

The Department of Fish and Wildlife

The DFW is responsible for promoting and regulating the hunting of game species, promoting and regulating recreational and commercial fishing, and protecting California's fish and wildlife. The department currently manages over 1 million acres of public land including ecological reserves, wildlife management areas, and hatcheries throughout the state.

The *2017-18 Governor's Budget* proposes total expenditures of \$523 million for the department from various sources, a decrease of \$51 million (9 percent) compared to current-year expenditures. Most of this decrease reflects the removal of one-time appropriations from bond funds and for deferred maintenance projects. Of the total proposed expenditures, \$121 million comes from the Fish and Game Preservation Fund (FGPF) (23 percent), \$89 million from the General Fund (17 percent), \$80 million from federal funds (15 percent), \$64 million from general obligation bond funds (12 percent), and the rest from reimbursements and other special funds.

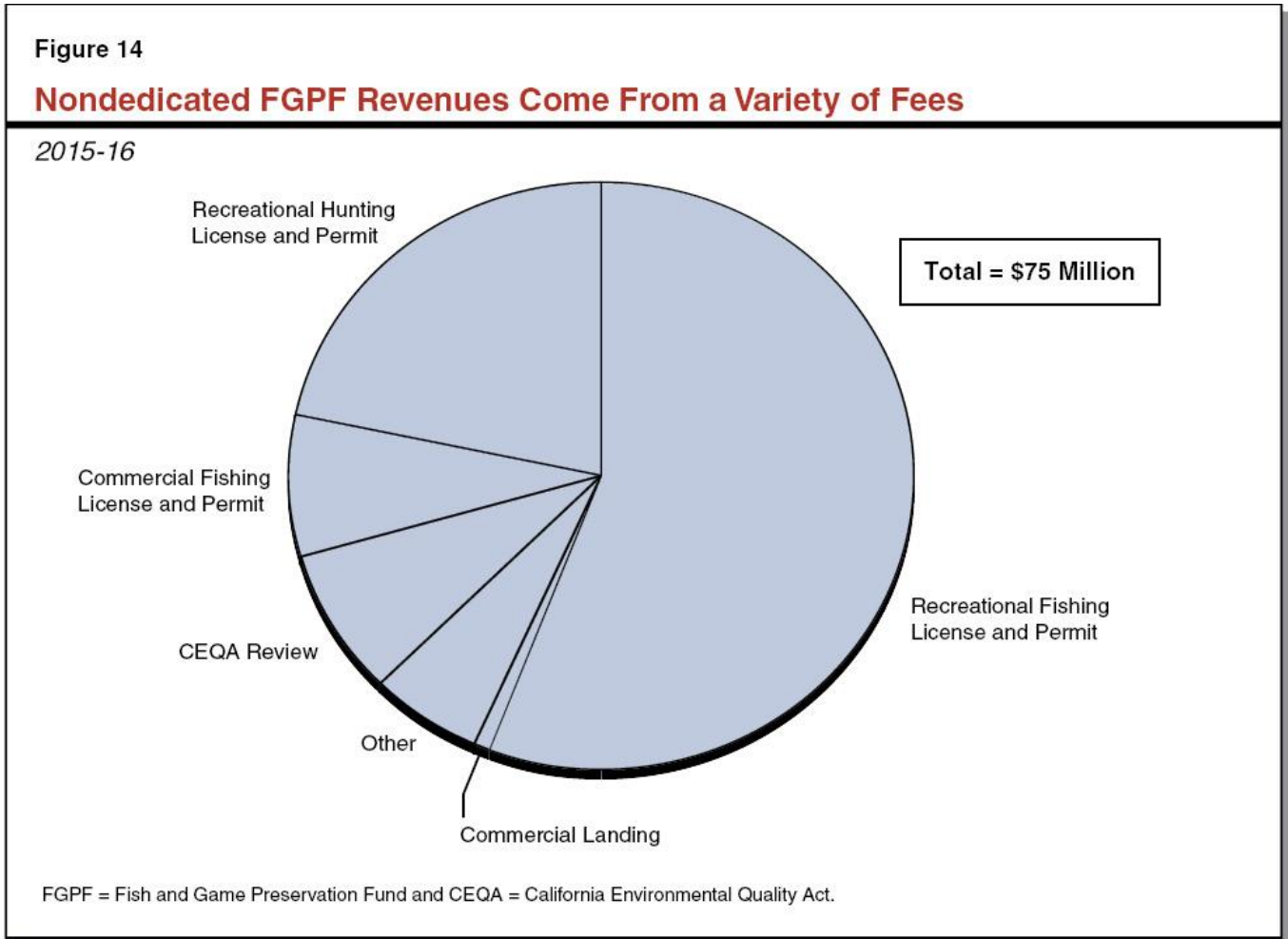
Fish and Game Preservation Fund

LAO Bottom Line. We are concerned that the Governor's proposal to address the operating shortfall for the FGPF nondedicated account includes a commercial fishing landing fee increase that may be too large for the industry to sustain, and adds new activities that exacerbate the account's imbalance. Moreover, the proposals leave an ongoing shortfall for the Legislature to address in 2018-19. We recommend the Legislature (1) adopt a commercial landing fee increase but perhaps at a lower level or more gradually, (2) adopt the Governor's proposal to transfer lifetime license fee revenues to the nondedicated account, (3) modify the Governor's proposals to begin two new activities by funding them on a limited-term basis using different funding sources, and (4) begin the process of identifying and considering options for addressing the remaining shortfall on an ongoing basis.

Background

FGPF Contains Multiple Accounts. The FGPF is the largest source of ongoing support for DFW's activities. Established in 1909, it is one of the oldest special funds in the state. The fund is divided into 29 "dedicated accounts" (for which revenues can only be spent on specified activities linked to the particular source of revenue, such as the

Duck Stamp Account for restoring duck habitat) and a “nondedicated” account (for which revenues can be spent on a variety of the department’s activities). The majority of FGPF revenues, comprising 80 percent (\$75 million) in 2015-16, are deposited into the nondedicated account. As shown in Figure 14, the nondedicated account receives revenues from recreational hunting and fishing license and permit fees, commercial fishing fees, and environmental review fees paid by project proponents. The department issues more than 500 different types of hunting and fishing licenses and permits.



Nondedicated Account Supports Multiple Department Activities. The nondedicated FGPF account supports a wide range of activities. The largest expenditure category is law enforcement. This includes supporting wildlife officers and wardens to enforce the state’s laws and regulations, protecting fish and wildlife resources, preventing habitat destruction, and investigating illegal commercialization of wildlife. Additionally, the account supports management of both department-owned lands (including wildlife areas, ecological reserves, and public access areas), as well as inland and coastal

fisheries. (A fishery is an area where fish or sea animals are caught.) Land management activities include scientific research, implementation of policies to protect and restore species and their habitats, and support for recreational hunting and fishing opportunities.

The nondedicated account also funds various activities related to overseeing the state's commercial fishing industries, including implementing and enforcing laws, collecting and managing data and records, monitoring catches and quotas to prevent overfishing, and scientific research to preserve the health and sustainability of the fisheries.

Funds from the nondedicated account are also used to support departmental review activities required by CEQA. Finally, the account supports various wildlife conservation activities, including specific efforts targeted at preserving salmon and steelhead trout.

Nondedicated Account Has Roughly \$20 Million Operating Shortfall. Figure 15 compares revenues and expenditures from the nondedicated account of the FGPF for the last eight years. As shown, in recent years expenditures have exceeded revenues, with the gap reaching over \$20 million annually beginning in 2014-15. While the department has been able to sustain the higher level of expenditures by drawing from the account's fund balance, that balance has been mostly depleted. Reasons that expenditures from the account have increased in recent years include:

- ***Employee Salary Increases.*** Several classifications of DFW employees have received salary increases through the state's collective bargaining process in recent years. For example, from 2010-11 to 2015-16, average per-employee salary and benefit costs for the state's fish and game wardens increased by 16 percent, environmental scientists by 13 percent, and senior environmental scientist supervisors by 61 percent. These classifications make up just over half of all of the positions supported by the nondedicated account (mostly wardens and environmental scientists). These personnel costs exceeded the inflationary adjustments that were made to most of the license fees that are deposited into the nondedicated FGPF account, which were increased by 10 percent over the same period.
- ***Shifting Existing Activities Into FGPF Without Increasing Revenues.*** The state has shifted expenditures for existing DFW activities from other funding sources to the FGPF nondedicated account, both to reduce General Fund costs during the recession and to remove costs from a different oversubscribed state fund, the

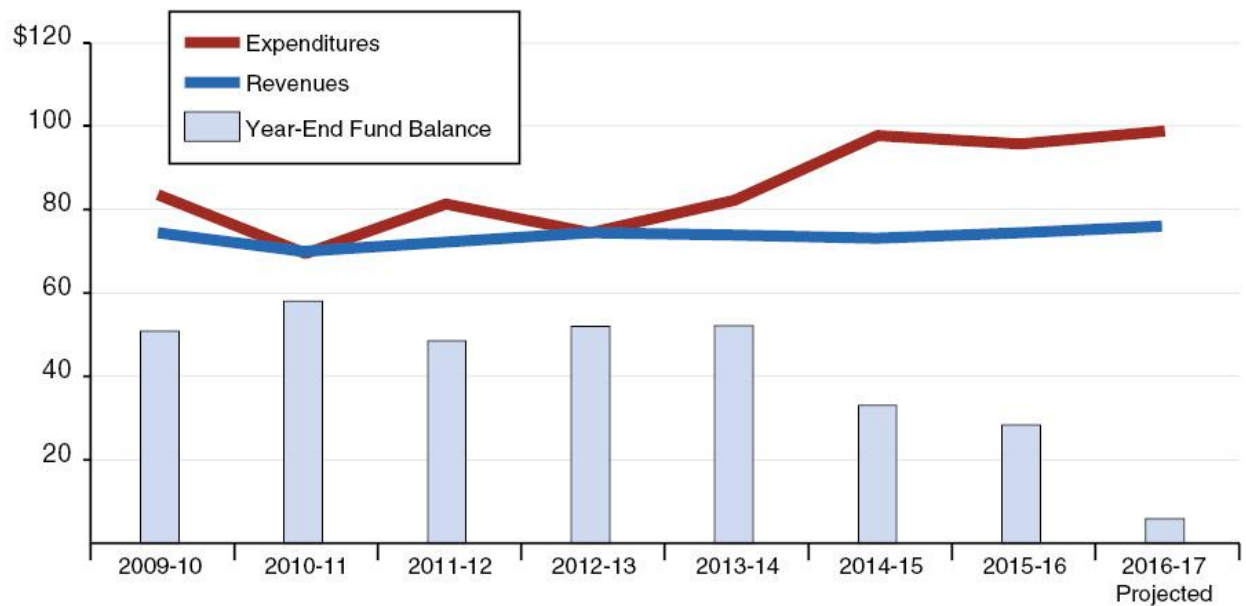
ELPF. Ongoing shifts that have increased FGPF expenditures have totaled at least \$4.3 million since 2009-10. In addition, various one-time shifts (which diminished the account's reserves) have totaled at least \$37 million over the same period.

- New Activities Without New Funding.** The Legislature has also assigned the department new costs to be funded by the account without providing additional resources. Such costs have included new law enforcement positions beginning in 2009-10 and 2010-11 (at an ongoing cost of \$5 million), the purchase of law enforcement radio infrastructure in 2011-12 (\$4 million one time), and drought response activities in 2015-16 (\$3 million one time).
- Lifting of Temporary Spending Restrictions.** During the recession, normal department expenditures were reduced by mandatory statewide spending restrictions such as worker furloughs and a ban on purchasing vehicles. The state lifted those temporary limitations in recent years, resulting in a resumption of baseline costs as well as higher short-term costs to address accumulated needs. For example, vehicle expenditures from the account, which typically average around \$2.5 million annually, were only \$7,000 in 2010-11, but jumped to \$5 million in 2015-16.

Figure 15

FGPF Nondedicated Account Expenditures Exceed Revenues in Recent Years

(In Millions)



FGPF = Fish and Game Preservation Fund.

Governor's Proposals

The Governor has three proposals to address the FGPF nondedicated account's structural imbalance and two proposals for new spending from the account. As summarized in Figure 16, the combination of proposals yields about \$18 million towards solving the funding shortfall in 2017-18, but only \$10.7 million in 2018-19. We discuss the proposals in more detail below.

Figure 16

Summary of Governor's FGPF Nondedicated Account Proposals

(In Thousands)

	2017-18	2018-19
Reduces Shortfall		
Increase commercial landing fees	\$12,400	\$12,400
Transfer from and eliminate Lifetime License Trust Account	8,725	750
Shift advisory program to other fund source ^a	381	381
Subtotals	(\$21,506)	(\$13,531)
Adds to Shortfall		
Water diversion assessment	-\$1,800	-\$1,800
Algal bloom monitoring program	-1,717	-996
Subtotals	(\$-3,517)	(\$-2,796)
Net Solutions	\$17,989	\$10,735

^aThe administration is still in the process of identifying a viable new fund source.

FGPF = Fish and Game Preservation Fund.

Increase Commercial Landing Fees Significantly. To address just over half of the account's structural imbalance, the Governor proposes trailer bill language that would increase the fee that commercial fishermen pay on the amount of seafood they catch, or "land." Currently, the statutorily established fees assessed on seafood that is commercially landed in California range from 0.13 cents per pound to 5 cents per pound depending on the species. These rates have not been changed since 1992. (Unlike most of the other license fees that are deposited into the account, landing fees are not

automatically adjusted for inflation.) Landing fee revenues totaled \$500,000 in 2015-16, and the administration estimates the fees will generate \$900,000 in the current year. The Governor's proposal would increase landing fee revenue by \$12.4 million, or more than 1,300 percent. Based on the administration's description of its proposal, the new fees would be established based on an 11-tier system linked to the value of the specific fishery, with the species that generate higher revenue triggering a higher fee. This is similar to ad valorem systems used by several other western states. At the time of this publication, the administration had not provided our office with its proposed fee schedule or draft trailer bill language.

Transfer Funds From and Eliminate Lifetime License Trust Account. The other major component of the Governor's approach to addressing the nondedicated account's imbalance in 2017-18 is to shift \$8.7 million from a different account, the Lifetime License Trust Account, into the nondedicated account on a one-time basis. The Lifetime License Trust Account contains revenue from recreational hunters and anglers who have opted to purchase lifetime—rather than annual—hunting and fishing licenses. Currently, a small portion of the fee revenues from the account is annually transferred to the nondedicated FGPF account (as well as to a few other dedicated accounts) and used for the broad variety of activities the nondedicated account supports. This account has accumulated a large fund balance, however, due to statutory formulas that limit the rate at which funds can be transferred to the other accounts for expenditure.

The Governor also proposes trailer bill language to abolish the Lifetime License Trust Account and instead allow most of the revenues from future sales of lifetime licenses to be annually deposited directly into the nondedicated account. This would provide \$750,000 in ongoing annual revenues to the nondedicated account beginning in 2018-19. (A separate portion of revenues from lifetime license sales would also be directed to certain dedicated FGPF accounts and to the Hatchery and Inland Fisheries Fund in both 2017-18 and on an ongoing basis, corresponding to the types of licenses purchased.)

Shift Funding for Advisory Program to Different Fund Source. The Governor proposes to reduce FGPF nondedicated account costs by \$381,000 by finding a replacement funding source for two positions that are currently funded through an interagency agreement with DFW. The administration indicates that the alternative funding source it initially identified—the Clean-up and Abatement Account of the State Water Quality Control Fund—is actually not appropriate for these activities, so it will

propose a different source later in the spring. The program, run out of the Office of Environmental Health Hazard Assessment, issues fish consumption advisories based on evaluations of fish chemical contaminant data. The advisories provide guidance to sport fish consumers to minimize their exposure to contaminants, and are also used to inform decisions by SWRCB, regional waters boards, DFW, and the Fish and Game Commission to regulate specific water bodies and fisheries and protect public health.

Add Two New Programs to Nondedicated FGPF Account. The Governor also proposes creating two new ongoing activities to be funded out of the nondedicated account beginning in 2017-18.

- **Measure Water Diversions on Department Lands.** The Governor proposes \$1.8 million in ongoing funding for the department to measure and report to the SWRCB the amount of surface water it diverts and uses on its lands and facilities. This proposal responds to a new state reporting requirement that took effect in 2016 applying to all public and private entities that divert at least ten acre-feet of surface water a year. The department estimates it has at least 140 points of diversion, but indicates that it does not currently measure the amount of water diverted, nor have the staff or equipment to begin doing so. The proposed funding would be for the department to conduct an assessment of the equipment and costs it will need to comply with the law. The administration indicates it will submit a subsequent budget request in future years for the funding to purchase and install the measurement devices, and potentially for additional staff to oversee their operation and maintenance.
- **Monitor Harmful Algal Blooms.** The Governor proposes \$1.7 million in 2017-18 and \$996,000 annually thereafter to establish a new program to collect and analyze samples of biotoxin-producing harmful coastal algal blooms. These blooms, which can make seafood species unfit for human consumption, have become more prevalent in recent years, and have led the state to close certain coastal fisheries to commercial fishing. The department, working together with the California Department of Public Health, would use the information collected to inform and more accurately target fishery closures.

LAO Assessment

Current Commercial Landing Fees Insufficient to Support Associated Department Workload. An analysis the department conducted in 2007 estimated that its

expenditures on behalf of the commercial fishing industry totaled around \$22 million. While it has not conducted a similarly detailed analysis since that time, the department estimates that associated costs have increased over the past decade due to inflationary costs and additional regulatory mandates. However, combined revenues deposited into the FGPF nondedicated account from commercial licenses, permits, and landing fees totaled only around \$5 million in 2015-16. Other revenue sources—particularly from recreational hunting and fishing licenses—have, therefore, been subsidizing the department’s commercial fishing-related work. Moreover, the state has not increased commercial landing fees for 25 years, so current fee levels have not kept pace with inflationary increases.

Detail Lacking on How New Fees Would Be Structured. Since the administration has not yet shared its proposed trailer bill language or fee schedule, we are unable to conduct an in-depth analysis of the merits of the landing fee proposal. Moreover, while the administration describes the proposed increase as a fee, without reviewing the specific language we are unable to confirm that it meets the requirements established by voters through Proposition 26 (2010). Under the constitutional provisions of Proposition 26, the fee level must be reasonably related to the costs of the services being provided in order to be approved with a majority vote of the Legislature. By comparison, revenues from a tax can be used more broadly and must be approved by two-thirds of the Legislature.

Rate of Proposed Increase Is Considerable. Even without specific information as to how the fee would be structured, the magnitude of the proposed increase raises some concerns about whether it will be set at a level the state’s commercial fishing industry could sustain. The industry has struggled in recent years due to poor conditions and closures brought about by drought, El Niño weather patterns, and climate change. While prices for many types of seafood have increased, in many cases the catch amounts are way down. For example, the California coast was closed to Dungeness crab, rock crab, and razor clam fishing for extended periods starting in the fall of 2015 due to widespread algal blooms and resulting domoic acid concentrations in the shellfish. Additionally, the state’s salmon catch has declined precipitously in recent years due to the drought’s effects on the state’s rivers and high mortality rates experienced by the fish.

Adjusting the landing fees by changes in the Consumer Price Index since 1992 (when they were last increased) would result in a roughly 80 percent (about \$725,000)

increase over projected current-year levels, compared to the more than 1,300 percent (\$12.4 million) increase proposed by the Governor. However, a modest increase of this amount would not cover much more of the actual department costs related to commercial fishing.

Use of Lifetime License Account Fee Revenues Consistent With Intended

Purpose. While the Governor’s proposal to shift funds from and then statutorily abolish the Lifetime License Trust Account would break from longstanding practice, it would not alter the ultimate use of the funds in either the budget year or future years. Abolishing the account would simply allow the revenues to be used more rapidly—for the same types of activities—and avoid the continued accumulation of a large fund balance that has resulted from outdated fund transfer formulas.

Viable Alternative Fund Source for Advisory Program Still Not Identified. Looking to shift costs for the fish consumption advisory program to a different source may be a useful way to relieve a small portion of the nondedicated account’s structural imbalance. Until the administration has identified an appropriate alternative, however, we are unable to evaluate the merits of this proposal.

Budget-Year Proposals Buy Time, but Additional Ongoing Solution Clearly

Needed. The Governor acknowledges that additional action will be required to balance the FGPF nondedicated account in 2018-19 and beyond, and expresses plans to work with stakeholders to develop an ongoing solution. As shown in Figure 16, the administration estimates that its three proposals would provide an additional \$21.5 million to the account in 2017-18, which would be sufficient to fund all proposed activities (including the two new proposals) and leave a balance of \$1.1 million at the end of the fiscal year. Because most of the additional revenue from the Lifetime License Trust Account is only available on a one-time basis, however, the proposals would only increase revenues to the account by \$13.5 million annually after 2017-18. This would leave an out-year annual gap between revenues and expenditures of roughly \$10 million if the Legislature also adopts the Governor’s two new spending proposals (or \$7 million if the Legislature rejects the two new spending proposals or funds them with a different source).

Two New Proposed Activities Meet Important Needs . . . We believe the Governor’s two new proposed activities have some merit. The information produced through additional sampling of harmful algal blooms would enable the state to more precisely target fishery closures to where and when contamination exists. This would both

improve public health protections and avoid potentially unnecessary closures and the resulting economic effects on the commercial fishing industry.

Similarly, measuring water diversions and uses on department lands and properties is a worthwhile activity and consistent with state law. Efforts to account for surface water diversions are an important part of improving statewide water management, and the department would face costly penalties for failing to comply with the new statutory requirements to do so. Moreover, continued provision of water to department lands is vital for the wildlife that live there.

. . . But Funding With Nondedicated Account Would Exacerbate Structural Imbalance. While monitoring algal blooms and water diversions both are worthwhile activities, the Governor's proposed approach to funding them is problematic. Adding additional new expenditures to the nondedicated account when it already faces a funding shortfall worsens the problem the Legislature will have to solve in 2018-19 and future years. Even if the Legislature adopts the proposed landing fee increase and Lifetime License Trust Account shift, adding new costs would increase the amount of additional revenue or cuts that the Legislature will need to approve to keep the account in balance beginning in 2018-19.

Proposal to Measure Water Diversions Represents Short-Term—Not Ongoing—Activity. While we believe the Governor's proposal to account for the water diverted and used on department lands has merit, the specific activities proposed do not warrant the ongoing funding requested. The Governor's proposal is to conduct an initial assessment of where the department is diverting water and what equipment and actions—and associated costs—ultimately will be necessary to comply with the new law and efficiently meet wildlife needs. These assessments represent one-time activities, so the Governor's rationale for requesting \$1.8 million in ongoing funding—before the ongoing costs have been determined—is unclear.

Legislature Has Several Options for Addressing Remaining Shortfall. Below, we describe three broad options that the Legislature could pursue to solve the remaining structural imbalance in the nondedicated account in 2018-19 and future years, as well as some trade-offs associated with each option. Additionally, should the Legislature opt to modify or reject the Governor's two proposals for addressing the shortfall in the budget year—for example by adopting a smaller increase to commercial landing fees—it also could implement one or a combination of these solutions for 2017-18.

- **Provide Increased General Fund Support.** The Legislature could increase General Fund support for the department to pay for some of the activities currently funded by the FGPF. One argument in favor of this approach is that some of the work supported by the nondedicated FGPF contributes to broad public benefits—such as land preservation, enforcement of the state’s laws, and protection of nongame species and habitats—and that the general public (not just hunters and anglers) should therefore contribute more to support such efforts. One argument against this approach is that it would reduce available funds for other statewide General Fund priorities.
- **Impose New Dedicated Tax.** Some have suggested the state impose a new excise tax on specific activities or goods that are somewhat related to the type of work the department conducts and direct the new revenues into the FGPF. For example, it could impose a tax on outdoor gear (such as tents or binoculars) or activities (such as whale watching or boat rentals) under the rationale that individuals who enjoy outdoor recreation generally benefit from the department’s work to protect lands, waterways, and wildlife. Alternatively, the Legislature could impose a tax on products that can pollute the natural environment (such as tires, gasoline, or pesticides) since these can impact fish and wildlife and result in a need for the department’s preservation work. One argument in favor of such an approach is the intent that parties who benefit from or are responsible for the department’s activities would help to support them. On the other hand, the linkage between the entities paying the tax and the department’s workload is relatively tenuous. Moreover, adding individual excise taxes that have restricted uses limits the Legislature’s flexibility to direct tax revenues towards the state’s highest priorities in future years, should those priorities change.
- **Reduce Expenditures.** The Legislature also has the option of addressing the account’s operating shortfall by reducing some of its current expenditures. This approach would lessen or avoid the need to raise new tax revenue or redirect General Fund from other state priorities. We did not have sufficient time or information to conduct an in-depth analysis of the department’s activities. Our initial review, however, was unable to identify obvious candidates for reduction. Eliminating certain existing activities could result in failing to enforce some of the state’s laws (potentially increasing poaching or pollution), harm to fish or wildlife (including those that are already threatened or endangered), long-term damage to the commercial fishing industry (from failure to monitor and maintain safe yields and fishery conditions), or foregoing some federal funds (since maintaining a

certain level of state expenditures for specified activities is a condition of receiving such funds).

LAO Recommendations

Adopt Some Form of Commercial Landing Fee Increase. We recommend the Legislature adopt some level of increase for commercial landing fees because they have not kept pace with either the department's associated workload or inflation. Because the administration has not yet provided detail on the specific structure of its proposal, we are unable to advise the Legislature as to its merits. The amount of increase proposed, however, is substantial, and could result in negative consequences for some in the industry. The Legislature may want to consider adopting a lower level of increase, or phasing the increase in over a number of years to temper its impact. Adopting an increase that raises less funding than proposed by the Governor could require the Legislature to also adopt one of the additional solutions described above for 2017-18 in order to balance the fund in the budget year. (Adopting our recommendation below to use a different funding source for the Governor's new proposed activities would reduce the amount of solution needed for the account in 2017-18.)

Approve Permanent Transfer From Lifetime License Fees. We recommend the Legislature adopt the Governor's proposal to transfer the fund balance from and then abolish the Lifetime License Trust Account. These funds would help provide a short-term fix to the nondedicated account's funding shortfall and thereby allow the Legislature more time to identify an ongoing solution. The fee revenues still would be used consistently with previous practice in both the budget year and future years.

Consider Fund Shift Based on Revised Proposal. The administration will submit a modified funding proposal later this spring for the \$381,000 supporting fish consumption advisories. Provided it can identify an appropriate alternative, we believe this is a reasonable approach to lowering the FGPF nondedicated account's costs. We will conduct further analysis and provide a recommendation to the Legislature once we have reviewed the administration's revised proposal.

Modify Two New Proposed Activities. While we find there is some merit in the Governor's two new proposed activities, we do not believe the state should worsen the ongoing operating shortfall for the FGPF nondedicated account before identifying an ongoing solution for how to fund the account's *existing* activities in future years. As such, we recommend the Legislature modify the Governor's two proposals as follows:

- **Use Other Fund Sources.** Until the nondedicated account has sufficient annual revenues to cover the costs of algal bloom monitoring, we recommend funding it using General Fund (\$1.7 million in 2017-18). Additionally, we find that some amount of the federal funds the department receives for land conservation could be used to pay for a portion of the costs of monitoring water diversions on department lands. We recommend the Legislature direct the department to provide an estimate of how much federal funding could be made available for this activity, then allocate General Fund for the remaining amount.
- **Provide Funding on Limited-Term Basis.** We recommend the Legislature limit General Fund support for these activities to two years, then revisit whether the FGPF nondedicated account has sufficient resources to absorb them after the funding shortfall has been addressed. Additionally, conducting a needs assessment for water diversions on department lands is a short-term activity. The administration can submit a subsequent request for one-time equipment and ongoing maintenance costs in future years once they are better defined.

Identify Additional Ongoing Solution for Account by 2018-19. We recommend the Legislature begin the process of identifying which ongoing options it will want to pursue to address the full operating shortfall in the FGPF nondedicated account. Even if it opts to adopt short-term solutions—such as the lifetime license fee transfer or perhaps limited-term use of General Fund—for the budget year, using the coming year to discuss and consider the trade-offs of potential permanent changes to revenues or expenditures can help inform future decisions. This could include soliciting feedback from stakeholders during budget hearings, such as representatives from the commercial fishing industry, recreational hunters and anglers, and environmental and conservation groups. The Legislature could also form work groups to explore and vet potential proposals. Additionally, the Legislature will want to ask the administration to report on what options it is considering for an ongoing solution to the shortfall.