

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/16)

Fiscal Year 2017-18	Business Unit 0860	Department State Board of Equalization	Priority No. 2
Budget Request Name 0860-002-BCP-2017-GB		Program 0570225 Cigarette and tobacco products Licensing 0570675 Regional Railroad Accident Preparedness Immediate Response	Subprogram

Budget Request Description
 Special Tax and Fee Programs Augmentation

Budget Request Summary

The Board of Equalization (BOE) requests \$313,000 in FY 2016-17, \$337,000 and 1.2 positions in FY 2017-18, \$426,000 and 1.4 positions in FY 2018-19, and \$497,000 and 2.2 positions in FY 2019-20 and ongoing to fully implement the Regional Railroad Accident Preparedness and Immediate Response program pursuant to SB 84 (Chapter 25, Statutes of 2015) and administer the Cigarette and Tobacco Products Licensing program provisions of Assembly Bill (AB)x2-11 (Chapter 6, Statutes of 2016) and SBx2-5 (Chapter 7, Statutes 2016). The BOE will redirect resources to implement these mandates

STATE BOARD OF EQUALIZATION



BOARD APPROVED

At the August 30, 2016 Board Meeting

Joann Richmond
 Joann Richmond, Chief
 Board Proceedings Division

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO <u>BFleming</u>	Date <u>8/19/2016</u>

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

FSR SPR Project No. Approval Date:

If proposal affects another department, does other department concur with proposal? Yes No
 Attach comments of affected department, signed and dated by the department director or designee.

Budget Officer <u>Alan Meran</u>	Date <u>8/19/16</u>	Chief, Business Management Division <u>Christopher Holt</u>	Date <u>8-19-16</u>
Deputy Director, Administration <u>Chris Munchy</u>	Date <u>8/19/16</u>	Executive Director <u>David Lee</u>	Date <u>8/19/16</u>

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA Date submitted to the Legislature

Analysis of Problem

A. Budget Request Summary

The Board of Equalization (BOE) requests \$313,000 in FY 2016-17, \$337,000 and 1.2 positions in FY 2017-18, \$426,000 and 1.4 positions in FY 2018-19, and \$497,000 and 2.2 positions in FY 2019-20 and ongoing to fully implement the Regional Railroad Accident Preparedness and Immediate Response program pursuant to SB 84 (Chapter 25, Statutes of 2015) and administer the Cigarette and Tobacco Products Licensing program provisions of Assembly Bill (AB)x2-11 (Chapter 6, Statutes of 2016) and Senate Bill (SB)x2-5 (Chapter 7, Statutes 2016). The BOE will redirect resources to implement these mandates. Both programs are special fund programs.

SB 84 imposes fees on owners of the 25 most hazardous material commodities transported by loaded rail car. In accordance with SB 84, the BOE needs to collect these fees accordingly, fully administer this new program, and manage the new Regional Railroad Accident Preparedness and Immediate Response Fund. The new Cigarette and Tobacco Products Licensing legislation (ABx2-11 and SBx2-5) creates new and complex license requirements with new and additional workload that requires additional special funds. Without the requested resources, the BOE will not be able to administer the new license requirements and will not be in compliance with the new legislation, resulting in significant delay or loss of revenue. The volume of cigarette and tobacco product licenses and payments the BOE must process is greater as retailers now must pay annual, rather than one-time, license renewal fees, and the definition of tobacco products has been expanded to include nicotine products, electronic smoking or vaping devices that deliver nicotine or other vaporized liquids, and any component, part, or accessory of a tobacco product.

B. Background/History

The BOE's requirements specified by the new legislation, as well as the descriptions of the two programs, are detailed below.

- Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) program: SB 84 authorizes a new fee to be imposed on owners of the 25 most hazardous material commodities at the time that hazardous material is transported by loaded rail car in California. This bill creates the Regional Railroad Accident Preparedness and Immediate Response Fund.
- The Cigarette and Tobacco Licensing Program: ABx2-11 revises the Cigarette & Tobacco Products Licensing Act (Licensing Act) to change a retailer's license fee from a \$100 one-time fee to a \$265 annual fee, eliminates the \$100 reinstatement fee for retailers, and increases the distributor/wholesaler annual license fee from \$1,000 to \$1,200. SBx2-5 requires the BOE to license retail sellers of "tobacco products" (as defined under Business and Professions Code Section 22950.5) not subject to the tax imposed by the Cigarette and Tobacco Products Tax Law (CTPTL). This bill adds to the definition of "tobacco products" (for licensing purposes) nicotine products; any electronic smoking or vaping device that delivers nicotine or other vaporized liquids, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah; and any component, part, accessory of a tobacco product, whether or not sold separately. This bill also requires the BOE to suspend or revoke a retailer's Licensing Act license and impose a \$250 civil penalty for furnishing a "tobacco product" to a person who is under 21 years of age.

Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) program

The purpose of the new RRAPIR fee program is to provide funding for regional and onsite response capabilities in the event of a large-scale hazardous materials release from a train accident. In 2014, the California Legislature improved public disclosure of rail transport by enacting legislation in 2014 requiring railroads to inform the Office of Emergency Services (OES) about the type of oil or crude product delivered by rail, including data for the 25 largest hazardous material commodities transported through California. The new RRAPIR fee program is the latest expansion of oversight and regulation by the California Legislature to address rail transport of hazardous materials.

SB 84 authorizes a new fee to be imposed on a person owning any of the 25 most hazardous material commodities, as identified in regulations adopted by the OES, contained in or on a rail car transported by rail in California. The bill requires the Office of Emergency Services (OES) Director to establish a fee schedule based on each loaded rail car. SB 84 requires the fee to be imposed within six months of the

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OES establishing a fee schedule. The OES's regulations were adopted and became effective on June 20, 2016, and set a fee rate of \$45 per rail car. The collection of the fee is scheduled to begin November 13, 2016, based on direction from OES. The fee is assessed on the number of loaded hazardous material rail cars transported within California. If the loaded rail car enters California from outside California, the fee is imposed at the time the loaded rail car enters the state of California. If the rail car is loaded within California, the fee is imposed at the time the hazardous material is loaded into or onto the rail car within California for transport in or through California. The person operating the train containing the rail car for transport into or within California is required to collect the fee from the owner of the hazardous material. The bill authorizes the Director of the OES to consider adjusting the fee not less frequently than every three years. The bill authorizes a railroad to collect up to five percent of the fee collected to offset the administrative cost of collecting the fee. The bill also gives authority to the Director of the OES to authorize payment of a portion, but not the entire amount, of the fee owed through contributions in kind of equipment, materials or services. The Director of the OES may grant exemptions from the fee shipments of hazardous materials that meet certain criteria. There is a rebuttable presumption that the shipper, consignor, or consignee of the hazardous material is the owner of the hazardous material.

The BOE is mandated to administer and collect the new fee in accordance with the Fee Collection Procedures Law (Part 30 commencing with Section 55001, Division 2 of the Revenue and Taxation Code). Under the provisions of SB 84, railroad operators that transport hazardous material by rail car are required to register with the BOE and collect the fee from the owner of the hazardous materials, as applicable. Any fees collected by the railroad operator from the hazardous material owner are to be paid to the BOE with the quarterly fee return, as prescribed by the BOE. The BOE would handle and decide all petitions for redetermination and claims for refund, except those based on the premise that the contents of the rail car is or is not a hazardous material. The BOE is required to forward such petitions or refund claims to the Director of the OES for handling. The BOE is required to notify the Director of the OES if the amount of fees collected reaches the maximum fund amount specified for each calendar year and will need to have the capability of reducing the fee to \$0 per rail car for a period of time if maximums are reached. The OES and the BOE will work cooperatively in handling matters concerning payment or refund of the fee through contribution in kind, the OES fee exemptions and adjustments, and the owner's rebuttable presumption.

The BOE entered into an Interagency Agreement (IA) with the OES to establish and implement a fee collection program to collect the new Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) fee on behalf of the OES. In the IA, the OES agreed to provide the BOE \$821,000 for costs to establish and implement the new fee collection program through September 30, 2016. BOE's implementation costs included: (1) one-time contract programming resources and data center services necessary to add a new fee program to the BOE's Integrated Revenue Information System (IRIS) and Automated Collection System; and (2) funding for BOE positions and operating expenses for work involved in the implementation of the RRAPIR fee collection program. In addition, the BOE was approved to receive \$475,000 for fiscal year 2016-17 and \$278,000 for fiscal year 2017-18 to conduct registration processes, generate billings, collect on accounts, respond to feepayer questions, process returns, generate reports, produce schedules and payments, process interest and penalty relief requests, review overpayments and issue refunds, administer the program's policies, procedures, and processes for all special taxes branches, maintain systems, conduct reconciliations, report on the new fund, produce interim statements, and prepare special reports.

In addition, the bill creates the Regional Railroad Accident Preparedness and Immediate Response Fund (Fund). Revenues collected, less refunds and expense reimbursement to the BOE, are to be deposited into the Fund. The Fund will repay any moneys loaned to pay OES implementation costs. Upon appropriation by the Legislature, monies in the Fund will be used to plan, develop, create, acquire, support, and maintain emergency response capabilities to prepare for, and respond to, rail car accidents involving large-scale hazardous materials releases.

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Cigarette and Tobacco Products Licensing Program

The BOE must begin to implement these bills in fiscal year 2016-17. However, the BOE's 2016-17 budget does not include funding to implement these bills. Consequently, the BOE requires an adequate appropriation to cover administrative implementation costs which include identifying, notifying, and/or registering new/existing licensees, rewriting and testing computer programs including the online registration and renewal systems, developing and distributing notices, developing frequently asked questions, revising applications, forms, publications, updating the public website, and answering questions from the public. This initial workload requires additional special funds. This request is for one-time and ongoing resources to implement and maintain the new license requirements and be in compliance with the new legislation.

Cigarette and Tobacco Products Licensing Act of 2003

In 2003, Assembly Bill 71 (J. Horton, Ch. 890) enacted the Cigarette and Tobacco Products Licensing Act of 2003 (Licensing Act), which established a statewide licensure program administered by the BOE to help stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products. The Licensing Act requires the BOE to administer a statewide program to license cigarette and tobacco products manufacturers, importers, distributors, wholesalers, and retailers.

Business and Professions Code (BPC) Section 22972 requires a retailer to have a license to sell cigarettes and tobacco products in this state. BPC Section 22972 further requires a retailer to obtain a separate license for each retail location that sells cigarettes and tobacco products. Similar license requirements are imposed on distributors and wholesalers under BPC Section 22977. Currently, the BOE licenses approximately 34,000 retailers and almost 900 distributors and wholesalers to engage in the sale of cigarettes and tobacco products in California.

BPC Section 22973 requires a one-time \$100 license fee to be paid with each retailer license application. A retailer must obtain a separate license (and pay \$100) for each retail location, but may submit one application for those licenses. A retailer must annually renew their license, but no fee is charged.

BPC Section 22977.1 requires distributors and wholesalers to pay a \$1,000 fee with each license application or renewal application submitted, as required under Section 22977. A license is also required for each location.

BPC Section 22971 defines "tobacco products" to have the same meaning as defined under the CTPTL.

The Stop Tobacco Access to Kids (STAKE) Act established a statewide enforcement program to take action against businesses that illegally sell tobacco to minors. Upon notification by the California Department of Public Health (CDPH) for certain STAKE Act violations, BPC Section 22958 requires the BOE to suspend or revoke a retailer's Licensing Act license upon a civil penalty assessment for a third, fourth, or fifth violation of sales to minors.

In 2012, Assembly Bill 1301 (Hill, Ch. 335) amended the STAKE and Licensing Acts to require the BOE to suspend or revoke a retailer license for certain cigarette and tobacco products sales to minors violations.

As AB 71 was drafted and made its way through the Legislature, because of a lack of retailer renewal fees, it was suspected that the licensure fees would not permanently sustain the cost of the Licensing Act program. Since the Licensing Act enforces the CTPTL and directly benefits the funds established pursuant to that program, the remainder of the funding for the Licensing Act would eventually shift to the cigarette and tobacco products tax funds: General Fund, Breast Cancer Fund, Cigarette and Tobacco Products Surtax Fund (Prop. 99) and California Children and Families Trust Fund (Prop. 10). However, there was concern about the Licensing Act program and the impact it would have on the cigarette and tobacco products tax funds if the Licensing Act expenses were greater than the revenues generated. To address this concern, a sunset date of January 1, 2010, was incorporated into the Licensing Act to make sure the Licensing Act would not harm the cigarette and tobacco products tax

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funds. Furthermore, AB 71 included uncodified language to clarify that all revenues and expenses generated by the Licensing Act are to be allocated in the same manner as those revenues and expenses are allocated under the Cigarette and Tobacco Products Tax Law to make sure no one cigarette and tobacco product fund benefited or was burdened when the funding shift took place. In 2006, Assembly Bill 1749 (J. Horton, Ch. 501) repealed the sunset date for the Licensing Act due to the amount of additional excise tax revenues generated.

New Law Changes (Assembly Billx2-11 and Senate Billx2-5)

Assembly Bill (AB)x2-11

ABx2-11 imposes the following license fee increases and changes:

Retailers

- Application Fee per-location increases from a one-time fee of \$100 to an annual fee of \$265 and the \$100 reinstatement fee was eliminated, effective June 9, 2016.
- New Annual Renewal Fee per-location increases from \$0 to \$265 with each renewal application, effective January 1, 2017.

Wholesalers/Distributors

- Application Fee per-location increases from \$1,000 to \$1,200, effective June 9, 2016.
- Annual Renewal Fee per-location increases from \$1,000 to \$1,200 with each renewal application, effective January 1, 2017.

Senate Bill (SB)x2-5

Effective June 9, 2016, SBx2-5 amends BPC Section 22950.5 within the STAKE Act to define "tobacco product" to mean any of the following:

- A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
- An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
- Any component, part, or accessory of a tobacco product, whether or not sold separately.

SBx2-5 bill creates a "tobacco product" definition within the STAKE Act and Licensing Act, which includes electronic delivery devices and component parts. This bill does not amend the "tobacco products" definition within the CTPTL. Accordingly, this bill does not impose the cigarette and tobacco products tax upon a tobacco product as defined pursuant to this bill's BPC Section 22950.5 (electronic delivery devices and component parts). The cigarette and tobacco products tax continues to apply to "tobacco products" as defined in Revenue and Taxation Code Sections 30121 and 30131.1.

Beginning January 1, 2017, retailers of STAKE Act-defined tobacco products that are not subject to a tax imposed by the CTPTL are required to obtain and maintain a valid retailer license from the BOE in order to engage in the retail sale of these products. This bill requires the BOE to identify, notify, and register sellers of tobacco products as defined in the STAKE Act for a license. Currently, the Licensing Act requirements only apply to cigarettes and tobacco products as defined in the CTPTL. Prior to this bill, sellers of electronic delivery devices and component parts were not required to register and maintain a license to sell these types of tobacco products. This bill requires these sellers to register with the BOE for a license and pay the initial license application fee to obtain a license and thereafter, pay a yearly renewal fee to maintain a valid license for each business location. The license fees imposed under this bill applies only to STAKE Act-defined tobacco products retailers not already licensed to sell

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CTPTL defined-tobacco products. It is estimated that there are at least 1,100 vape shops that will be required to register and obtain a license to sell STAKE Act-defined tobacco products.

This bill further complicates the licensing program due to the fact that the bill requires the BOE to license sellers of different products and requires retailers who are not already licensed to sell CTPTL-defined cigarettes and tobacco products to acquire and maintain a license to sell STAKE Act-defined tobacco products. For example, beginning on or after January 1, 2017, a new retailer of STAKE Act-defined tobacco products (i.e. e-cigarettes) would be required to apply for and pay \$265 per location for the initial application fee and pay \$265 per location per year for the renewal fee to maintain a valid license to sell STAKE Act-defined tobacco products. These sellers will have different compliance requirements since STAKE Act-defined tobacco product retail sellers are not required to purchase STAKE Act-defined tobacco products from licensed cigarette and tobacco product distributors and wholesalers. Tracking the type of product sold by the retailer will be something new for the licensing program.

In a different scenario, if a retailer, who is already licensed with the BOE to sell CTPTL-defined cigarette and tobacco products and holds a valid license, decides to sell STAKE Act-defined tobacco products, the retailer is not required to obtain a separate license to sell STAKE Act-defined tobacco products as long as the retailer has and maintains a valid CTPTL-defined cigarette and tobacco products license. The bill allows this retailer to sell STAKE Act-defined tobacco products under their existing CTPTL-defined cigarette and tobacco products license. This retailer is required to pay \$265 per location per year to renew their license. In effect, this bill requires the BOE to administer additional requirements, process additional license fee payments for renewals and register and issue licenses for retailers who only sell STAKE Act-defined tobacco products. This will require extensive identification, planning, programming, and outreach to inform retailers of their new license requirements.

RESOURCE HISTORY

(Dollars in thousands)

PROGRAM BUDGET	2011-12	2012-13	2013-14	2014-15	2015-16
Authorized Expenditures	7,610	9,581	9,925	10,182	10,573
Actual Expenditures	7,765	8,490	9,604	9,848	10,373
Revenues	1,700	1,700	1,800	1,800	N/A
Authorized Positions	62.6	79.6	78.9	78.9	67.1 ¹
Filled Positions	70.9	73.8	67.9	73.4	68.3
Vacancies	N/A	5.8	11.0	5.0	0.0

C. State Level Considerations

The BOE collects taxes, fees, and surcharges that provide over 30 percent of the annual revenue for the state government and essential funding for counties, cities, and special taxing districts. In FY 2014-15, the BOE administered taxes and fees that produced \$60.5 billion for education, public safety, transportation, housing, health services, social services, and natural resource management. The BOE administers the state's sales and use, fuel, alcohol, tobacco, and other taxes, and collects fees that fund specific programs. More than one million businesses are registered with the agency.

This request is consistent with the BOE's mission to serve the public through fair, effective, and efficient tax administration. This request is consistent with, and supports, the BOE's strategic plan by maximizing voluntary compliance, enhancing operational effectiveness and investing in the organization. This proposal is consistent with BOE's mission to serve the public through fair, effective,

¹ Before 2015-16, Administration positions were included in programs positions. Beginning in 2015-16, Administration positions are listed as a separate line in the Governor's budget.

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and efficient tax administration. Specifically this proposal addresses Goal 1: Maximize Voluntary Compliance by providing the tools, information, and customer service necessary to help taxpayers understand and fulfil their tax and fee obligations.

D. Justification

The BOE requests one-time and ongoing funding to address additional workload that cannot be met with existing resources. To fully implement the Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) program, the BOE requests ongoing resources to conduct audits, issue billings, process refunds, handle appeals, and provide program administration/support for the new fee program and be in compliance with the new legislation. The Cigarette and Tobacco Products licensing program requires greater resources to implement and maintain the new license requirements.

The BOE will redirect existing vacancies, but requires the following additional funding resources to do so:

- To fully implement the provisions of SB 84 in the RRAPIR program, the BOE requests \$34,000 in FY 2017-18, \$139,000 in FY 2018-19, \$213,000 in FY 2019-20 and ongoing.
- To administer the new requirements pertaining to the Cigarette and Tobacco Licensing Program, the BOE requests \$313,000 in FY 2016-17, \$303,000 in FY 2017-18, \$287,000 in FY 2018-19, and \$284,000 in FY 2019-20 and ongoing.

Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) program

SB 84 creates a new and complex fee program with new workloads for which the BOE requires special funds. The BOE is mandated to administer and collect the new fee from an estimated approximately ten railroad operators who will need to register with the BOE. The BOE will also collect the RRAPIR fee from owners of hazardous materials, and remit fee amounts collected to the BOE.

The new RRAPIR fee program will create new audit, billings, refunds, and appeals workloads, and the other administrative functions. The BOE requests permanent special funds to fully implement and maintain this new fee program. The following outlines the various areas that will be impacted along with an explanation of the efforts that are needed to fully implement the new fee program. Without the requested resources, the BOE will not be able to audit, issue billings, process refunds, and handle appeals and will not be in compliance with the new legislation, resulting in delays or losses of revenue to the state starting in fiscal year 2017-18 and ongoing.

Audits

The audit component is vital to the effective administration of the new program. The BOE will verify and audit the accounts required to be registered and ensure the correct amount of fee is collected and remitted to the BOE. It is anticipated the volume and complexity of the books and records will require greater level of audit knowledge and expertise.

Appeals and Refunds

The BOE will handle all petitions and claims for refund involving the fee assessment except those based on the premise that the content of the rail car is or is not a hazardous material. The OES will handle petitions and refund claims that are based on the premise that the content of the rail car is or is not a hazardous material. The BOE is required to forward such petitions and refund claims to the Director of the OES for handling. The BOE will need to develop procedures to track those appeals and claims that are forwarded to the OES and to document the outcome of those petitions and claims for refund. The OES will advise the BOE of its decision and final outcome of such petitions and refund claims. The BOE staff will be responsible for processing and issuing a statement of account, redetermination, or refund notice resulting from the final outcome of these petitions and refund claims involving the fee assessment. Acknowledging, tracking, verifying, and processing petitions and claims for refunds, attending appeals conferences, and issuing any redetermination, refund or statement of account notices will result in additional workload for staff. Without the additional resources, petitions, appeals, and refunds may be delayed resulting in higher interest payments to feepayers.

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Other Administrative Functions

As with any new tax or fee program, the BOE anticipates that RRAPIR feepayers will need technical assistance regarding the application of the new fee on various transactions, implementation of fee rate adjustments/program changes, updates of program informational materials, program fund caps will need to be monitored, liaison activities with OES, and coordinate the exchange of information with OES. The OES may adjust the fee rate not less frequently than every three years based on information received from the railroads and the fund balance. The BOE will be required to provide notification of fee rate changes and post the new fee rate. The BOE will track revenues to the new fund, prepare new fund reports, notify OES when the fund maximum is reached and adjust the program accordingly per OES's direction, and prepare additional reports as necessary.

The Fee Collection Procedures Law provides for the BOE's authority to adopt regulations related to administration and enforcement. The BOE is provided with the authority to prescribe, adopt, and enforce regulations or emergency regulations, as needed, relating to the administration and enforcement of SB 84.

The requested resources will allow the BOE to fully implement this new fee program as well as continue to provide high quality service to tax and feepayers while protecting the Special Fund revenues. The BOE is requesting resources for auditing taxpayer books and records to ensure proper reporting and compliance with tax and fee laws. The Appeals and Data Analysis Branch is responsible for handling the petitions for redetermination, processing related refund/audit workload, and providing expert audit and computer program guidance for extracting and analyzing feepayer data records associated with the RRAPIR fee. The Business Taxes Specialist I will verify and audit feepayer accounts. The BOE will ensure the correct amount of fees is collected timely and properly and funds are allocated timely and appropriately. The BOE will provide continuous program needs for future and ongoing system maintenance changes. The lack of funding would severely impact current and future revenue and revenue generating activities.

Without the requested resources, the BOE will not be able to conduct audits, issue billings, process refunds, and handle appeals for the new program and will not be in compliance with the new legislation. The BOE is requesting permanent special funds required for this new workload.

Cigarette and Tobacco Products Licensing program

ABx2-11 and SBx2-5 create new and complex license fee requirements. The BOE is mandated to collect the new and increased license fees and administer the new license requirements. The new license and renewal requirements will impact both new and existing licensees differently, and will require licensure for a new segment of the cigarette and tobacco products industry—retailers of STAKE Act-defined tobacco products (i.e. e-cigarette retailers). Resources are needed to administer and be in compliance with the new legislation. The new legislation creates new and additional workload that requires additional special funds and cannot be deferred by the BOE. Diverting other resources from the current licensing program would adversely impact the timely issuance of licenses and processing of funds.

In effect, ABx2-11 increases workload to handle numerous new license and license renewal fee payments that will be paid on an annual basis and received throughout the year. Based on current licensing registration data as of June 30, 2016, there are approximately 34,000 retailers who will be required to pay an annual license renewal fee upon renewal of their license. Prior to this bill, retailers were not required to pay any fee amount to renew their retailer license. The change in ownership of retailers is estimated at approximately 20 percent per year. Approximately 527 distributors and 365 wholesalers will be required to pay an increased annual license renewal fee upon renewal of their license. In addition, any new retailer, wholesaler, or distributor applicant will be required to pay the new increased license application fee.

SBx2-5 has the largest impact (estimated minimum 1,100 vape shops) that requires a license for retailers who sell STAKE Act-defined tobacco products (i.e. e-cigarettes). The number of vape shops is based on an estimate from industry and was validated with the BOE's current sales and use tax

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registration data. SBx2-5 requires the BOE to license and impose an application and annual renewal fee for retail sellers of STAKE Act-defined tobacco products. The BOE will need to track the type of product the retailer sells for inspection and tax reporting purposes since there will now be different requirements for licensees depending on the product sold. It is important to note that some licensees may have locations that only carry CTPTL-defined cigarettes and tobacco products and other locations that carry both CTPTL-defined cigarettes and tobacco products and STAKE Act-defined tobacco products adding complexity for staff, systems, and licensees. In addition to the existing retailers who will be required to pay a renewal fee, this new population of registrants, estimated at a minimum of 1,100 registrants, adds additional workload to handle and process new license and renewal fee payments.

Furthermore, this bill includes within the STAKE Act definition of a tobacco product any tobacco product component, part, or accessory, whether or not sold separately. As a result, the bill not only requires licensure for retailers of liquid nicotine, but also requires licensure for retailers of components, parts, and accessories such as an aluminum shell, sensor, smart chip microprocessor, atomizer, coils, tips, o-rings, and vaporized mesh. Requiring licensure for retailers of individual components, parts, and accessories sold without liquid nicotine complicates administration since all components, parts, and accessories would need to be identified by the BOE to determine whether or not those parts are necessary during the device's operation. This will require staff to utilize the BOE's regulatory process.

The bill also requires the BOE to impose a civil penalty of \$250 and suspend or revoke a retailer's license for furnishing a "tobacco product" to a person under 21 years of age upon the third violation.

The new legislation will create new and additional workload that will impact all functions of license administration including outreach, registration, renewals, payment processing and refunds, account close outs, other administrative support, enforcement, appeals, and collections. Essential resources are requested to effectively implement, administer and be in compliance with the new legislation. It is anticipated that this new segment of the cigarette and tobacco products industry—retailers of STAKE Act-defined tobacco products; as well as existing licensees, will need assistance when registering, renewing, reinstating, making payments, updating their account information; and have questions concerning the new legislation requirements. Without the requested resources, the BOE will not be able to effectively implement and administer the new license requirements and be in compliance with the new legislation.

Outreach

ABx2-11 imposes a new annual license renewal fee for approximately 34,000 retailers who are currently not required to pay a yearly renewal fee along with distributors and wholesalers who will see their annual license fee increase. SBx2-5 requires a new group of business owners who sell STAKE Act-defined tobacco products to obtain and maintain a license that was previously not required. These new requirements create a need for significant education and outreach efforts to ensure compliance and increase public awareness. To reduce "surprises" when licensees apply and/or renew their licenses and ultimately reduce staff time spent on additional education, account resolution and license close-outs, the following education and outreach efforts must be developed and implemented to provide the information and education necessary for licensees to understand and comply with the new license requirements:

- News Release, Special Notice and eBlast
- Webpage updates
- Frequently asked questions (FAQs)
- Newsletter and Tax Information Bulletin articles
- Publications, forms, letters, and renewal notices updates
- Video Online Seminars, Slide Shows, PowerPoint presentation (for staff training)
- Policy/procedure memos

Analysis of Problem

- Regulatory process

Registration

The BOE utilizes an online web-based registration system. Business owners registering with the BOE utilize the online registration system by answering a series of questions about their business operations to ensure they may receive all of the permits and licenses necessary for their business. The BOE will need to administer the following changes to the online registration system:

- Update the process, screens, vetting questions, and help text for retailers, distributors, and wholesalers.
- Update the retailer license application fee to \$265 per location. The current retailer license application fee is \$100 per location.
- Update the distributor/wholesaler license application fee to \$1,200 per location per year. The current distributor/wholesaler license application fee is \$1,000 per location per year.

The BOE anticipates new and additional workload in reviewing all applications for vape shops, program advisory, assisting users on how to access, log on and navigate the online registration system, and resolving registration processing issues. Staff will handle new and additional registration questions received by phone, email, or mail, etc. Additional workload is anticipated to resolve online registration processing issues which require staff to manually work assignments. Staff assignments are automatically created in the system whenever a licensee encounters a registration issue during online registration. When a registration issue occurs, the licensee is not allowed to complete the online application process until staff works the assignment to resolve the issue and notify the licensee.

Renewals

The BOE also utilizes an online web-based renewal system for retailers, distributors, and wholesalers to renew their license. Renewals occur throughout the year and are valid for 12 months from the date of issuance. Prior to June 9, 2016, a retailer was required to pay a reinstatement fee of \$100 per location to reactivate their retailer license that is not renewed on time. As of June 9, 2016, this reinstatement fee has been eliminated and will require system programming changes. Beginning January 1, 2017, every retailer is required to pay the \$265 renewal fee per location per year and if a retailer fails to renew their retail license timely, the retailer is required to pay \$265 in order to renew (i.e. reinstate) their expired retailer license. Distributor and wholesaler licenses are valid for a calendar year. The BOE will need to administer the following changes to the online renewal system:

- Update the license renewal fee for retailers to \$265 per location per year. Currently, retailers are not required to pay a license renewal fee each year and retailers renew all locations at the same time each year.
- Remove the \$100 reinstatement fee requirement for retailers.
- Update the license renewal fee amount for distributors and wholesalers to \$1,200 per location per year. The current license renewal fee for distributors and wholesalers is \$1,000 per location per year.

The BOE anticipates new and additional workload in program advisory, assisting users on how to access, log on and navigate the online renewal system, and resolving renewal processing issues. Staff will handle new and additional online renewal questions received by phone, email, or mail, etc. Additional workload is anticipated to resolve online renewal processing issues which require staff to manually work assignments. Staff assignments are automatically created in the system whenever a licensee encounters a renewal issue during the online renewal process. When a renewal issue occurs, the licensee is not allowed to complete the online renewal process until staff works the assignment to resolve the issue and the licensee is notified.

Staff also reviews accounts prior to renewal. If after an account is closed out 90 days or longer and the licensee attempts to renew their license, the system will automatically require staff to review the

Analysis of Problem

account before the licensee can renew their license. Staff also process accounts approved for paper renewal. The BOE currently has 34 accounts approved for paper renewal. Licensees may also pay by check and cashiers must process these payments timely.

Payment Processing and Refunds

ABx2-11 imposes a new \$265 annual license renewal fee for approximately 34,000 retailers who are currently not required to pay a yearly renewal fee along with distributors and wholesalers who will see their annual license fee increase. These changes will increase the number of payments received by the BOE on an on-going basis and on a year round rolling cycle. The BOE anticipates new and additional workload associated with program advisory, and assisting licensees on how to access, log on and navigate the electronic payment system. SBx2-5 adds a new group of retailers (sellers of STAKE Act-defined tobacco products) whose initial license application and subsequent renewal payments will need to be processed and directed to the correct fund. System programming changes are required to handle and process these new payments upon registration and renewal. Staff will be required to identify payments; apply and unapply payments; handle dishonored payments, returned checks and overpayments; and process refund for overpayments. Staff will be required to handle the additional annual license renewal fee payments that were never required before.

Account Close-Outs

The BOE anticipates that some retailers will not renew their license timely by failing to pay the new annual license fee and their accounts will be closed out since retailers never had to pay a fee amount at renewal. This requires staff to manually work system generated assignments to resolve various validation issues before staff can reactivate an account and notify each licensee to complete the process. The BOE expects an increased account maintenance workload due to:

- Reviewing and updating account information for account close outs due to expired licenses, failure to pay license fee or other issues (i.e. suspended corporation status, suspended franchise tax board status, etc.).
- Processing reactivation of accounts.
- Processing renewal fees.

Other Administrative Support

While the license and renewal application process is online, the BOE expects to see a significant workload increase outside of online renewals. The BOE expects an overall increase in phone calls and email/mail inquiries from the public and new and existing licensees. The BOE will track revenues associated with this new fee imposed on STAKE Act-defined tobacco products sellers and prepare additional reports and/or modify existing reports as necessary. Support staff is needed to handle the increased ongoing workload performing the following functions:

- Prepare, scan, and index all licensing support documentation (i.e. Articles of Incorporation, registration information with other state/federal agencies, correspondence, enforcement documentation such as revocations, suspensions, etc., and other licensee records).
- Perform program advisory services: respond to questions regarding new license/fee requirements, assist licensees with how to access, log on and navigate the online systems and how to apply and/or renew their license.

Enforcement/Appeals/Collections

The BOE anticipates an increase in appeals for retailers as a result of increased citations issued for operating without a license in the first couple of years due to the change from a one-time to an annual license fee and an increase in license renewal fees under ABx2-11. SBx2-5 creates new types of violations, suspension/revocation reasons, and civil penalties, including collections capabilities for the new civil penalties. These changes will require system programming modifications.

Analysis of Problem

The BOE requires additional special funds necessary to handle the additional workload created by the new legislation. Without the requested resources, the BOE will not be able to effectively implement and administer the new license requirements and be in compliance with the new legislation and will ultimately result in the delay or loss of revenue. The BOE cannot perform the duties required by this new legislation without the additional special funds, as it would adversely impact existing resources and other funds dedicated to other mandated special tax and fee programs.

E. Outcomes and Accountability

The BOE will redirect positions to implement the new legislative mandates.

Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) program

This proposal will allow the BOE to fully implement the program and collect the revenues due to the State for the RRAPIR fee program purposes. The OES recently set the fee amount at \$45 per rail car and a revenue cap of \$20 million for calendar years 2016 and 2017 and \$10 million for calendar year 2018.

The fee is to be imposed on a person owning hazardous material at the time the hazardous material is transported by loaded rail car within six months of the OES Director establishing the fee rate and no earlier than November 13, 2016, due to the BOE's other legislative mandates and agreement with the OES.

Cigarette and Tobacco Products Licensing program

Total annual revenues are estimated to be about \$11.7 million. This revenue estimate does not account for any further changes in economic activity that may or may not result from the new legislation. The BOE is required by statute to prepare a report on the impact of these law changes.

F. Analysis of All Feasible Alternatives

Alternative 1 – Provide special funds to fully implement and administer the Regional Railroad Accident Preparedness and Immediate Response program and Cigarette and Tobacco Products Licensing program.

Alternative 1 requests the following for both programs:

- \$313,000 in FY 2016-17.
- \$337,000 in FY 2017-18 and 1.2 positions.
- \$426,000 in FY 2018-19 and 1.4 positions.
- \$497,000 in FY 2019-20 and 2.2 positions and ongoing.

Pros:

- Provides permanent resources necessary to fully implement the new Regional Railroad Accident Preparedness and Immediate Response fee program.
- Provides resources necessary to implement and administer the new cigarette and tobacco products license requirements.
- Provides highest level of service to feepayers/licensees.
- Provides permanent funding for the protection of the Regional Railroad Accident Preparedness and Immediate Response Fund by ensuring compliance with the law.
- Allows revenues intended to be collected for this new Regional Railroad Accident Preparedness and Immediate Response fee program to be realized.
- May allow the Licensing Act's program costs to be self-sustained by licensure fees rather than shifting funds from the various cigarette and tobacco products tax funds currently making up the difference.
- Legislative mandates will be met.

Analysis of Problem

Cons:

- Requires a budget augmentation.
- Could place an additional burden on the cigarette and tobacco products tax funds to fund the Licensing Act program costs.

Alternative 2 – Provide the following special funds for a two-year limited term for the Regional Railroad Accident Preparedness and Immediate Response program and Cigarette and Tobacco Products Licensing program.

Alternative 2 requests:

Regional Railroad Accident Preparedness and Immediate Response program

- \$34,000 in FY 2017-18.
- \$139,000 and 0.3 positions in FY 2018-19.
- \$213,000 and 1.1 positions in FY 2019-20 and ongoing.

Cigarette and Tobacco Products Licensing program

- \$313,000 in FY 2016-17.
- \$303,000 and 1.2 positions in FY 2017-18.
- \$287,000 and 1.1 positions in FY 2018-19.
- \$284,000 and 1.1 positions in FY 2019-20 and ongoing.

Pros:

- Allows revenues intended to be collected for these fee programs to be temporarily realized.
- Temporarily addresses the continued need for additional resources to handle the associated workloads.
- Legislative mandates will be temporarily met.
- Does not require budget augmentation.

Cons:

- Provides for limited-term solution to permanent ongoing workloads.
- Recruitment for limited-term positions is difficult. Results in frequent turnover, and makes retaining trained and experienced staff a challenge.
- Requires a temporary budget augmentation.
- Without the requested resources, the BOE will either not be able to effectively and efficiently implement and administer the new license requirements or will need to increase the costs to implement and administer the licensing program and the Cigarette and Tobacco Products Tax Funds will be charged.
- Legislative mandates may not timely be met.
- Further funding for the licensing program will continue to be drawn from the various cigarette and tobacco products tax funds. In FY 2013-14, the licensing program had costs of \$9.6 million while revenues generated from license fees were only \$1.8 million, a difference of \$7.8 million for the year.

Alternative 3 - Do not provide the requested resources.

Alternative 3 requests no new or continued resources. The BOE will not be able to fully implement and administer the programs without the requested resources.

Pros:

- Does not require a budget augmentation.

Cons:

- Does not address the need for continued resources to handle the ongoing workload.
- Without the requested resources, the BOE is unable to audit, handle appeals, issue billings and refunds for the new Regional Railroad Accident Preparedness and Immediate Response fee program.
- Without the requested resources, the BOE will either not be able to effectively and efficiently implement and administer the new license requirements or will need to increase the costs to implement and administer the licensing program and the Cigarette and Tobacco Products Tax Funds will be charged.

Analysis of Problem

- Further funding for the licensing program will continue to be drawn from the various cigarette and tobacco products tax funds. In FY 2013-14, the licensing program had costs of \$9.6 million while revenues generated from license fees were only \$1.8 million, a difference of \$7.8 million for the year.
- Unrealized and/or delayed revenue.
- Legislative mandates will not be met.
- Revenues will not be realized will not be realized by the state.

G. Implementation Plan

The following tables detail the implementation plans and ongoing resource activities of the new legislation for each program.

Regional Railroad Accident Preparedness and Immediate Response program

Activity	Date (Approximate)
Hire and train appeal and refund auditor.	July 2017
Handle appeals, billings, and refunds related to the RRAPIR.	July 2017 and ongoing
Continue cooperative liaison activities with OES.	July 2017 and ongoing
Notify OES of maximum fund balance reached and adjust program according to OES direction (i.e. suspend, etc.).	October 2017 and ongoing
Respond to technical questions regarding the RRAPIR fee.	July 2017 and ongoing
Exchange information with the OES as needed.	July 2017 and ongoing
Prepare reports as necessary.	October 2017 and ongoing
Track RRAPIR fee revenues and notify the OES when revenues near maximum specified for the calendar year.	October 2017 and ongoing
Handle potential rate adjustments and issue feepayer notifications.	October 2017 and ongoing
Perform audits of registered feepayers.	April 2019 and ongoing

Cigarette and Tobacco Products Licensing program

The BOE anticipates implementation for new CTPTL-defined cigarette and tobacco products license registrations for retailers, wholesalers and distributors to be June 9, 2016, and implementation for license renewal requirements and the STAKE Act-defined tobacco product license registrations for retailers to be as early as October 2016 or as late as December 2016. These dates may be subject to change as any delay in implementation can impact the entire schedule.

Activity	Date (Approximate)
Respond to questions and inquiries.	May 4, 2016 and ongoing
Design, program, and test application system.	June 2016 and ongoing
Design, program, and test renewal system.	June 2016 and ongoing
Design, program, and test IRIS payment processing, appeals, delinquency systems.	June 2016 and ongoing
Identify and provide outreach to taxpayers and staff.	June 2016 and ongoing
Implementation.	June 9, 2016 and January 1, 2017
New license fees for CTPTL-defined cigarette and tobacco products license registrations.	June 9, 2016
License renewals and STAKE Act-defined tobacco products license registrations.	January 1, 2017
Regulatory Process.	January 1, 2017 to December 31, 2017
Handle appeals.	January 2017 and ongoing
Handle inspections, registrations, renewals, account reactivations, and compliance.	January 2017 and ongoing
Report to legislature on adequacy of funding.	January 1, 2019

H. Supplemental Information

None.

I. Recommendation

The BOE recommends Alternative 1 - Provide the requested funding for redirected positions for each special program to allow BOE to fully implement and administer new requirements in the RRAPIR and cigarette and tobacco licensing programs. Approval of this request will allow the BOE to ensure legislative mandates are met, address ongoing increased workload needs, and provide high quality customer service to licensees and fee payers. Consequences of denial include unrealized and/or delayed revenue as well as insufficient resources to effectively administer programs and implement new requirements on a timely basis.

The BOE requests the following special funds for each program:

Regional Railroad Accident Preparedness and Immediate Response program

- \$34,000 in FY 2017-18
- \$139,000 in FY 2018-19 and
- \$213,000 in FY 2019-20 and ongoing.

Cigarette and Tobacco Products Licensing program

- \$313,000 in FY 2016-17
- \$303,000 in FY 2017-18
- \$287,000 in FY 2018-19 and
- \$284,000 FY 2019-20 and ongoing.

Workload Detail for Regional Railroad Accident Preparedness and Immediate Response program and Cigarette and Tobacco Products Licensing program.

REGIONAL RAILROAD ACCIDENT PREPAREDNESS AND IMMEDIATE RESPONSE PROGRAM

Audit Examination Branch (AEB) and Appeals and Data Analysis Branch (ADAB)

The AEB performs audit selection, conducts field/desk audits, and performs audit review for the Special Taxes and Fees (STF) programs. The AEB is responsible for educating taxpayers on proper reporting to ensure compliance with tax and fee laws.

The Appeals Section of the ADAB is responsible for evaluating refund and appeals, recommending resolution to relief from penalty and interest requests, process refund/audit billings, and attending appeals conferences and board hearings for the STF programs. The Data Analysis Section of the ADAB is responsible for analyzing complex computer audit systems for the STF taxpayers and fee payers. Computer Audit Specialist (CAS) staff provide guidance to BOE's audit program and are subject matter experts on various computer programs (ACL, SQL, IDEA, VEDIT, Monarch, etc.) for extracting and analyzing fee payer accounting data.

A combined one (1.0) permanent position is being requested due to the fact that it is impractical to perform field audits and Computer Audit Specialist (CAS) work during overtime hours since staff must work during a fee payer's normal business hours.

Business Taxes Specialist I (BTS I) – 0.7 Permanent Position (start date 04/01/19) (Redirection)

Due to the anticipated size and complexity of the books and records maintained by the rail companies, the audit field work will need to be conducted by senior field audit staff to properly administer the audit component for the new fee program. The BTS I position is vital to the effective administration of the program in verifying and auditing the accounts required to be registered and to collect and remit the fee to the BOE. The BTS I will perform field audits of the most complex nature and, given the level of audit assignments for this position, will require a greater field audit knowledge level than those of an Associate Tax Auditor or Tax Auditor. It is estimated that there will be at most ten railroad companies registered for the fee program. The estimated average audit hours for a large railroad company is 600 hours. Using an estimate of 1,200 direct field hours, the BTS I will be expected to complete approximately two audits annually. A 0.7 BTS I position is being requested due to the fact that it is impractical to perform field audits during overtime hours since staff must work during a fee payer's normal business hours. Collection of the fee is expected to begin November 13, 2016. The BTS I will start April 1, 2019, which allows time for training, audit plan development, and reviewing any OES information available prior to auditing. The BTS I will utilize quarterly data provided by OES to validate reporting beginning with the first return being due January 31, 2017.

Business Taxes Specialist I (BTS I) – 0.3 Permanent Position (start date 07/01/17) (Redirection)

ADAB will handle the petition for redetermination and related refund workload associated with the RRAPIR fee. The Fee Collection Procedures Law requires the fee payer to submit a timely petition or claim for refund to the BOE. If the grounds of the petition or claim for refund are found to be whether the content of the tank car is or is not hazardous, ADAB will acknowledge and forward the petition or refund to OES. The petitions and refunds that are forwarded to OES will eventually be returned to ADAB to finalize and issue the redetermination and refund notices. For the petitions and claims for refund where the grounds are other than determining if the content is hazardous, ADAB is responsible for acknowledging, screening, analyzing, and processing these cases from beginning to end. There are an estimated 10 railroad companies that may be registered for the fee program, and it is expected that the railroad companies' quarterly filings will be complex. Claims for refund or petitions filed will likewise be complex and time consuming to analyze.

The BTS I will perform the detailed analysis on petitions and refunds along with attending appeals conferences and the final review and billings of audits performed by the AEB. The BTS I position will also perform the CAS workload associated with the field audit component of the new fee program. A CAS is used on all audits where sophisticated computerized accounting records are maintained and which involve the examination of voluminous source documents electronically. It is anticipated that the audits of the

railroad companies will meet these criteria as each shipment involving a rail car will require examination. In order to meet this added workload, a 0.3 permanent BTS I is required.

The BTS I will start July 1, 2017 to handle the complex petitions and related refund workload associated with the audits. The BTS I is needed at July 1, 2017 since a refund claim could be submitted at any time beginning with the first filing period. In addition, if a feepayer makes an in-kind contribution, ADAB would be required to process the refund accordingly. The workload detail estimates are based upon the BOE's experience with other existing complex tax/fee programs.

Workload Detail				
Classification: Business Taxes Specialist I (AEB/ADAB)	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Large (Class I) Railroad Audits	H	600	2	1,200
Administrative Audit Reports, Research, etc.	H	8	12	96
Total BTS I (AEB) Hours				1,296
Total BTS I (AEB) Positions Requested (1,800 Hours/Position)				0.7
Audit Billing	H	4	2	8
Refund Processing	H	25	3	75
Petition Processing	H	50	1	50
Computer Audit Specialist Workload	H	100	2	200
Administrative Petition/Refund Reports, Research, etc.	H	8	24	192
Total BTS I (ADAB) Hours				525
Total BTS I (ADAB) Positions Requested (1,800 Hours/Position)				0.3

Program Policy & Administration Branch (PPAB)

PPAB is responsible for policies, procedures, program processes and implementation of new programs and legislation for STF. PPAB is also responsible for the following for all STF branches and programs: review, track and implement new legislation; implement tax/fee rates; produce/revise forms, publications, and public and staff notices; manage internal/external webpages; liaison with industry and outside agencies; manage the regulatory process for drafting new regulations; maintain/test information systems; budget, acquisition, expenditures and contracts; and prepares supplemental reports and other reports.

The PPAB is responsible for policies, procedures, program processes and implementation of new programs and legislation for STF. The PPAB is also responsible for the following for all STF branches and programs; review, track, and implement new legislation; implement tax/fee rates; produce/revise forms, publications, and notices; manage internal/external webpages; liaison with industry and outside agencies; maintain/test information systems; budget, acquisition, expenditures and contracts. This new program creates ongoing workload associated with highly complex program lead functions, liaison activities with OES, providing technical advice, responding to technical questions regarding the fee, exchange of information with OES, implementing fee rate adjustments/program changes and issuing feepayer notification, maintaining program forms, publications, webpage, and FAQ updates, monitor mandated program fund caps, and prepare reports that will be addressed with overtime requests totaling 513 hours starting 07/01/17 and ongoing at the Business Taxes Specialist II classification. The workload detail estimates are based upon the BOE's experience with other existing complex tax/fee programs.

Business Taxes Specialist II (BTS II) – 513 hours ongoing overtime(start date 07/01/17)

Workload Detail				
Classification: Business Taxes Specialist II (PPAB)	Time Measure		On-going Activities	
	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Agency Liaison (Technical Advisor, Program Lead)	H	6	9	54
Research and Technical Advice	H	24	3	71
Taxpayer Outreach (Special Notices, Newsletter Articles, Forms, Publications, Webpages, FAQs, etc.)	H	12	9	108
Program/Lead Support (Special Reports/Requests, Correspondence, Rate Changes, etc.)	H	50	4	200
Prepare Written Policies and Procedures	H	20	4	80
Total Overtime Hours Requested				513

CIGARETTE AND TOBACCO PRODUCTS LICENSING PROGRAM

Compliance Branch – Collection and Registration

The Collections Section is responsible for collecting accounts receivables and providing advisory services for all the STF programs. The Registration Section is responsible for performing registration and account maintenance functions; processing license renewals, reinstatements, and associated license payments; processing Licensing Act citations and appeals; processing security requirements; and program/phone advisory services on all STF programs.

Business Taxes Representative (BTR) – 1,100 hours overtime (start date 09/01/16)

The new legislation creates additional workload related to program advisory, registration and renewals, reinstatements and payments, payment processing, account review and maintenance, and responding to questions that will be addressed with overtime requests totaling 2,225 hours on a one-time basis starting September 1, 2016 and 1,200 hours on an ongoing basis starting January 1, 2017 and ongoing. The workload detail estimates are based upon current program trends.

Workload Detail				
Classification: Business Taxes Representative (ABx2-11; Start 9/1/16; One-Time) (SBx2-5; Start 9/1/16; One-Time)	Time Measure		On-going Activities	
	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Program Advisory (ABx2-11)	M	5	3,400	283
Program Advisory (SBx2-5)	M	15	833	208
New Application Review (SBx2-5)	M	20	1,100	367
Assist Applicants with Online Registration, Renewal, and Payment System (ABx2-11)	M	10	1,300	217
Assist Applicants with Online Registration, Renewal, and Payment System (SBx2-5)	M	30	50	25
Total Overtime Hours Requested				1,100

Tax Technician II (TTII) – 1,125 hours overtime (start date 09/01/16)

Workload Detail				
Classification: Tax Technician II (ABx2-11; Start 9/1/16; One-Time) (SBx2-5; Start 9/1/16; One-Time)	Time Measure		On-going Activities	
	Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year
Program Advisory (ABx2-11)	M	5	3,400	283
Program Advisory (SBx2-5)	M	8	3,400	453
Assist Applicants with Online Registration, Renewal, and Payment System (ABx2-11)	M	10	1,300	217
Assist Applicants with Online Registration, Renewal, and Payment System (SBx2-5)	M	20	515	172
Total Overtime Hours Requested				1,125

Tax Technician II (TTII) –1,200 hours ongoing overtime (start date 09/01/16)

Workload Detail				
Classification: Tax Technician II (ABx2-11; Start 1/1/17; On-Going)	Time Measure		On-going Activities	
	Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year
Program Advisory	M	5	705	59
Account Maintenance	M	5	528	44
Review Renewal	M	14	4,703	1,097
Total Overtime Hours Requested				1,200

Return Processing Branch

The Return Processing Branch is responsible for processing returns, reports, schedules and payments, interest and penalty relief requests; reviewing overpayments and issuing refunds; and providing customer service for all of the STF programs. Support staff is responsible for processing and distributing mail, answering and transferring incoming calls, maintaining files and processing document requests for all STF programs. The new legislation creates new workload for the Return Processing Branch related to outreach, program advisory, responding to licensee questions, and filing and scanning.

The new workload in the Return Processing Branch will be addressed with 175 hours of overtime funds at the Office Assistant (General) classification in the BOE Headquarters building, beginning July 1, 2016 and ongoing. The Office Assistant (General) will be responsible for scanning and indexing all license support documentation, which may include articles of incorporation, registration information with other state or federal agencies, correspondence, enforcement documentation (revocation, suspension, etc.), and other licensee records. The Office Assistant (General) will also be responsible for receiving and routing telephone calls received on the division's reception line and correspondence received. The workload detail estimates are based upon current program trends.

Office Assistant (General) (OA) – 175 hours ongoing overtime (start date 07/01/16)

Workload Detail				
Classification: Office Assistant (General)	Time Measure		On-going Activities	
	Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year
Routing Calls and Correspondence	M	3	500	25
Prepare, Scan, and Index Documents	M	6	1,500	150
Total Overtime Hours Requested				175

Program Policy & Administration Branch (PPAB)

The new legislation increases workload for PPAB that will be addressed with 1,100 hours of overtime funds beginning July 1, 2016 on a one-time basis at the Business Taxes Specialist II classification. During the implementation phase of this new program, the BTS II will be the lead to prepare, plan, coordinate, monitor, test, implement the new legislation, which includes attending Joint Application Development (JAD) meetings with the Technology Services Department and other program areas to identify and discuss necessary programming changes; modify all forms, letters, notices, publications, webpages; develop FAQs and online registration and renewal information; draft and provide news releases, special notices/eBlast, newsletter and tax information bulletin articles; prepare and develop new policy memos, notices related to STAKE Act-defined tobacco products; conduct industry research to identify new program registrants; develop staff training plan, materials; provide training to staff; prepare BCPs; provide verbal/written advice to licensees and the public; provide overall technical advice; work with legal staff on statute interpretations; coordinate with legislative staff on clean-up language. The BTS II will function as the technical expert and advisor in tax policy and compliance matters; coordinate and monitor the regulatory process for the identification and development of new regulations required to implement the new legislation; conduct research on how other states handle e-cigarettes and component parts; and prepare analysis and formal issue papers for business taxes committee meetings; liaison with industry and outside agencies; work with interested parties; draft documents or legislation; perform program planning, administrative functions, and other special reports/requests. The workload detail estimates are based upon current program trends.

Business Taxes Specialist II (BTS II) – 1,100 hours overtime (start date 07/01/16)

Workload Detail				
Classification: Business Taxes Specialist II (PPAB)	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Attend Program & Joint Application Development (JAD) Meetings	H	4	25	100
Agency Liaison (Technical Advisor, Program Lead)	H	10	10	100
Research and Technical Advice	H	40	2	80
Taxpayer Outreach (Special Notices, Newsletter Articles, Forms, Publications, Webpage, FAQs, etc.)	H	12	15	180
Program/Lead Support (Special Reports/Requests, Correspondence, etc.)	H	70	4	280
Prepare Written Policies and Procedures	H	40	4	160
Conduct Research, Draft Regulations, Prepare Analysis and Formal Issue Papers	H	200	1	200
Total Overtime Hours Requested				1,100

Investigations Section

As mandated under SBx2-5, Electronic Cigarettes, the BOE will be required to license retail sellers of STAKE Act-defined tobacco products (eCigs) under the Cigarette and Tobacco Licensing Act and assess an annual license fee. There are approximately 35,000 cigarette and tobacco retailers currently licensed under the Cigarette and Tobacco Licensing Act. Additionally, there are approximately 1,100 “vape shops” that primarily sell eCigs that will need to be licensed. The Investigations Division (ID) will be responsible for the licensing enforcement provisions of the bill. The workload described herein is based on license verification and compliance activities for the estimated 1,100 vape shops.

Below is the position requested and details of projected workload.

Business Taxes Specialist I (Inspector) – 1.0 Permanent Position (Start Date 7/1/17) (Redirection)

The Inspectors are responsible for conducting inspections of electronic cigarette retailers for compliance with the eCig licensing requirements administered by the BOE. Prior to conducting the field inspection, they conduct investigative background checks using IRIS, the Investigations Tracking System, and other background research tools necessary to ascertain true ownership, gather account activity details, and avoid compromising an active criminal investigation.

During routine inspections, inspectors will document field observations and taxpayer statements regarding potential criminal tax evasion activities, provide taxpayers written information and advice regarding compliance with the tax laws, and prepare detailed license inspection and citation reports. Inspections may result in administrative seizures of products, issuance of a civil or criminal citation, collection and evaluation of evidence, working with District Attorneys on misdemeanor prosecutions, and testifying in civil and criminal proceedings. These positions require Limited Peace Officer status.

Workload information is based on the inspections of approximately 1,100 "vape shops" selling electronic cigarettes. On average, an inspection team completes 250 inspections per year. Inspectors work in teams of two for safety reasons. The Investigation Division is absorbing part of the workload by providing a second inspector for the team as well as verifying licenses at cigarette and tobacco retailers. The vape shops would be inspected about once every four years (similar to cigarette and tobacco retailers). Although only one Business Taxes Specialist I (inspector) position is being requested, overtime hours will also be requested to address this workload and any follow-up activities, such as seizures resulting from unlicensed, suspended or revoked accounts.

Workload Detail				
Classification: Business Taxes Specialist I	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Conduct Inspections	H	5.8	250	1,450
Re-inspection of Businesses found without Licenses	H	5.8	25	145
Complaints – Preliminary Investigation	H	3	30	90
LPO Training/Continuing Education	H	40	3	120
Post Inspection Activity (Report/Receipt of seizures resulting from unlicensed, suspended or revoked accounts)	H	4	25	100
Total hours				1,905
Total 1 Positions Requested (1,800 Hours/Position)				1,800

Administrative Costs

In addition to the personnel resources identified above, the Investigations and Special Operations Division (ISOD) is anticipating the need of the following estimated resources:

- Travel
Total: \$36,400 (annual ongoing cost)
(Average of 26 weeks of annual in-state travel)
- Overtime for the BTS I (Inspectors)
Total: \$5,600 (annual ongoing cost)
- Equipment:
Inspector Special Equip.: \$6,290 (one time cost). Cell phone included.
- LPO Training – Limited Peace Officer Training
Total: \$1,600 (annual ongoing cost)

If we are not able to obtain these resources, a portion of the inspections (vape shops) would not be completed. Thus, the BOE would not be applying the new provision in a fair and uniform manner.

Technology Services Department (TSD)

TSD is responsible for the computer systems and technology infrastructure that support the BOE's over 30 tax, administrative, revenue accounting and reporting programs for approximately 5,000 employees in California and three out-of-state offices. ABx2-11 and SBx2-5 create additional workload for TSD which includes designing, programming and testing changes to the online application and renewal systems and the IRIS payment processing, appeals, and delinquency systems.

The BOE utilizes a cost estimation model where the application or system modification and complexities are identified by all impacted TSD programming, testing, and project support units based on the requirements of the proposal. TSD's methodology for estimating resources considers the total project hours and the resources available based on resource allocations in BOE's Information Technology (IT) governance project portfolio.

In order to comply with this legislative mandate, and ensure project success TSD requires an augmentation of \$75,000 in fiscal year (FY) 2016-17. The contract resources are required to meet the project timeframe for ABx2-11 and SBx2-5. TSD does not have sufficient internal resources available to perform the work due to the current workload consisting of legislation/mandates, special/strategic/program area requests and anticipated workload for multiple new laws to be implemented on January 1, 2017.

System testing will require additional contracting resources to meet the accelerated project timeframe as current staff is currently at capacity working on high priority efforts and supporting the existing system. The contractors' responsibilities will include documentation construction, test execution and stabilization testing.

Tax Revenue Branch (TRB)

The Tax Revenue Branch is responsible for processing returns, schedules and correctly applying payments. This process is completed by Key Data Operators who quickly and efficiently key all the necessary information into IRIS for the specific program. Office Technician Cashiers staff assures that the check payments are scanned and deposited correctly to the State Treasurers Office daily. An Office Assistant (General) staff is responsible for opening and processing the new incoming mail associated with this program. The Office Assistant (General) will be responsible for scanning and indexing all license support documentation, which may include articles of incorporation, registration information with other state or federal agencies, correspondence, enforcement documentation (revocation, suspension, etc.), and other licensee records.

This new legislation creates an additional workload for the Tax Revenue Branch which requires overtime beginning July 1, 2016 and ongoing in order to assure that taxpayer's information is processed in a timely manner. If we are unable to obtain these resources necessary for the new program then the Tax Revenue Branch has limited resources necessary to process the taxpayer's information.

Key Data Operator – 304.70 hours ongoing overtime (Start date 7/1/16)

Unit 482

Key Data Operators (KDO)'s in the Tax Revenue Branch key returns received by taxpayers daily. They are responsible for keying the batch header sheets, keying 1st and 2nd pages of returns as well as any schedules that are sent down from programming. With the additional keying of the returns from the proposed legislation, our KDO's will require the additional overtime hours as requested to maintain service levels and the keying of timely returns for BOE's taxpayers

Workload Detail				
Classification: Key Data Operator	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Check Services	M	7	52	6.07
Log Batches in Access	M	22.98	52	19.92
I-Capture Batch Processing of Returns	M	290.93	52	252.14
I-Capture Transfer and Load in IRIS	M	30.31	52	26.57
Total Overtime Hours Requested				304.70

Office Assistant (General) – 265.30 hours ongoing overtime (Start date 7/1/16)

Unit 393

Office Assistants (OA)'s in the Imaging and Mail Processing Center (IMPC) are responsible for sorting and opening incoming mail to the Board of Equalization. The opening of the additional licenses from the proposed new program will affect approximately 35,000 retailers and 1,100 vape shops. The Office Assistants not only open the mail, but begin the batch process which prepares the documents to be keyed by our Key Data Operator staff. The increase in mail volume expected from this proposed fee requires additional overtime hours to ensure taxpayers mail is processed timely and efficiently. As expected with any new fee, the volume of return mail is expected to increase which requires additional hours to properly process the return mail.

Workload Detail				
Classification: Office Assistant (General)	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Mail is Sorted by like Type	M	28.60	52	24.79
Batch Creation	M	123.32	52	106.88
Batch Adding	M	107.27	52	92.99
Return Mail Processing	M	46.89	52	40.64
Total Overtime Hours Requested				265.30

Office Assistant (General) – 48.78 hours ongoing overtime (Start date 1/1/17)

Unit 484

Office Assistants (OA)'s for the Tax Revenue Branch at the Industrial Blvd. location are responsible for scanning and indexing all license support documentation, which may include articles of incorporation, registration information with other state or federal agencies, correspondence, enforcement documentation (revocation, suspension, etc.), and other licensee records. The documents are first prepped by the Office Assistants which include the removal of staples, making copies of illegible documents, taping and flattening documents to prepare for scanning. The documents are then bundled in batches and the scanning process begins. If there are errors or illegible images, the documents must be cleared and rescanned.

Workload Detail				
Classification: Office Assistant (General)	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Preparing Documents	M	45.55	52	39.48
Scan Documents	M	10.73	52	9.30
Total Overtime Hours Requested				48.78

Office Technician (General) – 206.85 hours ongoing overtime (Start date 7/1/16)

Unit 392

Office Technicians (OT)'s for the Tax Revenue Branch are responsible for processing all remittance payments for the proposed new license. Our Cashier staff first encodes the check amounts to ensure the check amount corresponds with the correct amount keyed by our Key Data Operator staff. Then the checks are prepared to be scanned into our electronic depository system. A scan batch header sheet is created indicating the date, time, amount and item count. Then the checks are scanned, if there are any errors, then a rescan of the batch or item is conducted. At the end of each batch, the totals are verified and our staff prepares to make the deposit to the State Treasures Office. Due to the increase workload volume from this proposed license, a request for additional overtime hours is necessary to meet the demands of efficiently processing taxpayer's remittances.

Workload Detail				
Classification: Office Technician (General)	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Encode Checks	M	72.24	52	62.61
Prepare Scan Batch Header Sheet	M	22.86	52	19.81
Scan Checks	M	53.65	52	46.50
Research Table / Amount out of Balance	M	89.92	52	77.93
Total Overtime Hours Requested				206.85

Customer Services Center (CSC)

Business Taxes Representative (BTR) – 270 hours overtime (start date 07/01/17)

The Customer Service Center (CSC) is requesting 270 hours of temporary help beginning July 1, 2017 and ongoing at the Business Taxes Representative (BTR) classification to assist with training and coaching for the technical staff regarding this new legislation and providing guidance to fee payers via email and telephone. CSC will train staff how to recognize these types of calls and how to answer the various questions from this legislation. Because of the complexity of the legislation, most calls and emails will require a response within the scope of a Business Taxes Representative classification, from which CSC does not have the resources available to redirect resources.

Based on the assumption provided, with a population base of 35,000, CSC estimates an increase of 1,620 total calls or 166 hours at the BTR level relating to two delinquency notices, one reminder to file notice, an undetermined number of special notices and email blasts, and other inquiries regarding this legislation. Additionally CSC needs 104 hours to develop, train and coach technical staff in CSC, as well as remote agents in other units how to recognize and respond to general questions for this legislation.

Workload Detail				
Classification: Business Taxes Representative	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
BTR to Develop Training	M	120	4	8.0
Refresher Training -CSC BTR's	M	60	16	16.0
BTR for Instructor led refresher training to CSC Agents	M	60	40	40.0
BTR for Instructor led refresher training to Remote Agents	M	60	40	40.0
BTR responding to inquiries by phone	M	6	1620	162.0
BTR responding to inquiries by email	M	5	48	4.0
Total Overtime Hours Requested				270.0

Fiscal Summary
(Dollars in thousands)

BCP No. 2	Proposal Title Special Tax and Fee Programs Augmentation			Program RRAPIR & Cig. & Tob. Products Licensing			
Personal Services		Positions			Dollars		
	CY	BY	BY + 1	CY	BY	BY + 1	
Total Salaries and Wages ¹	0.0	1.2	1.4	\$190	\$181	\$202	
Total Staff Benefits ²				\$11	\$46	\$55	
Distributed Admin				\$16	\$18	\$21	
Total Personal Services	0.0	1.2	1.4	\$217	\$245	\$278	
Operating Expenses and Equipment							
General Expense					\$14	\$17	
Printing							
Communications					\$1	\$3	
Postage				\$1	\$1	\$1	
Travel-In State					\$37	\$52	
Travel-Out of State						\$22	
Training					\$3	\$5	
Facilities Operations					\$11	\$23	
Utilities							
Consulting & Professional Services: Interdepartmental ³							
Consulting & Professional Services: External ³				\$75			
Data Center Services				\$18	\$15	\$18	
Information Technology					\$2	\$4	
Equipment ³					\$6		
Other/Special Items of Expense: ⁴							
Distributed Admin				\$2	\$2	\$3	
Total Operating Expenses and Equipment				\$96	\$92	\$148	
Total State Operations Expenditures				\$313	\$337	\$426	
Fund Source		Item Number					
	Org	Ref	Fund				
General Fund							
Special Funds ⁵							
Federal Funds							
Other Funds (Specify)							
Reimbursements							
Total Local Assistance Expenditures							
Fund Source		Item Number					
	Org	Ref	Fund				
General Fund							
Special Funds ⁵							
Federal Funds							
Other Funds (Specify)							
Reimbursements							
Grand Total, State Operations and Local Assistance				\$313	\$337	\$426	

¹ Itemize positions by classification on the Personal Services Detail worksheet.

² Provide benefit detail on the Personal Services Detail worksheet.

³ Provide list on the Supplemental Information worksheet.

⁴ Other/Special Items of Expense must be listed individually. Refer to the Uniform Codes Manual for a list of standard titles.

⁵ Attach a Fund Condition Statement that reflects special fund or bond fund expenditures (or revenue) as proposed.

Personal Services Detail

(Whole dollars)

BCP No. 2	Proposal Title Special Tax and Fee Programs Augmentation
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Salaries and Wages Detail							
Classification ^{1 2}	Positions			Salary Range	Dollars		
	CY	BY	BY + 1		CY	BY	BY + 1
Permanent							
Business Taxes Specialist I /a		1.0	1.0	\$75,264		\$75,264	\$75,264
Business Taxes Specialist I /g			0.2	\$75,264		\$0.00	\$15,052.80
Business Taxes Specialist I /g			0.1	\$75,264			\$7,526.40
Temporary Help							
Business Taxes Representative /d		0.2	0.2	\$24		6,461	6,461
Overtime							
Office Assistant (General) /e					1,090	1,200	1,200
Office Assistant (General) /b					5,927	7,714	8,789
Office Technician (General) /b					5,573	8,627	9,005
Key Data Operator /b					7,203	9,589	10,999
Business Taxes Representative /c					39,468	0	0
Tax Technician II /c					30,308	0	0
Tax Technician II /e					32,328	32,328	32,328
Office Assistant (General) /b					3,910	3,910	3,910
Business Taxes Specialist II /b					64,317	0	0
Business Taxes Specialist I /f						5,601	5,601
Business Taxes Specialist II /f						29,995	29,995
Total Salaries and Wages ³	0.0	1.2	1.5		\$190,124	\$180,689	\$206,131
Staff Benefits Detail					CY	BY	BY + 1
OASDI					\$11,345	\$10,783	\$12,076
Health/Dental/Vision Insurance					\$0	\$14,823	\$17,989
Retirement					\$0	\$20,180	\$24,826
Workers' Compensation					\$0	\$110	\$135
Industrial Disability Leave					\$0	\$38	\$47
Non-Industrial Disability Leave					\$0	\$27	\$34
Unemployment Insurance					\$0	\$66	\$82
Other:					\$0	\$241	\$297
Total Staff Benefits ³					\$11,345	\$46,068	\$55,486
Grand Total, Personal Services					\$201,469	\$226,757	\$261,617

- /a Permanent Position(s) starting 7/1/17
- /b Overtime starting 7/1/16
- /c Overtime starting 6/1/16
- /d Temp Help starting 7/1/17
- /e Overtime starting 1/1/17
- /f Overtime starting 7/1/17
- /g Permanent Position(s) starting 4/1/16

Supplemental Information
(Dollars in thousands)

BCP No. 2	Proposal Title Special Tax and Fee Programs Augmentation
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Equipment	CY	BY	BY +1
Standard Compliment		\$32	\$51
			\$2
Total		\$32	\$53

Consulting & Professional Services			
Consulting Services	\$75		
Total	\$75		

Facility/Capital Costs			
Facility Operations		\$12	\$23
Total		\$12	\$23

One-Time/Limited-Term Costs Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>						
Description	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Postage		\$13		\$1		
General Expense		\$12				
Information Technology		\$4				
	0.0	\$29	0.0	\$1	0.0	

Full-Year Cost Adjustment Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						
<i>Provide the incremental change in dollars and positions by fiscal year.</i>						
Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0		0.0		0.0	

Future Savings Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>						
<i>Specify fiscal year and estimated savings, including any decrease in positions.</i>						
Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0		0.0		0.0	