthly pay is excluded from the calculation. In some cases, different contributions are applicable for employees not subject to Social Security.

LAO
70 YEARS OF SERVICE

Proposed MOUs—
Personal Development Days

☑ ***Two Days Off.*** Both MOUs would provide employees two days off per year (per fiscal year for Unit 13 and per calendar year for Unit 6) for activities that "promote professional and/or personal growth." These days functionally would be the same as the "professional development days" granted under the MOUs ratified in 2010. These days could be used by employees for any professional or personal purpose. Unit 6 employees would not receive any of these days in 2011, but would receive four days in 2012.

LAO
70 YEARS OF SERVICE

Proposed MOUs—
Health Care and Other Financial Provisions

- ☑ ***Increase State's Flat Dollar Contribution to Health Care.*** The proposed MOUs would increase the state's flat dollar contribution to employee health care on April 1, 2011 and again on January 1, 2012 and January 1, 2013. Both MOUs would base the state's contribution on the 80/80 formula, and would also increase the state's contribution to employee dental and vision coverage.

- ☑ ***Continuous Appropriations.*** The administration and unions agree to seek legislative approval for the economic terms of these agreements to be continuously appropriated for the duration of these agreements. Such a continuous appropriation would protect these employees from having wages lowered to the federal minimum during budget impasses.

- ☑ ***Contract Protection Clause.*** The proposed MOUs include a contract protection clause. The clause would go into effect if any other bargaining unit were to enter into an agreement with the state that did not include pension reform or provided a greater value/total compensation package than that provided by each unit's respective proposed MOU. Under such an event, Unit 6's contract protection clause would require the parties to meet and discuss the differences and an implementation plan, and Unit 13's would automatically extend the difference to its members.

- ☑ ***Changes in Holidays and Overtime.*** The MOUs would eliminate Columbus Day and Lincoln's Birthday from the list of holidays granted to Units 6 and 13 employees. The MOUs also would prohibit any days off as being counted as "time worked" by an employee for purposes of computing cash compensation for overtime. Both of these provisions align the MOUs with Chapter 4, Statutes of 2009, Third Extraordinary Session (SBX3 8, Ducheny). Unit 6's proposed MOU would also eliminate holiday credit and pay employees 16 hours for working on a holiday. Unit 13's proposed MOU would reinstate premium holiday pay for six holidays.

LAO
70 YEARS OF SERVICE

Proposed MOUs—Provisions Unique to Unit 6

☑ ***Night and Weekend Shift Differential.*** Under the proposed Unit 6 MOU, Department of Juvenile Justice (DJJ) parole agents and case managers would be eligible for a night and weekend shift differential. The night differential provides an additional 50 cents per hour for these DJJ employees who work at least two hours of a scheduled work shift falling between 6 p.m. and 6 a.m. The weekend differential provides an additional 15 cents per hour to any other shift differential already paid, and 65 cents per hour for second watch employees who work four or more hours of a scheduled shift on either a Saturday or a Sunday.

☑ ***Recruitment and Retention Incentive.*** The Unit 6 proposed MOU, "in recognition of recruitment and retention problems," would create a recruitment and retention incentive for Unit 6 employees working at Pelican Bay State Prison, High Desert State Prison, and the California Correctional Center at Susanville. Each of these employees would receive an incentive of $200 per month until a total of $6 million is spent among the three facilities.

☑ ***Union Release Time Bank.*** The proposed MOU would require the state and CCPOA to meet and agree (within 60 days of ratification) to develop a union release time bank system. Any five designated CCPOA representatives may authorize time withdrawal from the bank for use by a Unit 6 employee to conduct union business. Each July, Unit 6 employees would be required to contribute one hour of vacation to the bank. Under current law, the number of hours in the time bank is limited to 10,000.

☑ ***Eliminate Cap for Vacation.*** The proposed Unit 6 MOU would eliminate the current maximum number of hours (640 hours) of vacation an employee can carry over to the following calendar year.

LAO 70 YEARS OF SERVICE

DPA Fiscal Estimate

Figure 2

Department of Personnel Administration's (DPA's) Cost Estimate[a]

(In Millions)

	2010-11		2011-12		2012-13		2013-14	
Proposal	**GF**	**AF**	**GF**	**AF**	**GF**	**AF**	**GF**	**AF**
Provisions Included in Both MOUs								
24 furlough days (August 2010 through March 2011)	-$252.4	-$254.6	—	—	—	—	—	—
Personal leave program (first 12 months)	-31.5	-31.8	-$94.6	-$95.5	—	—	—	—
Increased employee pension contributions	-13.6	-13.8	-55.1	-56.1	-$57.1	-$58.1	-$59.0	-$60.0
Two personal development days	—	—	—	—	—	—	—	—
Six holidays with premium pay[b]	—	—	0.3	0.3	0.3	0.3	0.3	0.3
Health benefits	11.9	12.0	85.5	86.1	128.7	129.6	140.3	141.4
Increase to top step	—	—	—	—	—	—	89.1	90.4
Subtotals, Costs(+)/Savings(-)	(-$285.6)	(-$288.2)	(-$64.0)	(-$65.2)	($71.8)	($71.9)	($172.0)	($173.4)
Provisions From Unit 6 MOU								
Eliminate PO/FF II	-$10.5	-$10.5	-$42.0	-$42.0	-$42.0	-$42.0	-$42.0	-$42.0
Night shift and weekend differentials[c]	—	—	—	—	—	—	—	—
Recruitment and retention incentive	—	—	5.3	5.3	0.7	0.7	—	—
Treatment of holiday pay	UK	UK	UK	UK	UK	UK	UK	UK
Subtotals, Costs(+)/Savings(-)	(-$10.5)	(-$10.5)	(-$36.6)	(-$36.7)	(-$41.3)	(-$41.3)	(-$42.0)	(-$42.0)
Totals	**-$296.1**	**-$298.7**	**-$100.6**	**-$101.8**	**$30.5**	**$30.5**	**$128.7**	**$130.1**

[a] We adjusted the numbers we received from DPA to reflect cumulative costs and savings in each year.
[b] This provision is only in Unit 13's proposed MOU.
[c] Rounds to zero.
GF = General Fund; AF = all funds; MOU = memorandum of understanding; PO/FF II = State Peace Officers' and Firefighters' Defined Contribution Plan; UK = unknown.

☑ ***Savings in 2010-11 and 2011-12.*** As shown in Figure 2, the administration's fiscal estimates indicate that the state would experience savings in Unit 6 and 13 employee compensation in 2010-11 and 2011-12. Most of the savings DPA shows for 2010-11 reflect the furlough program that has been in effect since August 2010.

LAO
70 YEARS OF SERVICE

DPA Fiscal Estimate *(Continued)*

☑ ***Rising Costs Beginning 2012-13.*** As Figure 2 shows, DPA estimates that the proposed MOUs would result in net costs in 2012-13 of $31 million General Fund. After the pay increase to the top step goes into effect on July 1, 2013, DPA estimates that the net costs in 2013-14 would grow to about $130 million ($129 million General Fund).

LAO
70 YEARS OF SERVICE

LAO Comments—DPA Fiscal Estimates

☑ ***Includes Savings and Costs Attributable to Current Law.*** As shown in Figure 2, DPA's estimate includes the state's savings from the furloughs established in August 2010. These three-day-per-month furloughs were established by the previous administration as part of its plan to achieve the savings specified in Control Section 3.91 of the *2010-11 Budget Act*. The MOUs propose to end these furloughs (established by Executive Order S-12-10) and implement new employment policies. In its fiscal estimate, DPA includes the savings associated with the furloughs as well as the savings associated with the new MOU provisions. While DPA's estimate acknowledges the impact of furloughs on employees, it overstates the savings the state would realize in 2010-11 from adoption of the MOUs.

☑ ***Ignores Longer-Term Costs of Leave Days (Furloughs, PML, and Personal Development Days).*** As shown in Figure 3, the average Unit 6 employee has accumulated nearly 19 weeks of leave time to date, excluding sick leave, with a current cash value of over $600 million. (Although we do not have comparable data, Unit 13 employees may have similar leave balances.) As we describe later in this report, the MOUs give Unit 6 and 13 employees significant time off: more than eight weeks off for most employees during the first year of the MOU. Given this amount of time off, it is likely that many Unit 6 and 13 employees will have leave balances when they begin the process of terminating state employment. (Over a third of Unit 6 employees are over 46 years old and most are eligible for "3 percent at age 50" PO/FF retirement benefits.) When they terminate state employment, the employees could (1) request that the state compensate them for their unused time and/or (2) cease working and draw down their leave time until it is exhausted. Either action imposes costs on the state. Cashing out leave time requires the state to directly compensate the employee. (The CDCR informs us that it paid separating employees nearly $100 million for unused leave time in 2010-11.) Drawing down leave time requires the state to continue paying an absent employee's salary while paying for his or her replacement (most CDCR positions are "posted positions," meaning that the department must backfill behind any absence). Despite these large leave balances, the DPA assumes that the addition of 18 more days off (12 PLP and 6 personal development days) during the contract period will not result in increased state costs. Specifically, DPA indicates that departments will manage the PLP to not incur increased costs and that the state will avoid any costs associated with the personal development days because the MOU does not specify that these days have cash value.

Figure 3

Unit 6 Accumulated Leave Time

(Dollars in Millions)

Leave time	Weeks Off Per Employee	Payout Amount
Vacation and annual leave	9.2	$377.5
Holiday and Personal Holiday credit	5.5	219.9
Furlough[a]	3.5	—
Other[b]	0.6	13.2
Totals	**18.8**	**$610.6**

[a] Furlough time may be drawn down prior to termination from state employment, but does not have cash value.
[b] Includes prior personal leave programs and compensating time off.

LAO Fiscal Estimate

Figure 4

LAO Cost Estimate (Relative to Current Law[a])

(In Millions)

Proposal	2010-11 GF	2010-11 AF	2011-12 GF	2011-12 AF	2012-13 GF	2012-13 AF	2013-14 GF	2013-14 AF
Provisions Included in Both MOUs								
Nine furlough days eliminated (April through June 2011)	$94.6	$95.5	—	—	—	—	—	—
PLP (first 12 months)	-31.5	-31.8	-$94.5	-$95.3	—	—	—	—
Increased employee pension contributions	-13.6	-13.8	-55.1	-56.1	-$57.1	-$58.1	-$59.0	-$60.0
Six holidays with premium pay[b]	—	—	0.3	0.3	0.3	0.3	0.3	0.3
Costs for personal development, PLP, and furlough days	UK	UK	UK	UK	UK	UK	UK	UK
Health benefits	11.9	12.0	85.5	86.1	128.7	129.6	140.3	141.4
Increase to top step	—	—	—	—	—	—	89.1	90.4
Subtotals, Costs(+)/Savings(-)	($61.5)	($62.0)	(-$63.9)	(-$64.9)	($71.8)	($71.9)	($172.0)	($173.4)
Provisions From Unit 6 MOU								
Eliminate PO/FF II	-$10.5	-$10.5	-$42.0	-$42.0	-$42.0	-$42.0	-$42.0	-$42.0
Release time bank	UK	UK	UK	UK	UK	UK	UK	UK
Treatment of holiday pay	UK	UK	UK	UK	UK	UK	UK	UK
Night shift and weekend differentials[c]	—	—	—	—	—	—	—	—
Recruitment and retention incentive	—	—	5.3	5.3	0.7	0.7	—	—
Subtotals, Costs(+)/Savings(-)	(-$10.5)	(-$10.5)	(-$36.6)	(-$36.7)	(-$41.3)	(-$41.3)	(-$42.0)	(-$42.0)
Totals	**$51.0**	**$51.4**	**-$100.5**	**-$101.7**	**$30.5**	**$30.5**	**$128.7**	**$130.1**

[a] For purposes of this analysis, current law is the continuing provisions of the expired MOUs, the *2010-11 Budget Act*, and the executive order establishing the three-day-per-month furlough.

[b] This provision is only in Unit 13's proposed MOU.

[c] Rounds to zero.

GF = General Fund; AF = all funds; MOU = memorandum of understanding; PLP = personal leave program; UK = unknown; PO/FF II = State Peace Officers' and Firefighters' Defined Contribution Plan.

LAO Fiscal Estimate *(Continued)*

- ☑ ***Erosions to Current-Year Savings.*** The proposed MOUs terminate the furlough program for Unit 6 and 13 employees beginning April 2011. As a result, Unit 6 and 13 employees would not be furloughed or experience furlough-related pay reductions for nine days in spring 2011. As shown in Figure 4, this decrease in furlough days—a change from current law—increases near-term state employee compensation costs. After accounting for other provisions in the MOUs, we estimate that they would erode assumed near-term savings in 2010-11 by $51 million General Fund.

- ☑ ***Unknown Cost Associated With Days Off.*** As we discuss in more detail later, we disagree with the administration's finding that there is no longer-term cost associated with the personal development or PLP days, but it is difficult to place a specific estimate on their cost impact.

- ☑ ***Net Cost Beginning 2012-13.*** We agree with DPA that the MOUs would result in net annual costs beginning in 2012-13.

LAO
70 YEARS OF SERVICE

LAO Comments—Longer-Term Costs Associated With Days Off

- ☑ ***MOUs Provide More Days Off Than Most Employees Could Use.*** A new employee hired at the beginning of the term of the MOUs would have nearly eight weeks of days off during his or her first 12 months. These days include vacation, PLP, personal development days, and state holidays. More senior employees would have more days off (because they are eligible for longer vacations). The MOUs continue to provide a large (but significantly reduced after the PLP ends) number of days off throughout the remainder of their terms. In our view, it is unlikely that Unit 6 and 13 employees would be able to take off all of this time. As a result, employees would likely reserve some of these days off for use in future years and cash the remainder out when they terminate state employment.

- ☑ ***All Days Off Can Create an Out-Year State Fiscal Liability.*** Given the different financial treatment of leave days, employees typically use days without cash value first, and reserve or "bank" days with cash value. Thus, any action by the state to add a leave day that an employee does not use before he or she terminates employment can pose an out-year state fiscal liability. While we have not shown a cost associated with the PLP and personal development days (because of difficulties in determining when state employees would terminate employment and what their salaries would be at that time), the large number of leave days provided by these MOUs likely would contribute to the already substantial out-year state fiscal liability. If we assume that the four personal development days and 12 PLP days provided during the first 12 months of the MOUs have cash value (either directly or indirectly by banking a similar amount of vacation time), then the current value of these days would be more than $125 million.

LAO
70 YEARS OF SERVICE

LAO Comments— MOU Provisions That Reduce Transparency

- ☑ ***Personal Development Days or Personal Holidays?*** Under the MOUs ratified in 2010, employees received two annual non-accumulating leave days as "professional development days." Because these days can be used for any purpose, we have commented in the past that referring to these days as "professional development days" is confusing and misleading. Under the proposed MOUs, Unit 6 and 13 employees would receive two "*personal* development days" that are functionally the same as the "professional development days" granted under the 2010 MOUs. These days could be used by employees for any purpose. We again recommend that, in the future, the administration refer to these days off as "personal holidays" to reduce confusion and promote transparency.

- ☑ ***Fitness Incentive Pay?*** To encourage physical fitness among Unit 6 employees, previous MOUs provided a $65-$130 per month incentive payment for employees who meet certain fitness standards. The proposed MOU maintains this pay bonus, but provides it to any peace officer employee who receives an annual physical. The CDCR indicates that the proposed MOU conforms to existing administrative practices. That is, any peace officer—regardless of physical condition—currently receives the incentive payment if she or he submits verification of receiving a health physical. To reduce confusion and promote transparency, we recommend that the administration simply provide this pay as an across-the-board increase, or change the name of the incentive to reflect its purpose.

LAO
70 YEARS OF SERVICE

LAO Comments—
Other Unit 6 MOU Provisions

☑ ***Other Provisions Might Have a Fiscal Effect.*** The Unit 6 MOU is hundreds of pages long and extraordinarily complex. During the week since the DPA submitted the MOU to the Legislature for its review, we have not been able to determine whether some MOU provisions could result in costs or savings for the state. Below, we highlight some MOU provisions that might have a state fiscal effect.

- ***No Vacation Cap.*** Under the MOU, the 640 hour cap on accrued vacation time is eliminated. We are not certain how this change could affect the state's near-term and long-term fiscal liabilities associated with vacation days.

- ***Increasing Holiday Pay and Eliminating Holiday Time Credit.*** The MOU eliminates holiday leave credit for Unit 6 employees and instead provides employees working on state holidays with 16 hours of pay. The DPA indicates that this change might generate state savings by allowing CDCR to reduce the total number of employees on its payroll.

- ***Training Program and Shorter Academy.*** The MOU reduces the academy schedule from 16 weeks to 12 weeks, followed by 4 weeks of supervised on-the-job training. We are not certain whether this would increase or decrease net CDCR training costs.

LAO
70 YEARS OF SERVICE

LAO Bottom Line

☑ ***MOUs Complicate Effort to Achieve Expected Savings for 2011-12.*** The 2011-12 budget, as approved by the Legislature, assumes that the state will save 10 percent ($515 million [$308 million General Fund]) in employee compensation costs for the six bargaining units with expired contracts (Units 2, 6, 7, 9, 10, and 13). Control Section 3.90 specifies that these savings would be achieved through collective bargaining and administrative actions. The proposed MOUs for Units 6 and 13 would result in significantly lower savings (about 3.6 percent), falling short of the assumed Units 6 and 13 savings target by $181.3 million ($179.8 million General Fund). The other four proposed MOUs (currently pending before the Legislature) also would result in significantly lower savings. If all six proposed MOUs were ratified, the state would fall short of its 2011-12 assumed employee compensation savings by $306.1 million ($197.7 million General Fund). If the Legislature wants to maintain the level of savings assumed in the budget, it could (1) reject some or all of the MOUs and request DPA to negotiate for more savings, or (2) authorize or require administrative actions, such as layoffs.